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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 22nd OF SEPTEMBER, 2022

MA-04374-2007

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)

(BY SHRI SHARAD GUPTA, ADVOCATE)

.....APPELLANTS

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
CHAKRAWATI, AGED ABOUT 35 YEARS,
PIPARIYA, BAHORIBANDH, KATNI (MADHYA
PRADESH)
3. NATIONAL INSURANCE CO.LTD.
MALVIYAGANJ, KATNI (MADHYA PRADESH)

.....RESPONDENTS

(NONE)

MISC. APPEAL No. 3862 of 2007

BETWEEN:-

((MOHD.JAFAR @ MOHD.JAKIR 495,
MARHATAL JABALPUR (MADHYA PRADESH)

.....APPELLANT

(NONE)

AND

1. RAM KUMAR PRAJAPATI) 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:-

((MOHD.JAFAR @ MOHD.JAKIR 495,
MARHATAL, JABALPUR (MADHYA PRADESH)

.....APPELLANT

(NONE)

AND

1. RAM KUMAR PRAJAPATI) S/O MD GHASITE, AGED ABOUT 37 YEARS, NEAR MUSAFIR KHANA NOWGAON DISTT CHHATARPUR M.P (MADHYA PRADESH)

2. RAM KUMAR PRAJAPATI S/O ATTAIAH 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 VERMA, 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 CHHIDDA CHAKRAWARTI, AGED ABOUT 35 YEARS, PIPARIYA, BAHORIBANDH, KATNI (MADHYA PRADESH)
3. NATIONAL INSURANCE CO.LTD. MALVIYAGANJ, KATNI (MADHYA PRADESH)

.....RESPONDENTS

(NONE)

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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 is appearing for the 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 recover 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 20% 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.2,90,784/- 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.3,60,784/- in place of Rs.1,32,000/- awarded by the Claims Tribunal. Thus, the appellants/claimants are entitled to an enhanced sum of Rs.2,28,784/- (Rupees Two Lakh Twenty Eight Thousand Seven Hundred Eighty Four 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 treatment undertaken by 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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