

SUPREME COURT OF INDIA

Pushpa Thakur

Vs.

Union of India

C.A.Nos.3193-94 of 1984

(P. N. Bhagwati, Amarendra Nath Sen and Ranganath Misra, JJ.)

08.08.1984

ORDER

1. We are of the view that on the facts and circumstances of the case the principle of sovereign immunity of the State for the acts of its servants has no application and the High Court was in error in rejecting the claim of the appellant for compensation on that ground. It was a concurrent finding of fact arrived at by the Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as Tribunal) as well as the High Court that the driver of the military truck was negligent and that the accident resulting in the fracture of both the legs and amputation of the right leg of the appellant was caused as a result of such negligence. The Union of India was, therefore, clearly liable to pay compensation to the appellant for the negligence of the driver of the military truck and having regard to the nature of the injuries suffered by the appellant we think that the amount of compensation should be fixed at the figure of Rs. 1,00,000/- (Rs. one lakh).

2. We, therefore, allow the appeals, set aside the order made by the High Court and direct that the Union of India shall pay to the appellant a sum of Rs. 1,00,000/- as and by way compensation. The amount of Rs. 1,00,000/- shall be deposited with the Tribunal within four weeks from today, this amount shall be deposited by the Tribunal in the name of the appellant in a nationalised bank at New Delhi on long term fixed deposit with a direction that interest on the said amount shall be paid

by the nationalised bank to the appellant every quarter. The appellant will also be at liberty to apply to the Tribunal for withdrawal of any part of the principal amount in case it becomes necessary for her to do so for sufficient reasons. If the Union of India does not deposit the amount of Rs. 1,00,000/- within four weeks from today, the said amount shall carry interest @ 12 per cent per annum from today.

3. The Union of India will pay to the appellant costs of these appeals, including the costs of proceedings in the lower courts, quantified at a lump sum figure of Rs. 5,000/-.

Appeal allowed.