

Citation Analysis
Appreciation of evidence of contributory negligence
Supreme Court of India
Jumani Begum vs Ram Narayan

Civil Appeal No 9343 of 2019
(Arising out of SLP(C) No 29254 of 2019)
(D No 44366 of 2018)

Relevant details pertaining to the appeal as summarized by the Apex Court are as follows:

The date of accident is 13 August 2008. The deceased was 53 yearsold at the time of the incident. He was employed as an Assistant Grade II 1 “MACT” in the Water Resources Department of the State of Chhattisgarh on a monthly salary of Rs 12,636. While he was riding his motorcycle at about 9 pm on Bilaspur-Raipur Road, there was a collision with a truck trailer which was parked on the road and he died on the spot. The appellant, who is the surviving spouse of the deceased, filed a claim for compensation under the provisions of the Motor Vehicles Act 1988, claiming compensation in the amount of Rs 17,50,000. The truck driver, the owner of the vehicle and the insurer were impleaded as parties to the proceedings. The MACT, by its order dated 30 July 2009, came to the conclusion that this was a case of contributory negligence. The claim for compensation was computed as follows:

a) Loss of dependency	Rs 7,51,476/-
b) Expenses incurred in last rites	Rs.5,000/-
c) Loss of love and affection	Rs.5,000/-
d) Loss of property	Rs.2500/-
Total	Rs.7,63,976/-

However, on the ground of there being contributory negligence on the part of the deceased assessed at 50%, a total amount of Rs 3,81,988 came to be awarded, together with interest at six per cent per annum. 5 In appeal, the High Court affirmed the view of the MACT on contributory negligence, but recomputed the compensation. Taking the monthly income of the deceased at Rs 12,636, one-third was deducted towards personal expenses. Applying a multiplier of 11, the deceased being 53 years of age, the total amount payable was computed at Rs 11,12,000 on account of loss of dependency. A lump sum of Rs 1,25,000 was awarded by the High Court towards conventional head. Since the High Court had affirmed the view of the MACT on contributory negligence, the total compensation was enhanced from Rs 3,81,988 to Rs 6,81,000.

Evidence regarding contributory negligence as appreciated by trial court and reappreciated by the Supreme Court

On the aspect of contributory negligence, the MACT adverted to the statement of AW 2, who was an independent eye-witness at the spot of the accident, in the following terms:

“As per an eye witness to the accident, on behalf of the applicant, the statement of AW-2 Mohd. Rafiq Qureshi has been got recorded. According to this witness, at the time of accident he was going from his house situated in Dharsiva to the Dhaba situated at about 2-2.5 kms away from Dharsivan to eat food on the Bilaspur road and when he had reached near Sagar Family Restaurant and Dhaba then suddenly from the side of Bilaspur, Mirza Jumman Beg who was coming on his hero Honda motorcycle from the side of Bilaspur has come and collided on the backside of the truck parked on the road on the left side which truck was of 16 tyres and he had fallen with the Hero Honda motorcycle. This witness has further stated that after eating the food in the Dhaba when he was returning back, he came to know that Mirza jumman Beg has expired. In cross-examination this witness has stated that the truck trailer was parked facing Raipur i.e. its rear was facing Bilaspur. In cross, this witness has denied that there was a radium reflector on the rear side of the truck trailer. This witness has not been given the suggestion in the cross-examination that the indicator of the truck trailer was lit. In cross examination this witness has denied that any bush etc. had been put on the side of the Truck Trailer as indication mark.” 9 The MACT then discussed the evidence of the driver of the truck trailer, NAW 1. After analysing the evidence of the driver, the MACT held that his evidence did not inspire confidence, when he stated that indicators on the truck trailer had been lit. On the contrary, the eye-witness, AW 2, in the course of his cross-examination, denied the existence of reflectors at the spot. The MACT noted that it did not appear that the truck trailer had been parked outside the area of the pakka road. In spite of its analysis in the above terms, the MACT surmised that if the lights of the motorcycle were lit, the deceased would have been able to avoid the accident. This part of the reasoning of the MACT is purely a matter of surmise. Once the substantive evidence before the MACT established that the truck trailer had been parked on the road at night without any reflectors, we are of the view that there was no reason or justification for the MACT to proceed on the basis of conjecture in arriving at a finding of contributory negligence. We find from the judgment of the High Court that this aspect has not been discussed at all and the High Court simply proceeded to confirm the finding of contributory negligence. Consequently, on the first limb of the submission, learned counsel appearing on behalf of the appellant is correct and the submission requires to be accepted.
