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MA-39-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE HIRDESH

ON THE 5th OF AUGUST, 2025

MISC. APPEAL No. 39 of 2024

NATIONAL INSURANCE COMPANY LTD.

Versus

SMT. SUMAN YADAV AND OTHERS

&

MISC. APPEAL No. 1407 of 2024

SMT. SUMAN YADAV AND OTHERS

Versus

AJAY AHIRWAR AND OTHERS

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Appearance:

Shri Shrinivas Gajendragadkar - Advocate for appellant-Insurance Company and Shri Sudesh Kumar Singh- Advocates for respondent Nos.1 to 5 and Shri Kamlesh Kori- Advocate for respondents No. 6 and 7 in MA No.39/2024.

Shri Sudesh Kumar Singh- Advocate for appellant and Shri Shrinivas Gajendragadkar - Advocate for respondent No.3 with Shri Shri Kamlesh Kori- Advocate for respondent Nos.1 and 2 in MA No.1407/2024.

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ORDER

Miscellaneous Appeal No.39/2024 under Section 173 of Motor Vehicles Act is filed by the Insurance Company arising out of the



common award dated 31.08.2023 passed by First Additional Member, Motor Accident Claims Tribunal, Seonda, District Datia (in short "Claims Tribunal") in MACC No.39/2019 on account of false implication of the vehicle and seeking exoneration from liability and Miscellaneous appeal No.1407/2024 filed under Section 173(1) of Motor Vehicles Act by the claimants on account of inadequacy of compensation and seeking enhancement of compensation.

2. Since both aforesaid miscellaneous appeals are arising out of common Award dated 31.08.2023 passed by First Additional Member, Motor Accident Claims Tribunal, Seonda, District Datia in Claim Case No.39/2019, therefore, they are heard analogously and disposed of by this common order.

3. Brief facts of the cases are that, deceased died in road accident dated 02.07.2019 allegedly involving Xylo bearing Registration No. MP32-C-0613. On the fateful day, the aforesaid Xylo was insured with appellant Insurance Company. Therefore, claimants have preferred a claim petition under Section 166 of the Motor Vehicles Act for releasing an amount of compensation to the tune of Rs.69,00,000/- for the death of Harikesh Yadav.

4. Learned Claims Tribunal framed issues and after recording the evidence of both the parties, learned Claims Tribunal awarded compensation of Rs.14,33,650/- in favour of claimants with



interest from the date of filing of claim petition till its realization.

5. Learned counsel for Insurance Company submitted that impugned order passed by the learned Claims Tribunal is against the facts and material available on record and saddling the liability as to pay the amount of compensation on the Insurance Company. The cause of accident is mentioned as hitting of motorcycle with *Nilgai*, but after taking advantage of Ex.P-33, it was mentioned that incident was caused by the road traffic accident, therefore, prayed for setting aside the impugned award.

6. On the other hand, learned counsel for the claimants contended that the Claims Tribunal has rightly awarded the compensation and argued in support of the findings recorded by the Tribunal.

7. Heard the arguments advanced by the counsel for the parties and perused the record of the Tribunal.

8. After hearing learned counsel for the parties and perusal of the record, learned counsel for the Insurance Company submitted that in Ex.P-33, it was mentioned that the accident of the deceased did not happen with the vehicle in question, but due to *Nilgai*, but it was changed by overwriting on the medical documents and written as "unknown vehicle". It is a duty of Insurance Company to call the record from the Hospital and prove how and which manner that over writing was done, but he was unable to do this, so Insurance Company does not



prove this fact that overwriting was in wrong manner. So, in view of above discussion, Insurance Company has not proved that alleged vehicle was falsely involved in the accident for seeking compensation.

9. In MA.No.1407/2024, learned counsel claimants/respondents submitted that Claims Tribunal has committed an error in holding the income of the deceased as Rs.6000/- per month. It is further submitted that the Tribunal has not considered that the deceased was bread earner of the family. Hence, it is prayed that income of deceased has been assessed as Rs.7700/- per month for calculating compensation.

10. On the other hand, learned counsel for Insurance Company contended that the Claims Tribunal has rightly awarded the compensation and prays for rejection of appeal filed by claimants/respondents.

11. After hearing counsel for both the parties and on perusal of the record, Claims Tribunal has committed an error in holding the income of the deceased as Rs.6000/- per month. So, in the considered opinion of this Court, the income of the deceased would be assessed as Rs.7700/- per month.

12. Accordingly, the claimants are entitled to get the enhanced compensation amount is as under:-

HEAD

AMOUNT



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Income = Rs.7,700/- x 12 = 92,400 + 40% (future prospects) = Rs.1,29,360/-

Deceased personal expenses deduction 3/4 of 1,29,360 = Rs.97,020/-

Age per factor 15 x 97,020 = Rs.14,55,300/-

Consortium 4 x 44,000 = 1,76,000/-

Funeral and loss of estate 33,000/-

TOTAL =Rs.16,64,300/-

13. Thus, the just and proper amount of compensation in the instant case is Rs.16,64,300/- as against the Award of the Claims Tribunal of Rs.14,33,650/-. Accordingly, the appellants/claimants are entitled to an additional sum of Rs.2,30,650/- over and above the amount, which has been awarded by the Claims Tribunal.

14. With the aforesaid modification, compensation amount is enhanced to a sum of Rs.2,30,650/-. The enhanced amount shall carry interest as fixed by the learned Claims Tribunal from the date of filing of claim petition till its realization. The said amount be paid within a period of **three months** from the date of receipt of certified copy of this order. Rest of conditions as imposed by learned Claims Tribunal shall remain intact.

15. In the result, the appeal (M.A.No.1407/2024) is **partly allowed** and the claimants are entitled to an additional sum of Rs.2,30,650/- over and above the amount, which has been awarded by the Claims Tribunal. The said amount shall bear interest at the same rate as awarded by the



Tribunal. The other findings recorded by the Claims Tribunal shall remain intact. The appeal (M.A.No.39/2024) filed by the Insurance Company is **dismissed**.

16. If the enhanced amount of compensation is in excess to the valuation of appeal, the difference of the Court fee (if not already paid) shall be deposited by the appellants- claimants within a period of **one month** and proof thereof, shall be submitted before the Registry. Thereafter, the Registry shall issue the certified copy of the order passed today.

17. Let a copy of this order be kept in the file of connected MA.No.1407/2024.

(HIRDESH)
JUDGE

AVI