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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 28th OF MARCH, 2025MISC. APPEAL No. 6902 of 2023*SMT. FARJANA BEE AND OTHERS**Versus**MAHESH AND OTHERS*

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Appearance:

Shri Sachin Parmar - advocate for the appellant.

Shri Monesh Jindal, learned counsel for the respondent [R-3].

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Heard on : 24.03.2025

Pronounced on : 28.03.2025
.....

JUDGMENT

1. The appellant - claimant has filed This appeal under Section 173 (1) of the Motor Vehicles Act, 1988 has been filed by the appellant being aggrieved by award dated 03.08.2023 passed in MACC No.17/2022 by Second Member of Motor Accident Claims Tribunal, District Ratlam, whereby a total compensation amount of Rs.9,54,500/- has been awarded in favour of the claimant.

2. The present appeal is filed seeking enhancement in compensation amount up to Rs.66,50,000/-.

3. In short, the facts of the case are that on 21.08.2021 at about



5.30 to 5.40 pm, the deceased Salim was going on his motor cycle bearing registration No.MP 43 EJ 1215 slowly on safe side and when he was going towards Jaora from Hatpipaliya at that time the respondent no.1, was driving the offending vehicle No. MP-13-JB-1735 rashly and negligently, dashed down Salim Khan's vehicle due to which he suffered serious injuries on his head and various parts of body and expired during treatment.

4. The Tribunal while awarding the amount of compensation for the death of deceased, has considered the entire evidence placed on record and after recording evidence Tribunal awarded a total compensation of Rs.5,10,000/- in the following heads:

Loss of dependency	Rs.8,77,500/-
Income taken as Rs.6,000 + Rs.1500 x 12 x 3/4 x 13)	
Less Personal Exp. Rs.22,500/-(Rs.90,000-Rs.22,500) Dependency Rs.67,500/-	
Age of the deceased is 46 years hence multiplier is taken as 13 therefore, Rs.67500/- x 13 = Rs.8,77,500/-	
Loss of consortium	Rs.44,000/-
Funeral Expenses	Rs. 16,500/-
Loss of Estate	Rs. 16,500/-
TOTAL	Rs.9,54,500/-

4. Learned counsel for the appellant submits that the Tribunal has



committed an error in not awarding just and proper amount of compensation in the case as the amount awarded by the Tribunal is on the lower side hence, liable to be appropriately modified. The interest of 6% is also on very low as per settled law on this point. The Tribunal has committed an error in not awarding compensation under the head of future prospects keeping in view the verdict of the apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi - 2017 ACJ 2700**. In which it is held that every dependent is entitled for consortium, hence, the view of learned Trial Court regarding single consortium is also perverse. So far as the income is concerned, the learned Tribunal has taken notional income as Rs. 8700/- per month and after deductions calculated loss of dependency as Rs.8,77,500/- which is also incorrect. Hence, prayed for awarding just and proper amount of compensation in the case.

5. On the other hand, learned counsel for the Insurance Company has argued in support of the impugned award and contended that the Claims Tribunal has rightly awarded the compensation amount in the case which does not call for any interference by this Court.

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

7. After hearing learned counsel for the parties and going through the record and also the judgments passed by Hon'ble Apex Court in the cases of **Magma General Insurance Company Limited (Supra)**, **Kirti (Supra)** and **Pranay Sethi (Supra)** I find substance in the arguments advanced by the counsel for the appellants.



8. Certainly, in this case, the claimants have not been produced any evidence regarding income. However, it is well settled that the income of claimant can be awarded on the basis of minimum wages prescribed by the State. In this regard, paragraph No.11 of the judgment passed by Hon'ble Apex Court in the case of **Kirti and Another v. Oriental Insurance Company Limited, (2021) 2 SCC 166**, is condign to quote here:-

II. Assessment of monthly income

“11. Second, although it is correct that the claimants have been unable to produce any document evidencing Vinod's income, nor have they established his employment as a teacher; but that doesn't justify adoption of the lowest tier of minimum wage while computing his income. From the statement of witnesses, documentary evidence on record and circumstances of the accident, it is apparent that Vinod was comparatively more educationally qualified and skilled. Further, he maintained a reasonable standard of living for his family as evidenced by his use of a 7 motorcycle for commuting. Preserving the existing standard of living of a deceased's family is a fundamental endeavour of motor accident compensation law. Thus, at the very least, the minimum wage of Rs 6197 as applicable to skilled workers during April 2014 in the State of Haryana ought to be applied in his case.”

9. In view of the aforesaid law laid down by Hon'ble Apex Court, the matter has been considered. As per the minimum wages prescribed by the National Income Chart, it would be appropriate to enhance the notional income from Rs.6,000/- to Rs.8,700/- per month. Since, the age of appellant is, undisputedly, 46 years at the time of incident, in view of **Pranay Sethi (Supra)** 25% future prospect should be added in his income. As such, the yearly income of deceased would be considered as



Rs.1,04,400/- (Rs.8700/- x12) and calculating future prospectus @ 25% = Rs.1,30,500/- per year. After deduction of 1/4 for personal expenses, the loss of dependency (i.e.3/4) would be Rs.97,875/- per year and after applying multiplier of 13 it would be Rs.12,72,375/-.

10. That apart, the order of learned trial Court with regard to the head of consortium amount, is also perverse in light of the decision of Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram & others** reported in (2018) 18 SCC 130. Hence, it will be appropriate to apply multiplier of four as there are four dependents of the deceased i.e. Rs.44,000/-x 4= 1,76,000/- under the head of Consortium. Loss of estate and funeral expenses are taken as Rs.16,500/- under each head.

11. In view of the foregoing discussion, the compensation awarded by the Tribunal deserves to be modified as under:

HEAD	AMOUNT
Income taken	Rs. 8700 +2175 (25% F.P.) =
	Rs. 10875/- per month x 12 =
	Rs. 1,30,500/- (per year)
Personal Expenses	-1/4 = Rs.32,625/- per year



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Loss of dependency 3/4	-Rs.97,875/- per year
Multiplier 13	- Rs.97875/- x 13 = Rs.12,72,375/-
Loss of consortium	-Rs.44,000 x 4 = Rs.1,76,000/-
Loss of estate	-Rs.16,500/-
Funeral expenses	-Rs.16,500/-

	TOTAL Rs.14,81,375/-

12. Thus, the just and proper amount of compensation in the instant case is Rs.14,81,375/- as against the award of the Tribunal of Rs.9,54,000/-. Accordingly, the appellants are entitled to an additional sum of Rs.5,26,875/- over and above the amount which has been awarded by the Tribunal.

13. In the result, the appeal is partly allowed by enhancing the compensation amount by a sum of Rs.5,26,875/-. The appellants have valued the appeal only to the extent of Rs.5,00,000/-, therefore, they are directed to pay the Court fee for difference enhanced amount to the tune of Rs.26,875/- The other findings recorded by the Tribunal shall remain intact.

(PREM NARAYAN SINGH)
JUDGE



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