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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 22<sup>nd</sup> OF SEPTEMBER, 2022

MISC. APPEAL No. 4373 of 2007

BETWEEN:-

1. KURAIsha S/O CHHAKKAN @ MOHD.SAFI, AGED ABOUT 45 YEARS, RANGRAGE MOHALL,NAOGOAN,CHHATARPUR (MADHYA PRADESH)
2. MOHD. SIKANDAR S/O CHHAKKAN @ MOHD. SAFI, AGED ABOUT 23 YEARS, RANGRAGE MOHALL,NAOGOAN,CHHATARPUR (MADHYA PRADESH)
3. RAISH S/O CHHAKKAN @ MOHD. SAFI, AGED ABOUT 21 YEARS, RANGRAGE MOHALL,NAOGOAN,CHHATARPUR (MADHYA PRADESH)

.....APPELLANTS

(BY SHRI SHARAD GUPTA, ADVOCATE)

AND

1. RAM KUMAR PRAJAPATI S/O ATHAIYA PRAJAPATI, AGED ABOUT 25 YEARS, RAIPURA PS RAIPURA,PANNA (MADHYA PRADESH)
2. UDAY CHAND CHAKRAWATI S/O CHHIDDA CHAKRAWARTI, AGED ABOUT 35 YEARS, PIPARIYA, BAHORIBANDH, KATNI (MADHYA PRADESH)
3. NATIONAL INSURANCE CO.LTD. MALVIYAGANJ, KATNI (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT/INSURANCE COMPANY BY SHRI N.S.RUPRAH,  
ADVOCATE)

MISC. APPEAL No. 3862 of 2007

**BETWEEN:-**

**NATIONAL INSURANCE CO. LTD BRANCH  
KATNI 495, MARHATAL JABALPUR (MADHYA  
PRADESH)**

**.....APPELLANT**

***(BY SHRI N.S.RUPRAH, ADVOCATE)***

**AND**

1. **SMT. QURAIsha S/O MD. CHAKKAR @ SAFI,  
AGED ABOUT 46 YEARS, RANG REJ MOHALLA  
NOWGAON DISTT CHHATARPUR (MADHYA  
PRADESH)**
2. **MD. SIKANDAR S/O MD. CHAKKAR @ SAFI,  
AGED ABOUT 24 YEARS, RANG REJ MOHALLA  
NOWGAON DISTT CHHATARPUR (MADHYA  
PRADESH)**
3. **RAYEES S/O MD. CHAKKAR @ SAFI, AGED  
ABOUT 21 YEARS, RANG REJ MOHALLA  
NOWGAON DISTT CHHATARPUR (MADHYA  
PRADESH)**
4. **RAM KUMAR PRAJAPATI S/O ATTAIAH  
PRAJAPATI, AGED ABOUT 26 YEARS, RAIPURA,  
PANNA (MADHYA PRADESH)**
5. **UDAY CHAND CHAKRAVARTY S/O CHIDDA  
CHAKRAVARTY, AGED ABOUT 36 YEARS,  
VILL.PIPARIYA, BAHORIBAND, KATNI  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SHARAD GUPTA, ADVOCATE)***

**MISC. APPEAL No. 3863 of 2007**

**BETWEEN:-**

**NATIONAL INSURANCE CO. LTD BRANCH  
KATNI 495, MARHATAL, JABALPUR (MADHYA  
PRADESH)**

**.....APPELLANT**

***(BY SHRI N.S.RUPRAH, ADVOCATE)***

**AND**

1. MD. JAFFAR @ MD JAKIR S/O MD GHASITE, AGED ABOUT 37 YEARS, NEAR MUSAFIR KHANA NOWGAON DISTT CHHATARPUR M.P (MADHYA PRADESH)
2. RAM KUMAR PRAJAPATI S/O ATTALIAH PRAJAPATI, AGED ABOUT 26 YEARS, RAIPURA, PANNA (MADHYA PRADESH)
3. UDAY CHAND CHAKRAVARTY S/O CHIDDA CHAKRAVARTY, AGED ABOUT 36 YEARS, PIPARIYA, BAHORIBAND, KATNI (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI SHARAD GUPTA, ADVOCATE)

**MISC. APPEAL No. 4374 of 2007**

**BETWEEN:-**

MOHD.JAFAR @ MOHD.JAKIR S/O MOHD.GHASITE, AGED ABOUT 36 YEARS, NEAR MUSAFIR KHANA, NIOGOAN, CHHATARPUR (MADHYA PRADESH)

.....APPELLANT

(BY SHRI SHARAD GUPTA, ADVOCATE)

**AND**

1. RAM KUMAR PRAJAPATI S/O ATHAIYA PRAJAPATI, AGED ABOUT 25 YEARS, RAIPURA, PS.PANNA (MADHYA PRADESH)
2. UDAY CHAND CHAKRAWARTI S/O CHIDDA CHAKRAWARTI, AGED ABOUT 35 YEARS, PIPARIYA, BAHORIBANDH, KATNI (MADHYA PRADESH)
3. NATIONAL INSURANCE CO.LTD. MALVIYAGANJ, KATNI (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT/INSURANCE COMPANY BY SHRI N.S.RUPRAH, ADVOCATE)

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

**ORDER**

These four Miscellenous Appeals have been filed by the claimants and National Insurance Company Limited being aggrieved of award dated 30.7.2007 passed by IIIrd Additional Motor Accident Claims Tribunal (Fast Track Court), Katni in Claim Case No.46/2006 & Claim Case No.50/2006.

Shri Sharad Gupta, learned counsel appearing for the appellants/claimants submits that the appellants/claimants are seeking enhancement in M.A.No.4373/2007 & M.A.No.4374/2007 whereas appellant/National Insurance Company has filed M.A.No.3862/2007 & M.A.No.3863/2007 on the ground that the offending Tractor bearing registration No.MP21-C-7782 was insured for agricultural purposes under Farm Package Policy and, therefore, admittedly when the deceased & injured were travelling as gratuitous passengers with the material loaded in the Trolley for Circus then there was violation of the Insurance Policy for which the National Insurance Company Limited should have been exonerated.

As nobody initially appeared for the appellant/National appellant/National Insurance Company Limited in M.A.No.3862/2007 & M.A.No.3863/2007, therefore, the argument put forth by Shri Sharad Gupta in the light of the Insurance Policy (Exhibit D/1) appears to be just & proper and, therefore, the right of recovery is to be given to the National Insurance Company Limited in the light of the law laid down by Hon'ble the Supreme Court in **Anu Bhanvara Etc versus IFFCO Tokio General Insurance Company Limited & Others AIR 2019 SC 3934 & Pappu & Others versus Vinod Kumar Lamba & Another (2018) 3 SCC 208.**

In above terms, M.A.No.3862/2007 & M.A.No.3863/2007 stand disposed of.

Appellants/claimants has filed M.A.No.4373/2007 on account of death of Mohammad Chhakkan @ Mohammad Safi in an accident which took place on 12.1.2006. The Claims Tribunal has construed the income of the deceased at Rs.15,000/- per annum considering his age to be 50 years whereas minimum wages even for an unskilled labourer on the date of the accident were to the tune of Rs.2,330/- per month or Rs.27,960/- per annum. The deceased is survived by his wife and two children and, therefore, 1/3d deduction is to be made towards the expenses of the deceased leaving disposable income of Rs.18,640/- per annum in the hands of the appellants/claimants. Since the age of the deceased was considered as 50 years, therefore, there will be addition of 25% towards future prospect in the light of the law laid down by Hon'ble the Supreme Court in **National Insurance Company Limited versus Pranay Sethi & Others (2017) 16 SCC 680** and the multiplier of 13 will be applicable taking out total pecuniary compensation to Rs.3,02,900/- over and above which the appellants/claimants are entitled to a sum of Rs.70,000/- towards non-pecuniary compensation taking total compensation to Rs.3,72,900/- in place of Rs.1,32,000/- awarded by the Claims Tribunal. Thus, the appellants/claimants are entitled to an enhanced sum of Rs.2,40,900/- (Rupees Two Lakh Forty Thousand Nine Hundred Only) alongwith interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

In above terms, M.A.4373/2007 is disposed of.

Appellant/claimant Mohammad Jafar @ Mohammad Jakir is before this Court by filing M.A.No.4374/2007 on the ground that the Claims Tribunal has awarded only a sum of Rs.39,000/- for an accident which took place on 12.1.2006 on account of the fracture of right femur bone and shortening of right

leg by 1 centimeter. Dr.P.D.Soni of District Hospital, Katni deposes that he had examined injured Mohammad Jafar @ Mohammad Jakir S/o.Mohammad Ghasite and found that there was deformity in his right femur bone and there was shortening of right leg by 1 centimeter and restriction in the moment of knee and had certified 30% permanent disability. However, Dr.P.D.Gupta had not certified as to what was the extent of functional disability or occupational disability. In my opinion, a sum of Rs.39,000/- in an accident which took place on 12.1.2006 is too meager.

Taking into consideration the fracture of right femur bone, which usually takes about four months' time to heal, a sum of Rs.10,000/- is awarded under the head of loss of income. A sum of Rs.25,000/- is awarded for pain & suffering. A sum of Rs.10,000/- is awarded towards future treatment. A sum of Rs.6,000/- is awarded under the head of Attendant. A sum of Rs.6,000/- is awarded for nutritious diet. A sum of Rs.5,000/- is awarded for transportation. Besides this, a sum of Rs.10,000/- is awarded for the physiotherapy of injured Mohammad Jafar @ Mohammad Jakir. Appellant/claimant Mohammad Jafar @ Mohammad Jakir is entitled to Rs.72,000/- in place of Rs.39,000/- awarded by the Claims Tribunal. Thus, there will be enhancement to the tune of Rs.33,000/- (Rupees Thirty Three Thousand Only) to which the appellant/claimant Mohammad Jafar @ Mohammad Jakir will be entitled to in addition to the amount awarded by the Claims Tribunal alongwith interest @ 6% per annum from the date of filing of the claim petition till the date of actual payment.

In above terms, M.A.No.4374/2007 is disposed of.

Let record of the Claims Tribunal be sent back.

At this stage, after dictating the order in open Court, Shri N.S.Ruprah,

learned counsel appears and prays for marking his presence on behalf of the National Insurance Company Limited.

Accordingly, the presence of Shri N.S.Ruprah is marked.

**(VIVEK AGARWAL)**  
**JUDGE**

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