



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No.14641 of 2025
(@Special Leave Petition (C) No.27861 of 2023)**

Radha Thevannoor

...Appellant

Versus

M/s. National Insurance Co. Ltd. & Ors.

...Respondents

O R D E R

Leave granted.

2. Mr. Haris Beeran, learned counsel appearing for the appellant-claimant restricted his challenge in the appeal to the contributory negligence, as found by the High Court. It is argued that despite the testimony of an eyewitness being believed and also noticing the fact that there cannot be any other evidence to clearly bring out as to which of the vehicles were driven negligently, the High Court found contributory negligence of 50% on the deceased-driver of the car.

3. Mr. Manu Luv Shalia, learned counsel appearing for the insurance company contended that the inspection report of the alleged offending vehicle, a truck, clearly indicates from the damage caused to the vehicle that in all probability, the car was driven rashly and negligently.

4. The facts, except the negligence aspect, are not in dispute. At 02:30 am on 17.11.2014, an accident occurred on the National Highway in which the driver of the vehicle, the husband of the appellant, the father of the proforma respondent Nos.5 and 6 and the son of the proforma respondent Nos.7 and 8, died on the spot. An FIR was registered by the truck driver, admittedly, wherein the First Information Statement (FIS) indicated allegation of negligence against the driver of the car, the deceased. No investigation was carried out since the accused arrayed had died. In the claim petition filed, the Tribunal found negligence on the lorry driver, based on the eyewitness testimony. The High Court reversed the same finding contributory negligence and restricted the award to half of that determined as compensation.

5. The report of inspection produced as Annexure P2 indicates that the major damages to the truck were on the left side of the truck. PW-3, the eyewitness was a mechanic who was having a shop near the spot where the accident occurred. PW-3 clearly deposed that he saw the lorry being driven rashly and negligently on the right side of the four lane National Highway. It was swerved to the left and the car which was moving on the left lane tried to brake and dashed against the truck causing the accident. The eyewitness testimony regarding the rash and negligent driving of the truck clearly clinches the issue insofar as the negligence is concerned.

6. In the above circumstances, we find absolutely no reason for the High Court to have found contributory negligence on mere surmises and conjectures. The High Court merely observed that since PW-3 came to the accident spot after hearing the sound of the accident could not have witnessed what actually happened. PW-3 was present in the shop and he spoke of having seen the truck being driven rashly and negligently on the

Highway and it having abruptly swerved to the left, which brings out the negligence of the truck driver.

7. True, the appellant who was examined as PW-1 could not have spoken of the accident, but the eyewitness testimony coincides with the report of the inspection of the offending vehicle. The truck having been suddenly taken to the left lane, the car, which was proceeding in the same direction on the left lane of the four-lane highway dashed against the truck. This tallies with the large-scale damages caused on the left side of the truck. PW1 In cross examination said that he ran to the spot when he heard the sound of impact. But that does not persuade us to disbelieve his version in the examination-in-chief that he saw the approaching vehicles, the car on the left lane and the truck on the right lane, the latter driven rashly. He repeated in cross examination that the accident occurred since the truck suddenly came to the left.

8. The driver/owner of the truck was examined as RW2 who deposed that he lost control of the truck when

the left-rear tyre of the vehicle burst, which was caused by the impact of the car hitting the tyre. But no such damage of tyre is noticed in the inspection report of the truck. Pertinent also is the fact that the driver/owner RW2 was impleaded as 1st respondent in the claim petition. He remained ex-parte and did not file any objection to the claim alleging negligence in the driving of the truck. The SSI of Police examined as RW1 also stated in his cross examination that the Mahazar prepared at the accident spot validated the contention of negligence of the truck driver.

9. In the above circumstances, we would set aside the order of the High Court insofar as it found contributory negligence and restore the award of the Tribunal. The modification made by the High Court were twofold; one, on the contributory negligence which stands set aside and the other, deleting Rs.1,60,000/- (Rupees one lakh and sixty thousand) in the Tribunals award towards love and affection. The deletion of the amounts granted towards love and affection, as carried out by the High

Court, is perfectly in order, especially since all the claimants have been granted compensation for loss of consortium.

10. The appeal is partly allowed, setting aside the contributory negligence, as found by the High Court and awarding the full amounts as computed by the Tribunal, except the amount of Rs.1,60,000/- (Rupees one lakh and sixty thousand) deleted by the High Court. The balance amounts shall be paid along with interest at the rate of 7.5% per annum, as directed by the Tribunal.

11. The appeal stands partly allowed.

12. Pending application(s), if any, shall stand disposed of.

..... J.
(AHSANUDDIN AMANULLAH)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI
DECEMBER 08, 2025.**