

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 19<sup>th</sup> OF December, 2023**

**MISC. APPEAL No. 1301 of 2015**

**BETWEEN:-**

1. SMT. MAMTA RANAWAT W/O LATE MANOJ RANAWAT, AGED ABOUT 33 YEARS, OCCUPATION: BEAUTY PARLOUR SURAJ NAGAR, VILLAGE BAGLI, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)
2. MAMTA THRU. MEGHA RANAWAT D/O LATE MANOJ RANAWAT, AGED ABOUT 17 YEARS, OCCUPATION: STUDENT SURAJ NAGAR, VILL. BAGLI, TEH.BAGLI (MADHYA PRADESH)
3. MAMTA THRU. JAY RANAWAT S/O LATE MANOJ RANAWAT, AGED ABOUT 15 YEARS, OCCUPATION: STUDENT SURAJ NAGAR, VILL. BAGLI, TEH.BAGLI (MADHYA PRADESH)
4. SIDDHNATH S/O HIRALAL RANAWAT, AGED ABOUT 68 YEARS, OCCUPATION: NIL SURAJ NAGAR, VILL. BAGLI, TEH.BAGLI (MADHYA PRADESH)
5. SARASWATI BAI W/O SIDDHANATH RANAAT, AGED ABOUT 62 YEARS, OCCUPATION: NIL SURAJ NAGAR, VILL. BAGLI, TEH.BAGLI, DISTT. DEWAS (MADHYA PRADESH)

**.....APPELLANTS**

**(BY MS. SWATI UKHALE, ADVOCATE)**

**AND**

1. HARISINGH BHIL S/O SHRI TOLARAM, AGED ABOUT 41 YEARS, OCCUPATION: DRIVER VILLAGE GUNERA, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)
2. DHARMENDRA PATIDAR S/O KASHIRAM OCCUPATION: NIL NAYAPURA, TEH.BAGLI, DISTT. DEWAS (MADHYA PRADESH)
3. BRANCH MANAGER THE NATIONAL INSU.CO.LTD. BRANCH OFFICE, STATION ROAD, DEWAS (MADHYA PRADESH)
4. RAVI KORKU S/O RADHESHAYAM, AGED ABOUT 23 YEARS, OCCUPATION: AGRICULTURIST ALVADA, TEH.BAGLI, DISTT. DEWAS (MADHYA PRADESH)
5. SOBHAL SINGH SENDHAV S/O DEVKARAN, AGED ABOUT 32 YEARS, OCCUPATION: AGRICULTURIST VILL. ALVADA, TEH.BAGLI (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI AKSHANSH MEHRA, ADVOCATE FOR RESPONDENT NO.3/INSURANCE COMPANY)*

**MISC. APPEAL No. 1302 of 2015**

**BETWEEN:-**

SMT. MAMTA RANAWAT W/O LATE MANOJ RANAWAT, AGED ABOUT 33 YEARS, OCCUPATION: BEAUTY PARLOUR SURAJ NAGAR, VILLAGE BAGLI, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)

.....APPELLANT

*(BY MS. SWATI UKHALE, ADVOCATE)*

**AND**

HARISINGH BHIL S/O SHRI TOLARAM, AGED ABOUT 41 YEARS,  
1. OCCUPATION: DRIVER VILLAGE GUNERA, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)

2. DHARMENDRA PATIDAR S/O KASHIRAM OCCUPATION: NIL NAYAPURA, TEH. BAGLI (MADHYA PRADESH)

3. BRANCH MANAGER THE NATIONAL INSURANCE CO. LTD. BRANCH OFFICE STATION ROAD, DEWAS (MADHYA PRADESH)

4. RAVI KORKU S/O RADHESHYAM, AGED ABOUT 23 YEARS, OCCUPATION: AGRICULTURIST VILL. ALVADA, TEH. BAGLI (MADHYA PRADESH)

5. SOBHAL SINGH SENDHAV S/O DEVKARAN, AGED ABOUT 32 YEARS, OCCUPATION: AGRICULTURIST VILL. ALVADA, TEH. BAGLI (MADHYA PRADESH)

.....RESPONDENTS

*(SHRI AKSHANSH MEHRA, ADVOCATE FOR RESPONDENT NO.3/INSURANCE COMPANY)*

**MISC. APPEAL No. 1305 of 2015**

**BETWEEN:-**

NATIONAL INSURANCE CO. LTD. MANAGER REGIONAL OFF. APOLLO TOWERS, 2, M.G. ROAD, INDORE (MADHYA PRADESH)

.....APPELLANT

*(BY SHRI AKSHANSH MEHRA, ADVOCATE)*

**AND**

1. MAMTA RANAWAT W/O LATE SHRI MANOJ RANAWAT, AGED ABOUT 33 YEARS, OCCUPATION: BEAUTY PARLOUR SURAJ NAGAR,

- VILLAGE BAGLI, TEH. BAGLI, DISTT. DEWAS (MADHYA PRADESH)  
MAMTA THRU. MEGHA RANAWAT D/O LATE MANOJ RANAWAT,  
2. AGED ABOUT 17 YEARS, OCCUPATION: STUDY SURAJ NAGAR,  
VILL.BAGALI,TEH.BAGALI (MADHYA PRADESH)  
MAMTA THRU. JAI RANAWAT S/O LATE MANOJ RANAWAT, AGED  
3. ABOUT 15 YEARS, OCCUPATION: STUDY SURAJ NAGAR, VILLAGE  
BAGLI, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)  
SIDDHANATH RANAWAT S/O HIRALAL RANAWAT, AGED ABOUT 62  
4. YEARS, OCCUPATION: NIL SURAJ NAGAR, VILL.  
BAGALI,TEH.BAGALI (MADHYA PRADESH)  
SARASWATI BAI RANAWAT W/O SIDDHANATH RANAWAT, AGED  
5. ABOUT 62 YEARS, OCCUPATION: NIL SURAJ NAGAR,VILL  
BAGALI,TEH.BAGALI,DISTT. DEWAS (MADHYA PRADESH)  
HARISING BHIL S/O TOLARAM, AGED ABOUT 41 YEARS,  
6. OCCUPATION: DRIVER VILL. GUNERA, TEH.BAGALI, DISTT.,DEWAS  
(MADHYA PRADESH)  
DHARMENDRA PATIDAR S/O KASHI RAM, AGED ABOUT 23 YEARS,  
7. OCCUPATION: NIL VILL. NAYAPUYA,TEH. BAGALI, DISTT., DEWAS  
(MADHYA PRADESH)  
RAVI KORKU S/O RADHESHYAM, AGED ABOUT 23 YEARS,  
8. OCCUPATION: AGRICULTURIST VILL. AVALDA,TEH. BAGALI,  
DISTT.,DEWAS (MADHYA PRADESH)  
SOBHAL SINGH SENDHAV S/O DEVKARAN, AGED ABOUT 32 YEARS,  
9. OCCUPATION: AGARICULTURIST VILL. AVALDA, TEH.BAGALI,  
DISTT. DEWAS (MADHYA PRADESH)

.....RESPONDENTS

*(BY MS. SWATI UKHALE, ADVOCATE)*

**MISC. APPEAL No. 1307 of 2015**

**BETWEEN:-**

NATIONAL INSURANCE CO. LTD. MANAGER REGIONAL OFF. APOLLO  
TOWERS, 2, M.G. ROAD, INDORE (MADHYA PRADESH)

.....APPELANT

*(BY SHRI AKSHANSH MEHRA, ADVOCATE)*

**AND**

- MAMTA RANAWAT W/O LATE SHRI MANOJ RANAWAT, AGED ABOUT  
1. 33 YEARS, OCCUPATION: BEAUTY PARLOUR SURAJ NAGAR,  
VILLAGE BAGLI, TEHSIL BAGLI, DISTT. DEWAS (MADHYA PRADESH)  
HARISINGH BHIL S/O TOLA RAM, AGED ABOUT 41 YEARS,  
2. OCCUPATION: DRIVER VILL. GUNERA,TEH. BAGALI (MADHYA  
PRADESH)  
DHARMENDRA PATIDAR S/O KASHI RAM OCCUPATION: NIL  
3. NAYAPURA, TEH.BAGLI (MADHYA PRADESH)

RAVI KORKU S/O RADHESHYAM, AGED ABOUT 23 YEARS,  
4. OCCUPATION: AGRICULTURIST VILL. AVALVADA, TEH. BAGALI,  
DISTT. DEWAS (MADHYA PRADESH)

SOBHAL SINGH SENDHAV S/O DEVKARAN, AGED ABOUT 32 YEARS,  
5. OCCUPATION: AGRICULTURIST VILL. AVALADA, TEH. BAGALI  
(MADHYA PRADESH)

....RESPONDENTS

(BY MS. SWATI UKHALE, ADVOCATE)

*These appeals coming on for judgement this day, the court passed the following:*

### **JUDGEMENT**

1] This judgement shall also govern the disposal of M.As. No.1301/2015, 1302/2015, 1305/2015 and 1307/2015 as all these appeals have arisen out of the same accident which took place on 31/03/2013. The appeals have been preferred under Section 173 of Motor Vehicles Act, 1988 against the award dated 07/02/2015, passed in claim case Nos.28/2013 and 29/2013 by the Additional Member, M.A.C.T., Bagli, District Dewas (M.P.)

2] M.A. No.1301/2015 has been filed by the claimants against the award passed in Claim Case No.28/2013, on account of death of Manoj Ranawat, whereby the appellants/claimants have been awarded the compensation of Rs.21,52,018/-, whereas, M.A. No.1302/2015 has been filed against the award passed in Claim Case No.29/2013, on account of injuries suffered by appellant Mamta Ranawat, whereby the appellant has been awarded the compensation of Rs.1,69,207/-. Whereas, M.A. Nos.1305/2015 and 1307/2015 have been filed by the National Insurance Co. Ltd. on account of false implication in the aforesaid claim cases respectively.

3] In brief, the facts of the case are that the accident in the present case took place on 31/03/2013, when the appellant Mamtabai was strolling along with her husband Manoj Ranawat after having dinner and while they were walking on the side of the road, at that time, a Maruti Car bearing registration No.MP 09 CG-2236 driven rashly and negligently by respondent No.1 dashed against an ongoing motorcycle bearing registration No.MP 41MD-1596, and because of this collision, the vehicles also dashed against appellant Mamtabai and her husband Manoj Ranawat, as a result of which, Manoj Ranawat died on account of the injuries, whereas Mamta also suffered grievous injuries on her spine and other parts of her body. A criminal case was also registered in this regard, and subsequently the appellants/claimants filed the aforesaid claim cases wherein, the learned Claims Tribunal, after recording the evidence, awarded Rs.21,52,018/- in claim case No.28/2013 from which MA No.1301/2015 by claimant, and MA No.1305/2015 by Insurance Co. have arisen, and awarded Rs.1,69,207/- in claim case No.29/2013 from which MA No.1302/2015 by claimant, and MA No.1307/2015 by Insurance Co have arisen, and being aggrieved of the same, the present appeals have been preferred.

4] Counsel for the appellants/claimants has submitted that the learned claims tribunal has erred in not considering the fact that the amount of consortium is on lower side, and the loss of estate has also not been awarded, and under the other heads also, the award is on lower side. Hence, it is submitted that the award be enhanced

appropriately. It is also submitted that so far as MA No.1302/2015 is concerned, which is in respect of the injuries suffered by the appellant Mamtabai, despite the fact that PW/4 Dr. Yogesh Walimbe has certified that the appellant has suffered 50% permanent disability including her left hand and left leg but the claims tribunal has not considered the same. Thus, it is submitted that the assessment ought to have been made on the basis of the percentage of disability and under the other heads also, the amount is on lower side.

5] Counsel for the respondent No.3/insurance company(appellant in M.A.No.1305/2015 and 1307/2015), on the other hand has opposed the prayer and it is submitted that the insurance company has also filed M.A. No.1305/2015 and 1307/2015 on the ground that the insurance company has been falsely involved in the case as the initial FIR was lodged on 31/03/2013, only against the motorcycle and there is no reference of any car being involved in the case. It is submitted that subsequently when it was found by the claimants that the motorcycle was not insured, a false case has been concocted and it is projected that the collusion was between the motorcycle and the car because of which, the appellant Mamta and her husband suffered grievous injuries. Counsel has drawn the attention of this Court that the car was seized after 18 days of the incident, and even the drivers of the car as also the motorcycle who have also been examined in the Court by the Insurance Co., have stated that no such accident has taken place. Thus, it is submitted that the accident itself is doubtful. It is also submitted that there is a mechanical report on record in which,

there is no damage caused to the car despite the fact that the motorcycle was totally damaged and if the motorcycle was damaged, in that case, it was not possible that the car could have gone unscathed, hence, the appeals filed by the insurance company deserves to be allowed. And so far as the quantum is concerned, it is submitted that the award is just and proper and no interference is called for.

6] Learned counsel for the respondents/claimants has opposed the appeal filed by the insurance company and it is submitted that the driver and owner of the offending vehicles did not raise any grievance against framing of charge in the criminal case and thus, merely because the vehicle number was provided subsequently, it cannot be said that the vehicle has been wrongly involved. In support of her submissions, counsel for the claimants has relied upon the decision rendered by the Supreme Court in the case of *Janabai Wd/o Dinkarrao Ghorpade and others vs. M/s ICICI Lombord Insurance Co. Ltd. passed in SLP (Civil) No.21077 of 2019 dated 10/10/2022*.

7] Heard learned counsel for the parties and perused the record.

8] From the record, it is found that so far as the decision relied upon by the counsel for the appellants/claimants in the case of *Janabai* (supra) is concerned, in that case, the complaint was lodged on 02/07/2007, whereas the names of the driver and the owner were informed on 20/08/2007. Thus, there was a delay of more than 45 days and in that case, the driver of the vehicle did not appear in the case nor filed any written statement. The relevant paras of *Janabai*

(supra) reads as under:-

“8. We have heard learned counsel for the parties and find that the order of the High Court is unsustainable. Appellant No. 1 and her husband had received injuries in an accident which took place on 1.6.2007. She lost her husband on 25.6.2007. The primary concern of appellant No. 1 or other relatives at the time of incident was to take care of the deceased in his critical condition. The health and well-being of her husband was her priority rather than to lodge an FIR. The High Court has proceeded primarily on the basis of information to the Police regarding non-disclosure of the name of the driver of the car in the FIR. Appellant No.1 has filed her examination-in-chief on 1.8.2011 disclosing the car number of the offending vehicle. The owner and the Insurance Company had the opportunity to cross-examine the witness in support of their stand that the vehicle number given by her was not involved in the accident. In cross examination, she deposed that she was brought to the hospital in the vehicle which dashed into their vehicle. She deposed that she was mentally disturbed and hospitalized, therefore, she filed the complaint late.

9. On the other hand, the owner has appeared as a witness. He admitted that he had taken the vehicle on superdari and that he has not filed any proceedings to quash FIR against Sanjay, driver of the Car. He admitted that bail application form and surety bond (Ex.68, 69 and 70) show that he has stood surety for the driver wherein he has mentioned the accused as driver of his vehicle. It has also come on record that the owner has not made any complaint in respect of false implication of his vehicle or the driver.

10. We find that the rule of evidence to prove charges in a criminal trial cannot be used while deciding an application under [Section 166](#) of the Motor Vehicles Act, 1988 which is summary in nature. There is no reason to doubt the veracity of the statement of appellant No. 1 who suffered injuries in the accident. The application under the Act has to be decided on the basis of evidence led before it and not on the basis of evidence which should have been or could have been led in a criminal trial. We find that the entire approach of the High Court is clearly not sustainable.”

9] The facts of the case, when tested on the touchstone of the aforesaid dictum of the Supreme Court, it is found that although the drivers of the motorcycle as also the car were examined by the

insurance company who have denied any accident having taken place but their statements have to read as a whole and not in isolation. It is found that DW/1 Harisingh, the driver of the Maruti car has stated that no such accident has taken place with the car, however he has admitted in his cross examination that the criminal case is pending against him. So far as the driver of motorcycle DW/2 Ravindra is concerned, he has also denied any accident having taken place, but he has admitted in his cross examination that he has obtained the bail in the same case from the trial Court. He has also admitted that he has no license for riding motorcycle and has also admitted that he has not taken any action against the car owner or against the complainant for his false implication in the case.

10] In such circumstances, the facts of the case on hand, when tested on the anvil of the aforesaid decision of the Supreme Court in the case of *Janabai* (supra), in the considered opinion of this Court, this is not a case where it can be said with surety that the offending vehicles were not involved in the case and the probability indicates that the vehicles must have been involved.

11] In view of the same, M.A. Nos.1305/2015 and 1307/2015 filed by the insurance company are liable to be and are hereby ***dismissed***.

12] So far as M.A. No.1301/2015 preferred by the LRs of the deceased Manoj Ranawat is concerned, it is found that the only infirmity is the amount of consortium and the loss of estate which has not been awarded by the claims tribunal in line with the decision rendered by the Supreme Court in the case of *Magma General*

***Insurance Co. Ltd. vs. Nanu Ram and others reported as 2018 ACJ 2782.*** Thus, the award requires minor corrections as compared to the compensation awarded by the claims tribunal and this Court is of the considered opinion that the assessment of compensation as compared to the Claims Tribunal can be made in the following manner: -

**The assessment made by the Claims Tribunal:-**

Dependency $148500 \times 30\%(44550) = 193050 - \frac{1}{4} (48263) = 144787 \times 14$	2027018
Towards consortium	100000
Funeral expenses	25000
<b>Total</b>	<b>21,52,018</b>

**The assessment made by this Court is as under :-**

Dependency $148500 \times 30\%(44550) = 193050 - \frac{1}{4} (48263) = 144787 \times 14$	2027018
Towards consortium	220000
Funeral expenses	16500
Loss of estate	15000
<b>Total</b>	<b>22,78,518</b>
Amount awarded by the Tribunal	- 2152018
<b>Amount to be enhanced</b>	<b>1,26,500</b>

M.A. No.1302/2015

13] So far as M.A. No.1302/2015 filed by the appellant/claimant Mamta is concerned, it is found that PW/4 Dr. Yogesh Walimbe has certified the permanent disability to be 50%, as the appellant has suffered a head injury, her right clavicle bone was fractured as also her right rib which was fractured, her vertebra-C7 was fractured and C1 was also damaged. The claims tribunal has

held that since the appellant has suffered fractures which have already been united, hence, it cannot be said that she has suffered any disability. In the considered opinion of this Court, the aforesaid finding cannot be sustained as the Doctor has given a report on the basis of scientific analysis of the injuries suffered by the appellant and although he has stated that the injured has suffered the disability to the tune of 50%, however, to be on safer side, it can be said that she must be suffered the disability to the tune of 20% of her entire body as the medical documents regarding the injuries of the appellant have also been placed on record. In view of the same, this Court is of the considered opinion that the compensation as awarded to the claims tribunal be enhanced and accordingly the assessment of compensation as compared to the Claims Tribunal can be made in the following manner: -

**The assessment made by the Claims Tribunal:-**

Medical expenses	72207
Pain and suffering	50000
Income during treatment	16000
Special diet	20000
Non pecuniary loss	11000
<b>Total</b>	<b>1,69,207</b>

**The assessment made by this Court is as under :-**

Permanent disablement 4500 + 20% FP (900) = 5400 5400 X 12 = 64800 - 20% PD = 12960 X 16	172800
Medical expenses	72207
Pain and suffering	50000
Income during treatment	20000

Special diet	20000
Non pecuniary loss	11000
Transportation and attendant	15000
<b>Total</b>	<b>3,61,007</b>
Amount awarded by the Tribunal	1,69,207
<b>Amount to be enhanced</b>	<b>1,91,800</b>

14] In view of the above, M.A. No.1301/2015 and 1302/2015 stands *partly allowed*. The compensation as awarded by the Tribunal is accordingly enhanced by a sum of *Rs.1,26,500/- and Rs.1,91,800/-* respectively. The enhanced amount will carry interest at the same rate as awarded by the Tribunal, and will be governed by the same conditions as contained in the award of the Tribunal. M.A. Nos.1305/2015 and 1307/2015 stand *dismissed*.

Signed copy of the order be placed in M.A. No.1301/2015 and copy whereof be kept in connected appeals.

Sd/-

**(SUBODH ABHYANKAR)**  
**JUDGE**

krjoshi