

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ACHAL KUMAR PALIWAL

ON THE 20th OF FEBRUARY, 2025

MISC. APPEAL No. 1272 of 2010

SMT. JHAMIYA BAI AND OTHERS

Versus

BALRAM @ RAJU AND OTHERS

Appearance:

Mr. Ravi Shankar Saini – Advocate for the appellants.

Ms. Amrit Ruprah – Advocate for the respondent No.5.

Mr. V.K. Pandey – Advocate for the respondent No.6.

MISC. APPEAL No. 521 of 2010

THE ORIENTAL INSURANCE COMPANY LTD

Versus

SMT JHAMIYA BAI AND OTHERS

Appearance:

Mr. V.K. Pandey – Advocate for the appellant.

Ms. Amrit Ruprah – Advocate for the respondent No.9

Mr. Ravi Shankar Saini – Advocate for the claimants.

MISC. APPEAL No. 1058 of 2010

NATIONAL INSURANCE CO. LTD

Versus

SMT JHAMIA BAI AND OTHERS

Appearance:

Ms. Amrit Ruprah – Advocate for the appellant.

Mr. V.K. Pandey – Advocate for respondent No. 9.

Mr. Ravi Shankar Saini – Advocate for the claimants.

ORDER

This common order shall govern the disposal of MA No. 1272/2010 (Smt. Jhamiya Bai and others Vs. Balram @ Raju and others), MA No. 521/2010 (The Oriental Insurance Company Ltd. Vs. Smt. Jhamiya Bai and others) and MA No. 1058/2010 (National Insurance Company Ltd. Vs. Smt. Jhamia Bai and others), arising out of award dated 01.12.2009 passed in M.V.C. No. 6/2009 passed by 17 th Additional M.A.C.T., Jabalpur (M.P.).

2. MA No. 1272/2010 (Smt. Jhamiya Bai and others Vs. Balram @ Raju and others), has been filed on behalf of claimants for enhancement of compensation, MA No. 521/2010 (The Oriental Insurance Company Ltd. Vs. Smt. Jhamiya Bai and others), has been filed on behalf of Oriental Insurance Company Ltd. for reduction of compensation amount and MA No. 1058/2010 (National Insurance Company Ltd. Vs. Smt. Jhamia Bai and others) has been filed on behalf of National Insurance Com. Ltd for reduction of compensation amount.

3. Learned counsel on behalf of claimants in MA No. 1272/2010 submits that in the instant case, accident occurred on 15.04.20008. Tribunal has determined deceased's monthly income as Rs. 3,000/- per month, whereas on the date of incident, minimum wages of an unskilled labour were Rs. 3,196/- per

month. Tribunal has not added any amount under the head of future prospects. It is urged that amount awarded under conventional head is also not proper. On above grounds, it is urged that compensation awarded by tribunal be suitably enhanced.

4. Learned counsel on behalf of the National Insurance company Ltd. in MA No. 1058/2010 and learned counsel on behalf of Oriental Insurance Com. Ltd. in MA No. 521/2010 submits that on the date of incident, minimum wages of an unskilled labour were Rs. 2,875/- per month, whereas tribunal has determined deceased's monthly income as Rs.3,000/- per month. Therefore, income determined by the tribunal is on the higher side. Further, in view of age of deceased, multiplier of 13 is to be applied, whereas tribunal has applied multiplier of 17. On above grounds, it is urged that compensation awarded by tribunal be suitably reduced.

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

6. Perusal of submission made by learned counsel for the parties reveals that sole issue involved in all the appeals pertain to quantum of compensation. 7

7. So far as income of deceased on the date of accident is concerned, in the instant case, incident occurred on 15.04.2008. On the date of accident, minimum wages of an unskilled labour were Rs.3,196/- per month. Hence, deceased's monthly income is determined of Rs. 3,196/- per month. Further as per findings recorded by the tribunal in para 13, on the date of accident,

deceased was aged 50 years. Therefore, in view of law laid down in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation, AIR 2009 SC 3104** and **National Insurance Company Limited Vs. Pranay Sethi and Others, AIR 2017 SC 5157**, multiplier of 13 is to be applied. Further, in view of number of dependent, 1/3 is to be deducted for personal and living expenses.

8. In view of age of deceased as well as principle of law laid down in **Pranay Sethi (supra)**, 10% is to be added as future prospects. Appellants are also entitled to receive Rs. 15,000/- each for funeral expenses and loss of estate. Further, appellants are also entitled to receive Rs. 40,000/- each as consortium.

9. Hence, in view of above, compensation is recalculated as under:-

TABLE-DEATH CASE-GENERAL

S.N.	HEADS	COMPENSATION
1.	Monthly Income of the deceased	Rs. 3,196/-
2.	Monthly Income after adding future Prospects- { Future Prospects = 10% of monthly income }	Rs. 3,515/-
3.	Monthly loss of dependency (Personal & living expenses of the deceased) -Personal & living expenses= 1/3	Rs. 2,343/-
4.	Annual loss of dependency-(monthly loss of dependency x 12)	Rs. 28,116/-
5.	Total loss of dependency-(Annual loss of dependency x 13 Multiplier)	Rs. 3,65,508/-
6.	Compensation for loss of spousal/parental/filial consortium	Rs.1,60,000/-
7.	Compensation for loss of estate	Rs.15,000/-
8.	Compensation towards funeral expenses	Rs.15,000/-
9.	TOTAL COMPENSATION	Rs. 5,55,508/-
10.	Total Compensation awarded by the Tribunal	Rs.4,20,000/-
11.	ACTUAL ENHANCEMENT	Rs.1,35,508/-

10. Hence, compensation awarded by the Tribunal is enhanced by Rs. **1,35,508/-**.

11. Enhanced compensation (**Rs. 1,35,508/-**) shall carry interest at the rate awarded by the Tribunal. Other findings of the Tribunal shall remain intact.

12. Hence, in view of aforesaid, no ground for reduction in compensation amount is made out.

13. Resultantly, appeal filed by the appellant/Oriental Insurance Co. Ltd. (MA No. 521/2010) and appellant/National Insurance Co. Ltd. (MA No. 1058/2010) are dismissed, whereas appeal filed by the claimants (MA No. 1272/2010) is partly **allowed** to the extent as indicated above.

14. Accordingly, these appeals are disposed of.

(ACHAL KUMAR PALIWAL)
JUDGE