



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

MISC. APPEAL No.2219 of 2020

MUKESH SHRIWAS AND OTHERS

Versus

NARESH MATHUR AND OTHERS

Appearance:

Shri Ashok Kumar Yadav – Advocate for appellants.

Shri Rajesh Gupta and Shri Rajeev Shrivastava- Advocates for respondent No.3.

Reserved on : 09/01/2025

Pronounced on : 21/01/2025

ORDER

This Miscellaneous Appeal, under Section 173 of Motor Vehicles Act, 1988, has been filed against award dated 08.01.2020 passed by VII Member, Motor Accident Claims Tribunal, Gwalior (M.P.) in Motor Accident Claim Case No.491/2018, for enhancement of compensation amount.

2. Since liability of Insurance Company as well as factum of accident has not been challenged, therefore, it is suffice to mention here that deceased Akhilesh Shrivas and Sirnam Shrivas lost their lives in a vehicular accident which took place on 28.12.2017.



3. This Miscellaneous Appeal has been filed by legal representatives of Sirnam Shrivas.
4. Challenging the quantum of compensation, it is submitted by counsel for appellants that even if the Claims Tribunal came to a conclusion that appellants had failed to prove the income of deceased, then for ascertaining the notional income, the Claims Tribunal should have taken into consideration the notification issued under the Minimum Wages Act as a guiding factor. It is submitted that the Claims Tribunal has wrongly held that since deceased was aged about 65 years and appellants have failed to prove that he was earning any money, therefore, no notional income was fixed.
5. *Per contra*, the appeal is vehemently opposed by counsel for Insurance Company.
6. Heard learned counsel for parties.
7. So far as notional income of deceased is concerned, it is true that when claimants fail to prove the income of deceased, then notification under the Minimum Wages Act can be treated as a guiding factor but in the present case, deceased was aged 65 years. The claimants have failed to prove that he was doing any work. However, this Court is of the considered opinion that the Claims Tribunal should not have held that deceased was not having any income because being an elderly member of the family his contribution to the welfare and upbringing of family by giving suggestions, protection etc. cannot be ignored. Under these circumstances, this Court is of considered opinion that notional income of the deceased can be fixed as Rs.3,000/- per month.
8. Appellants No.1 and 2 are the sons of deceased Sirnam Shrivas and appellant No.3 is the daughter-in-law of deceased Sirnam Shrivas. It is not out of place to mention here that husband of appellant No.3 i.e. Akhilesh Shrivas also lost his life in the same vehicular accident. Appellants No.4 and 5 are children of



appellant No.3 and appellant No.6 is the grand-daughter of Sirnam Shrivastava (Daughter's daughter). Therefore, it is held that appellants No.1, 2 and 3 are entitled for compensation. The personal expenses of the deceased are to be taken as 1/3. Since deceased was 65 years of age, therefore, no future prospects can be granted.

9. Under these circumstances, appellants No.1, 2 and 3 are entitled for the following compensation amount:-

| S.No. | Head | Amount payable to Appellant (In Rupees) |
|-------|----------------------------------|--|
| 1. | Monthly Income | 3,000/- |
| 2. | Yearly Income Rs.3,000/- x 12 | 36,000/- |
| 3. | Future Prospects | Nil |
| 4. | Personal Expenses 1/3 | 12,000/- |
| 5. | Loss of Yearly dependency | 24,000/- |
| 6. | Loss of total dependency 24000x7 | 1,68,000/- |
| 7. | Loss of consortium 40,000/- x3 | 1,20,000/- |
| 8. | Loss of Estate | 15,000/- |
| 9. | Funeral Expenses | 15,000/- |
| 10. | Total compensation amount | 3,18,000/- |
| 11. | Compensation awarded by Tribunal | 75,000/- |
| 12. | Enhanced by | 2,43,000/- |

10. Accordingly, the compensation amount is enhanced by **Rs.2,43,000/- (Rupees Two Lacs Forty Three Thousand Only)**. Other conditions of award shall remain the same.

11. With aforesaid modification, award dated 08.01.2020 passed by VII Member, Motor Accident Claims Tribunal, Gwalior (M.P.) in Motor Accident Claim Case No.491/2018 is hereby affirmed.

(G.S. Ahluwalia)
Judge