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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH
ON THE 08th OF MAY, 2024**

MISC. APPEAL No. 2155 of 2023

BETWEEN:-

1. SMT. MAANKUNWAR BAI W/O LATE PRAHLAAD SINGH PARMAR, AGED ABOUT 69 YEARS, R/O GRAM BAGDAWADA, TEHSIL ASHTA, DISTRICT SEEHORE (MADHYA PRADESH)
2. BHAGWAAN SINGH S/O LATE PRAHLAAD SINGH PARMAR, AGED ABOUT 49 YEARS, R/O GRAM BAGDAWADA, TEHSIL ASHTA, DISTRICT SEEHORE (MADHYA PRADESH)
3. SOORAJ SINGH S/O LATE PRAHLAAD SINGH PARMAR, AGED ABOUT 47 YEARS, R/O GRAM BAGDAWADA, TEHSIL ASHTA, DISTRICT SEEHORE (MADHYA PRADESH)
4. MANSAA BAI D/O LATE PRAHLAAD SINGH PARMAR W/O LAKHAN SINGH PARMAAR, AGED ABOUT 45 YEARS, R/O GRAM BHUPOD, TEHSIL AASHTA, DISTRICT SEHORE (MADHYA PRADESH)
5. GEETA BAI D/O LATE PRAHLAAD SINGH PARMAR W/O VISHNU, AGED ABOUT 40 YEARS, R/O GRAM MOLTA MALOTHAR, TEHSIL SHUJALPUR, DISTRICT SHAJAPUR (MADHYA PRADESH)

.....APPELLANTS

(BY SHRI KAPIL PATWARDHAN - ADVOCATE)

AND

1. MAHESH KUMAR S/O SINGARAM, AGED ABOUT 40 YEARS, R/O GRAM KHAMKHEDA BAIJNATH, TEHSIL AASHTA, DISTRICT SEHORE (MADHYA PRADESH)
2. JAGDISH S/O SINGARAM R/O GRAM KHAMKHEDA BAIJNATH, TEHSIL AASHTA, DISTRICT SEHORE (MADHYA PRADESH)

3. **IFFCO TOKYO GENERAL INSURANCE COMPANY LTD. THROUGH BRANCH MANAGER BRANCH OFFICE. E-5/18, FIRST FLOOR, ARERA SHOPPING COMPLEX, NEAR BSNL BITTAN MARKET, DISTRICT BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(RESPONDENTS NO.1 & 2 BY SHRI KAPIL GUPTA - ADVOCATE)
(RESPONDENT NO.3 BY SHRI N.S.RUPRAH - ADVOCATE)

Reserved on : 21.2.2024

Pronounced on: 08.5.2024

*This appeal having been heard and reserved for judgment, coming on for pronouncement this day, **JUSTICE AVANINDRA KUMAR SINGH** passed the following:*

ORDER

This appeal under section 173(1) of the Motor Vehicles Act, 1988 has been filed by the appellants/claimants against impugned award dated 18.11.2022 passed by First Member Motor Accidents Claims Tribunal, Ashta, District Sehore in MACC No.05/2021 [Smt.Mankunwar and others Vs. Mahesh Kumar and others] seeking enhancement of Rs.1,50,000/-.

2 . Brief facts of the case are that on 14.5.2020 at about 10 p.m. in night the deceased (Praahlad Singh) was going on his motorcycle alongwith his grandson from Warehouse to his village and when he reached near field of Banshilal on Khamkheda-Ashta road the offending Tractor bearing registration no.MP-37/A-5583 driven rashly and negligently by respondent No.1 and dashed against motorcycle of deceased as a result of which the deceased sustained various injuries and subsequently he succumbed to same and declared dead at Civil Hospital, Ashta. The wife, sons and daughters of deceased filed claim petition stating that he was 75 years old and was earning from agriculture and

selling milk.

3 . The Tribunal assessing the income of the deceased at Rs.6875/- and taking age of deceased as 75 years at the time of accident and applying multiplier of 05 awarded total compensation of Rs.3,52,000/-.

4 . Being dissatisfied with the impugned award the appellant has filed instant appeal for enhancement by contending that on the date of accident i.e. 14.5.2020 the Tribunal has taken the income of the deceased on lower side i.e. Rs.6875/- per month whereas the same should have been taken as Rs.8275/- per month. Therefore, the amount of compensation be enhanced.

5 . Learned counsel for the respondents have supported the award and claimed dismissal of appeal.

6 . The date of accident, negligence and liability are not in dispute, therefore, findings of the Tribunal in that regard are not under assail.

7 . Heard the learned counsel for the parties and perused the record of the Tribunal. It is seen that the deceased was 75 years of age and on the date of accident as per minimum wages notification in the State of Madhya Pradesh in respect of unskilled person the income of deceased per month would have been Rs.8275/- and, therefore, the determination of amount of compensation would be as follows:-

(i) Monthly income of deceased	-	Rs.8275/-
(ii) Annual income (Rs.8275 X 12)	-	Rs.99,300/-
(iii) Age of deceased (75 years) & multiplier applied	-	5
(iv) Dependency (Rs.99,300 x 5)	-	Rs.4,96,500/-
(v) Looking to age of deceased who was of 75 years of age	-	Rs.2,48,250/-

50% deduction towards personal -
living expenses (Rs.4,96,500/2)

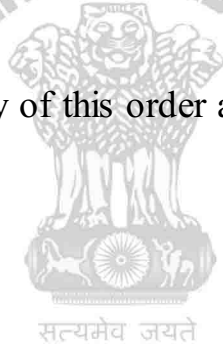
- (vi) Other conventional heads - Rs.33,000/-
(v) Towards Consortium - Rs.2,20,000/-

Total compensation Rs.5,01,250/-

Thus, the total compensation to which the appellants/claimants would be entitled to be receive is Rs.5,01,250/-. The Tribunal vide impugned award has already granted Rs.3,52,000/-. Hence, the enhanced amount of compensation which the appellant would receive is **Rs.1,49,250/-**. Other conditions of the impugned award passed by Tribunal shall remain intact.

8. With the aforesaid modification in award and enhancement the appeal is **disposed of**.

9. Let a copy of this order alongwith record of the Tribunal be sent to the concerned Court.



(AVANINDRA KUMAR SINGH)
JUDGE