



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE PRADEEP MITTAL
ON THE 15th OF OCTOBER 2025
MISC. APPEAL NO. 4271 OF 2010
SMT. LAXMI AHIRWARAND OTHERS
Versus
RITESH RAI AND OTHERS**

Appearance:

Shri Rajendra Kumar Raghuvanshi, Advocate for appellants.

Shri Pramod Kumar Thakre, Advocate for respondents.

ORDER

The present appeal has been filed by the appellants under section 173(1) of the Motor Vehicles Act, 1988, challenging the award dated 05.07.2010 passed by Addl. Motor Accident Claims Tribunal, Raheli in Claim Case No.77 of 2009.

2. Brief facts of the case are that at the time of accident, the deceased was going on a motorcycle when he was hit by the Auto bearing Registration No. MP-15-T-1732. It is submitted that the said Auto was rashly and negligently being driven by the respondent no. 1 as a result of which Hemraj Ahirwar and one other person died and a lady and a child suffered injuries.

3. It is submitted by the learned counsel for the appellants that the Claims tribunal erred in calculating the annual income of the deceased to the tune of Rs. 15,000. It is submitted that the deceased used to do welding work at Crusher and run flour mill. It is submitted that the Claims tribunal erred in holding that since more than 2 persons were sitting on the motorcycle as such there is a contributory negligence to the extent of 30% on the part of driver of the motorcycle.

4. It is further submitted that no evidence has been adduced by the respondents to prove that there was contributory negligence on the part of the driver of the motorcycle. That compensation awarded by the Claims —tribunal is inordinately low under the heads like Rs. 2000/- as funeral expenditure, Rs 2,000 for love and affection. That no amount has been awarded for loss of estate. It is submitted that appellant no. 1 is a young lady of 19 years and inordinately low amount has been awarded for loss of consortium. It is submitted that multiplier of 18 ought to have been applied by the tribunal as the age of the deceased is 21 years. That interest ought to have been awarded @ 8% i.e. the prevalent Bank rate. That the compensation awarded deserves to be substantially enhanced in the interest of justice.

5. Heard the learned counsel for the parties.

6. It is not in dispute that respondent No.1 was responsible for causing the accident and the offending vehicle was insured with respondent No.3 on the fateful day. The only question for determination in this appeal is as to whether the amount awarded by the learned Tribunal requires modification or not?

7. After appreciation of evidence adduced by the claimant, learned tribunal has reached the conclusion in para no. 9 of the awards that the deceased was sitting along with one man and one women and one child on the offending motorcycle. Tribunal has also mentioned in the award that no evidence was adduced by the insurance company regarding the contributory negligence of the motorcycle driver. It is also mentioned in the award that the respondent no.1 is negligent to drive the offending vehicle. Learned tribunal has not found any evidence regarding the contributory negligence of the deceased. Learned tribunal has assessed the contributory negligence only on the ground that the four persons were sitting on the motorcycle at the time of incident. In the support of his view, he has placed reliance on the judgment of this court reported as **2007(1) MPWN SN 88** rendered in the case of **Kantidevi v/s Om Prakesh.**

8. In the case of **Mohammed Siddique & another Versus National Insuracne Company Ltd and others** passed in Civil Appeal No. 79 of 2020 dated 01.08.2020, the Hon'ble Supreme Court has held. "But the above reason, in our view, is flawed. The fact that the deceased was riding on a motorcycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two wheeled motorcycle, not to carry more than one person on the motorcycle. Section 194-C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motorcycle drivers and pillion riders.

Therefore, the fact that a person was a pillion rider on a motorcycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence the reduction of 30% towards contributory negligence, is clearly unjustified and the same has to be set aside.

9. After appreciation of evidence adduced by the claimant, learned tribunal has reached the conclusion in para 9 that the deceased was doing the work of welding and used to earn Rs. 5000/- per month but learned tribunal has disbelieved the evidence on the ground that no documentary evidence has been adduced by the claimant and assessed his income only Rs.3000/- per month. Learned counsel of the appellants has submitted that his income should be assessed as per the guideline under Minimum Wages Act. In my view in the absence of documentary evidence, his income should be assessed as unskilled labor. As per the applicable Minimum Wages Notification in force on the date of the accident (08.03.2009), the income of a skilled worker was Rs.2,651/- per month. In the absence of documentary evidence and considering the nature of work performed by the deceased, his income ought to have been assessed at Rs.2,651/- per month.

10. In the case of **Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Ors.** reported as **(2018) 18 Supreme Court Cases 130**, the Hon'ble Supreme Court has held "that the right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, affection, and aid of the other in every conjugal relation."

Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training. "Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and

companionship of the deceased child. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.”

12. In the case **of Sarla Verma and others Vs DTC and another**, reported as **(2009) 6 SCC 121** the Hon’ble Supreme Court held in para 21 “We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Sudama Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

13. After hearing the rival submissions and going through the record of the Tribunal, I find that the amount awarded by the Tribunal is on the lower side.

14. Learned tribunal has assessed the age of the deceased 21 year and applied multiplier of 17 to compute pecuniary losses and awarded Rs.5000/- under the head of consortium and Rs.2000/- under the head of love and affection to the applicants/claimants nos.2 to 4, Rs.2000/- was also awarded under the head of funeral. In my opinion as per the set guideline of the Hon’ble Supreme Court in cases of **Sarla Verma** and **Magma General Insurance**

Company (supra) appellants are entitled to get an amount of consortium Rs.40,000/- each towards consortium and Rs.15000/- for funeral expenses and under the head of loss of estate Rs.15000/- and apply the multiplier of 18. Learned tribunal has also not assessed the future prospect of income according to the **(2017)16 Supreme Court Cases 680 National Insurance Co.Ltd. v/s Pranay Sethi** according to above guidelines appellants are also entitled to get compensation under the head of 40% future prospect and multiplier to compute the pecuniary losses.

15. Considering the overall facts and circumstances of the case, this Court is of the opinion that in addition to the amount awarded by the learned MACT, the appellants are entitled for enhancement. Consequently, the appeal filed by the appellants is allowed in above terms and the amount of compensation is enhanced as under:-

Head	Computation / Details	Amount (in Rs.)
1. Monthly Income	As per Minimum Wages Act (2008)	Rs. 2,651/-
2. Future Prospects (40%)	40% of Rs. 2,651 = Rs. 1,060/-	Rs. 1,060/-
3. Total Monthly Income	Rs. 2,651 + Rs. 1,060 = Rs. 3,711/-	Rs. 3,711/-
4. Annual Income	Rs. 3,711 × 12	Rs. 44,532/-
5. Deduction towards Personal Expenses	1/3rd of Rs. 44,532 = Rs. 14,844/-	Rs. 14,844/-
6. Annual Contribution to Family	Rs. 44,532 - Rs. 14,844 = Rs. 29,688/-	Rs. 29,688/-
7. Multiplier	Age: 21 → Multiplier = 18	—
8. Loss of Future Income	Rs. 29,688 × 18	Rs. 5,34,384/-
9. Funeral Expenses	As per Pranay Sethi	Rs.15,000/-
10. Loss of Estate	As per Pranay Sethi	Rs.15,000/-
11. Loss of Consortium	As per Magma General Insurance Co. Ltd. (Spouse, parents and minor son)	Rs.1,60,000/-
Total Compensation		Rs.7,24,384/-
Deduction due to contributory negligence	Nil	Rs.7,24,384/-

Head	Computation / Details	Amount (in Rs.)
Net payable amount after deduction	Rs.1,42,975 already awarded by tribunal	Rs.5,81,409/- Payable to the claimants.

16. In view of the foregoing discussion, appeal stands partly allowed and the impugned award is modified to the extent indicated herein above subject to following conditions: -

i. The respondent No.3 is directed to deposit the compensation amount within 60 days from the date of this order, failing which the execution can be taken out against him. If any amount has already been paid to the claimant shall be adjusted.

ii. The claimant is directed to pay the requisite Court Fee, if required in the present case.

iii. On such deposit, the claimant is permitted to withdraw the amount with accrued interest and costs, by filing a proper application before the Tribunal.

iv. The record be sent back to the learned Tribunal within three weeks from this day.

v. As a sequel, interlocutory applications pending consideration, if any, shall stand closed.

vi. cost of appeal shall be bear by the respondent.

(PRADEEP MITTAL)
JUDGE

MSP