



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

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**MISC. APPEAL No.706 of 2021**

***SMT. VANDANA SHRIVAS AND OTHERS***

*Versus*

***NARESH MATHUR AND OTHERS***

---

**Appearance:**

*Shri Ashok Kumar Yadav – Advocate for appellants.*

*Shri Rajesh Gupta- Advocate for respondent No.3.*

---

**Reserved on : 10/01/2025**

**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.490/2018, for enhancement of compensation amount.

2. Since liability of Insurance Company as well as the 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 Akhilesh Shrivasa.

4. Challenging the quantum of compensation, it is submitted by counsel for appellants that even if the Claims Tribunal has come to a conclusion that appellants have 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 although notification issued under the Minimum Wages Act was considered yet it was held that deceased must not be getting labour work in the entire month and therefore his notional income was assessed at Rs.5,500/-. It is submitted that in fact notional income of deceased should have been assessed as 6,600/- per month. It is further submitted that the Claims Tribunal has not awarded future prospects.

5. *Per contra*, the appeal is vehemently opposed by counsel for Insurance Company.

6. Heard learned counsel for parties.

7. It is well established principle of law that where the claimant has failed to prove the income of the deceased, then notification issued under the Minimum Wages Act can be taken as a guiding factor.

8. The incident in question took place on 28.12.2017. As per notification issued under the Minimum Wages Act, on 28.12.2017 the minimum wages of an unskilled labourer was Rs.7,125/- per month whereas the appellants have claimed notional income of deceased as 6,600/- per month.

9. Counsel for Insurance Company could not point any provision to show that for applying the notification issued under Minimum Wages Act, holidays in a month should be excluded. Therefore, the Claims Tribunal has committed material illegality by reducing the notional income to Rs.5,500/- by holding that deceased



must not be getting work for the entire month. Since appellants have claimed that income of the deceased can be taken as 6,600/- per month which is less than the minimum wages provided under the notification issued under the Minimum Wages Act, therefore, it is held that minimum wages of the deceased were Rs.6,600/- per month. The Claims Tribunal has not awarded future prospects. The deceased was aged about 35 years, therefore, future prospects should have been awarded by the Claims Tribunal. Under these circumstances, appellants are entitled for the following compensation amount::

S.No.	Head	Amount payable to Appellant (In Rupees)
1.	Monthly Income	6,600/-
2.	Personal Expenses @ 1/3	2,200/-
3.	Loss of Yearly Income	52,800/-
4.	Future prospects @ 40%	21,120/-
5.	Total Loss of Yearly income	73,920/-
6.	Loss of total dependency 73920x16	11,82,720/-
7.	Consortium 40000 x 3	1,20,000/-
8.	Loss of Estate	15,000/-
9.	Funeral Expenses	15000/-
10.	Total compensation amount	13,32,720/-
11.	Compensation awarded by Tribunal	7,74,000/-
12.	Enhanced by	<b>5,58,720/-</b>

10. Accordingly, the compensation amount is enhanced by **Rs.5,58,720/- (Rupees Five Lacs Fifty Eight Thousand Seven Hundred and Twenty 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.490/2018 is hereby affirmed.

**(G.S. Ahluwalia)**  
**Judge**