



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

**HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI**

**ON THE 25<sup>th</sup> OF JULY, 2025**

**MISC. APPEAL No. 1427 of 2017**

***SMT.LALITABAI AND OTHERS***

*Versus*

***THE NEW INDIA INSURANCE COMPANY LTD. AND OTHERS***

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**Appearance:**

Shri Abhishek Gilke, Advocate for the appellants.

Shri Akshansha Mehra, learned counsel for the respondent No.3.

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**ORDER**

1. This appeal under Section 173(1) of the Motor Vehicles Act, 1988 has been preferred by the appellants being aggrieved by the award dated 13/7/2017 passed in MACC No.271/2016 by the Additional Member, Motor Accidents Claims Tribunal, Ujjain whereby a total sum of Rs.13,85,000/- has been awarded to the appellants / claimants by way of compensation.

2. Short facts of the case are that on 13/5/2016 Harinarayan ('the deceased') at about 1.00 PM with his scooter having registration No.M.P. 13 DP 1768 was going from Makdon to Rupakhedi. Near village Chikli Jod respondent No.2 drove vehicle bearing registration No. M.P. 45 H 6150 which was owned by respondent



No.3 and was insured with the respondent No.1 in a rash and negligent manner and dashed the same against his motorcycle as a result of which Harinarayan died on the spot.

3. The claims tribunal after considering the evidence on record concluded that the death was caused by the offending vehicle due to rash and negligent driving of the driver. The claims tribunal after considering the evidence on record concluded that the appellants are entitled for compensation for loss of dependency at Rs.12,60,000/- and after awarding further amount of Rs.1,00,000/- to the wife for loss of consortium as also amount of Rs.25,000/- for funeral expenses total compensation of Rs.13,85,000/- was awarded by the claims tribunal.

4. Learned counsel for the appellants has come before this Court on the ground that the income of the deceased has been assessed on lower side at Rs.10000/- per month, ie., Rs.1,20,000/- per annum while discarding the income tax returns filed by the appellants as Exhibit P/15, P/17 and P/20 for the assessment years of 2013-14, 2014-15 and 2015-16. The last return was filed on 20/8/2015 which shows the income of the deceased at Rs.2,11,027/-. The death due to accident had occurred on 13/5/2016. Thus the claims tribunal should have taken the income on the basis of the income tax returns produced by the appellants. In support of his submissions he relied on the judgment of the Hon'ble Apex Court passed in the case of Smt. Anjali & Ors. V/s. Likendra Rathod & Ors.



2022 LiveLaww (SC) 1012.

5. Learned counsel for the appellants further submits that an amount of Rs.1,00,000/- has been awarded for loss of consortium whereas there are four claimants who are wife, daughter, son and mother of the deceased. Thus all four are entitled for compensation for loss of consortium at Rs.40000/- each. By raising above contentions learned counsel for the appellants submits that the claims tribunal has neither given any explanation for discarding the ITR's of the deceased, nor assigned any reasons for not awarding consortium to all the four claimants / appellants. He submits that the resultant quantification of compensation by discarding ITR without any proper reasons is very less. Thus he prays for enhancement of compensation.

6. Per contra, learned counsel for respondent No.1 / Insurance Co. by referring to para 25 of the award submits that only producing income tax return of the deceased would not establish his income as has clearly been recorded by the claims tribunal. He by referring to the findings of para 26 submits that the claims tribunal has observed in para 26 that deceased was doing business of selling '*Dona Pattal*', operating hair cutting saloon and working as bank commission agent and was filing income tax returns in a small place like Makdon. Thus the claims tribunal concluded that he must have been earning Rs.10000/- per month. This finding of the claims tribunal in the submission of the learned counsel for the



Insurance Co. is sound and based on proper reason. Thus no interference is warranted in the same. As regards the amount of consortium he submits that an amount of Rs.1,00,000/- has been awarded for the same which is just and proper. Thus he supports award.

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

8. From perusal of the discussion made by the claims tribunal in para 21, 22 and 23 regarding the income of the deceased and on perusal of the statement of Lalitabai (AW.1) as well as income tax returns as also computation of income produced as Exhibits P/15, P/16, P/17, P/18, P/19, P/20, P/21 and P/22, as also the bank statement of the deceased Exhibit P/23, it is clear that the deceased was not only operating his business of hair cutting saloon but was also working as insurance advisor of SBI Life Insurance Co. Ltd. The claims tribunal in para 25 of the award discarded ITR of the deceased by recording a finding that merely by filing income tax return the income cannot be accepted to be proved in absence of the basic facts regarding income which is mentioned in the income tax returns. This finding of the claims tribunal is contrary to the evidence available on record. First of all income tax return have been filed along with the computation of the total income which are descriptive in nature. Secondly there is Exhibit P/24 which is a certificate issued by the Municipal Council, Makdon, District Ujjain which certifies that the deceased Harinarayan Verma was operating a shop by the name



of Satyam Disposal and hair saloon at bus stand Nagar Parishad, Makdon at Shop No.172/1. Apart from this an identity card of deceased Harinarayan has been exhibited as Exhibit P/25 issued by the said Municipal Council on 30/6/2013 in which the occupation of the deceased was mentioned as hair saloon, Exhibits P/26 to P/29 are the rent receipts of the shop at bus stand. Exhibit P/30 is the PAN Card of the deceased, Exhibit P/13 is the mark sheet of high school and Exhibit P/42 is the license of the deceased of him being agent of SBI Life Insurance Ltd. It is thus clear that the basic details which tribunal referred in para 25 of its award were not absent rather very much present before the claims tribunal but the tribunal simply overlooked the same and plainly discarded income tax returns of the deceased without there being any proper explanation for the same. It is seen from the income tax returns of the years 2013-14 to 2015-16 that in the year of 2013-14 the income of the deceased was Rs.1,59,646/-. In the assessment year 2014-15 the income was Rs.2,12,828/- and in the year of 2015-16 the income was Rs.2,11,027/-. It is thus seen that the income of the deceased was consistent in the income tax return filed by him for successive assessment years. The Hon'ble Apex Court while considering the issue of income in a claim case has considered the aspect of income tax return, in the case of Smt. Anjali (supra) and observed in para 9 that the tribunal and High Court both committed grave error while estimating the income of the deceased by discarding the income tax return of the deceased. The Hon'ble Apex Court while recording thus has referred to an earlier



judgment of the said Court rendered in the case of Malarvizhi V/s. United India Insurance Co. Ltd & Ors. reported as 2024 SCC 228. Para 10 is relevant which reads as under :-

*“10. The Tribunal proceeded to determine the agricultural income arising from 36.76 acres of land on the basis of two judgments of the High Court. The Tribunal arrived at two different figures by applying the decisions and proceeded to determine the agricultural income on an average of the two amounts. The Tribunal superimposed a possible value of income from agricultural land despite a clear indication in the income tax returns of the income from agricultural land. The method adopted by the Tribunal is not sustainable in law. On the other hand, the High Court has proceeded on the basis of the income reflected in the income tax returns for the assessment year 1997-1998. The relevant portion of the return reads :*

<i>“Income from House property</i>	<i>-</i>	<i>Rs.1920</i>
<i>Business profit (other than 14.b)</i>	<i>-</i>	<i>Rs.1,21,071</i>
<i>Net Agricultural Income</i>	<i>-</i>	<i>Rs.88,140</i>

*The tax return indicates an annual income of Rs 2,11,131 in the relevant assessment year. Mr Jayanth Muth Raj, learned Senior Counsel appearing on behalf of the appellant contended that other documents were marked which reflected the income of the deceased. We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased. To the benefit of the appellants, the High Court has proceeded on the basis of the income tax return for the assessment year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased.”*

9. It is to be seen that it is the duty of the claims tribunal while determining compensation that it must be just and reasonable. The compensation has to be determined on rational basis and not at the whims or wild guesses. In the present case the claims tribunal has observed, perverse to the record, that no details of work of the deceased were available in the evidence and has gone to the extent of



presuming that at a small place like Makdon it would be appropriate that the income of the deceased is taken at Rs.10,000/- by completely discarding income tax returns of the last three years which preceded the death of deceased Harinarayan. The Hon'ble Apex Court in the case of **State of Haryana & Anr. V/s. Jasbir Kaur & Ors.** 2003 Vol. 7 SCC 484 has observed in para 7 as under :-

*“7. It has to be kept in view that the Tribunal constituted under the Act as provided in [Section 168](#) is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to be 'just and reasonable'. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The Courts and Tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non- arbitrary. If it is not so it cannot be just.*

**10.** The claims tribunal is under the statutory duty as enjoined upon it in terms of Section 168 of the Motor Vehicles Act, that it awards compensation which appears to be just. The expression “which appears to be just” has to be based on



some objective factors and not on wild and arbitrary determination ignoring the concrete material available on record. Thus in the considered view of this Court not only that income tax returns submitted by the appellants showing the income of the deceased were to be taken into consideration by the claims tribunal but they reflected the income, source of which was sufficiently demonstrated by the appellants / claimants by adducing the evidence of AW.1 Lalitabai and the documentary evidence as referred herein above. As such, the income of the deceased is taken at Rs.2,11,027/- per annum, according to the last income tax return filed before the death of the deceased.

**11.** As regards the contention of the appellants regarding award of consortium, it is seen from the para 32 of the award of consortium of Rs.1,00,000/- has been awarded whereas there are four claimants who are wife, daughter, son and mother of the deceased. Thus in view of the law as laid by the Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram**, 2019 ACJ SC 2782 all four are held entitled for compensation in the head of consortium at Rs.40000/- each which would total to Rs.1,60,000/-. In view of the above findings of this Court, the just and proper compensation would be as under :-

Income of the deceased	Rs.2,11,027/- per annum, ie., 17,585/- per month + 25% future prospect.
Multiplier Adopted	14, personal expenses deducted 1/4
Dependency	(Income + Future Prospect) X 12 X Multiplier (1 – 1/4)



	$= (17585 + 4396) \times 12 \times 14 \times (1 - 1/4) = \text{Rs.}28,04,004/-$
Funeral	Rs.15,000/-
Estate	Rs.15,000/-
Loss of Consortium	Rs.1,60,000 = $40,000 \times 4$ (40,000/- to each dependent)
<b>Total Compensation to be paid</b>	<b>Rs.29,94,004/-</b>

**12.** The claims tribunal has already awarded an amount of Rs.13,85,000-. Thus the appellants are entitled for payment of Rs.16,09,004/- over and above the amount already awarded by the claims tribunal. The enhanced amount shall carry the interest at the rate of 6% per annum from the date of application. It is seen from the record that the appeal has been valued by the appellants at Rs.11,00,000/-. The appellants would hence be required to pay the appropriate Court fees on the additional enhanced amount of Rs.16,09,004/- which shall be paid by them within a period of two months from today. In case of their failure to pay the Court fees as aforesaid, this additional enhanced amount of Rs.16,09,004/- shall cease to carry any interest after a period of two months.

**(PAVAN KUMAR DWIVEDI)**  
**JUDGE**

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