



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE DEEPAK KHOT  
ON THE 29<sup>th</sup> OF JULY, 2025  
MISC. APPEAL No. 515 of 2024  
THE ORIENTAL INSURANCE COMPANY LIMITED  
Versus  
SMT. JHUNNI BAI KEVAT AND OTHERS**

.....  
*Appearance:*

*Shri Dinesh Kaushal - Advocate with Shri Yash Koshal - Advocate for  
the appellant/Insurance Company.*

*Shri Sushil Giri Goswami – Advocate for respondents.*  
.....

and

**MISC. APPEAL No. 2376 of 2024  
SMT. JHUNNI BAI KEWAT AND OTHERS  
Versus  
RAVI RAIKWAR AND OTHERS**

.....  
*Appearance:*

*Shri Sushil Giri Goswami – Advocate for the appellants.*

*Shri Dinesh Kaushal - Advocate with Shri Yash Koshal - Advocate for  
the respondent/Insurance Company.*  
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As both the appeals have arisen out of a common award, are being decided by this common order.

2. Misc. Appeal No. 515/2024 has been filed by the Insurance Company and M.A.No.2376/2024 has been filed by the claimants for reduction and enhancement of amount of compensation respectively. The appeals are against the impugned award dated 27.09.2023 passed in Claim Case No.2469/2020 by 16<sup>th</sup> Additional Member Motor Accident Claim Tribunal, Jabalpur.

3. For deciding both appeals, appeal filed by the Insurance Company is taken as lead case and facts are taken therefrom.

4. The application was filed by the respondents/claimants for grant of compensation under section 166 of the Motor Vehicles Act, 1988 (for brevity “the Act of 1988”) on account of death of son of respondents No.1 and 2 and brother of respondents No.3 and 4, namely Ganesh Kewat. It is averred in the application that on 11.03.2020 at about 5:00 pm Ganesh Kewat was going from village Bijaura to his home at village Jharela. When he reached near village Bijaura, driver of the offending vehicle bearing Registration No.MP 20 CB 2768 driving the car rashly and negligently dashed the deceased due to which the deceased sustained grievous injuries on head and other parts of the body. He was taken to Government Hospital, Badwara from where he was referred to Medical College, Jabalpur. During course of treatment, he expired on 13.03.2020. An offence under Section 279 and 304-A of IPC was registered at crime No.179/2020 P.S. Badwara against the driver of the offending vehicle.



5. It has also been submitted that the deceased was young and healthy man and was earning Rs.12,000/- per month and from that amount he was maintaining the family consisting of parents and sisters. It was also submitted that he was sole bread earner of the family and therefore on that basis prayed for compensation on account of death of the deceased.

6. Non-applicant No.1 and 2/respondents No.5 and 6 in the present appeal being driver and owner respectively have filed their reply stating therein that the accident has not caused because of the vehicle of the respondents but they have been falsely implicated in the case by the police in collusion with the applicants. It is further submitted that the vehicle was insured with the non-applicant No.3/Insurance Company.

7. Non-applicant No.3/Insurance Company has also filed the reply stating that the FIR was lodged after 25 days of the accident. It was also submitted that the provisions of Section 158(8), 150 & 149(2) of the Act of 1988 was not followed. It was submitted that the driver of the offending vehicle was not possessing effective and valid driving license at the time of accident and on that basis prayed that the Insurance Company is not liable to make payment of compensation.

8. Learned tribunal on the basis of rival pleadings and evidence adduced by the parties, allowed the application and granted compensation vide the impugned award. Being aggrieved, Insurance Company and claimants have filed these two separate appeals for



reduction and enhancement of the amount of compensation respectively.

9. It has been contended by learned counsel for the appellant/Insurance Company that the learned tribunal has not rightly assessed/calculated the amount of compensation in the light of the principle of law laid down by the Hon'ble Apex Court in the cases of *United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur (2021) 11 SCC 780* as well as *Smt. Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121*. He has invited attention of this court towards paragraph 32 of the judgment passed in the case of *Sarla Verma (supra)* wherein it is held that even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

10. On that basis, it has been submitted that the deceased was a bachelor survived by parents and younger sister. It has been submitted that father was aged 45 years, therefore, younger sister cannot be said to be dependent on the deceased son who was aged 26 years only at the time of death.



11. Learned counsel for the appellant further placing reliance on the orders passed by this court in the case of *Ritesh Patel vs. Rajesh Kumar* (MA No.2800/2017 decided on 26.04.2024) to state that the brother of the deceased was not found to be entitled for award of compensation by this court in the said case. It has further been submitted that the deceased being bachelor, deduction of one-half ought to have been done by the tribunal. Further reliance has been placed on the case of *Tata A.I.G.General Insurance Co.Ltd. vs. Rajesh Singh Jadon* (M.A.No.7122/2023 decided on 31.05.2025) wherein the coordinate Bench while relying on the judgment of *Sarla Verma (supra)* and *Pranay Sethi (supra)* has held that where the deceased is a bachelor, the personal expenses of the deceased should have been taken as one-half. On the basis of aforesaid submissions, learned counsel for the Appellant/Insurance Company has prayed for reduction of the amount of compensation as awarded by the tribunal.

12. Refuting the submissions made by learned counsel for the Insurance Company, learned counsel for respondents/claimants has submitted that the assessment made by the learned tribunal is not in consonance with the principles of law laid down by the Hon'ble Apex Court. In fact the amount of compensation awarded by the tribunal deserves to be enhanced.

13. It has been submitted by learned counsel for the respondents/claimants that income of the deceased has not been assessed properly in the light of the judgment of the Hon'ble Apex Court in the case of *Kirti vs Oriental Insurance Company Limited AIR 2021 SC 353* wherein it is held that when there is no specific proof of income, the



income has to be assessed on the basis of government guidelines. It is further submitted that the tribunal should have assessed the income of the deceased as Rs.7,950/- per month as per the government guidelines prevailing at the time of incident.

14. It is further submitted that Hon'ble Apex Court in the case of *Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram (2018) 18 SCC 130* has granted consortium to the father and sister @ 40,000/- each. It has been further submitted that in the said case Hon'ble Apex court was also pleased to grant compensation in the head of love and affection to the tune of Rs.50,000/- to each of the claimants. Accordingly, prayed that the appeal filed by the respondents/claimants for enhancement may be allowed by recalculating/reassessing the amount of compensation as submitted hereinabove.

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

16. The appeal filed by Insurance Company and by the claimants are for reduction and enhance of amount of compensation respectively. This Court has only to see whether the learned tribunal has erred in law in granting compensation on the basis of principle of law laid down by the Hon'ble Apex Court in the cases of *Satinder Kaur (supra)*, *Sarla Verma (surpa)*, *Kirti (supra)* and *Nanu Ram (supra)*.

17. Considering the submissions advanced by learned counsel for the parties and on perusal of the findings of the tribunal, this court is of the considered opinion that the tribunal has erred in law in deducting one third of the personal expenses of the deceased for the purpose of



computation of quantum of award which should have been one-half in the light of the principle of law laid down by the Hon'ble Apex Court in the cases of *Sarla Verma (supra)* and *Pranay Sethi (supra)*.

**18.** It is also found that the learned tribunal has not properly assessed the income of the deceased as per the law laid down by the Hon'ble Apex Court in the case of *Kirti (supra)* wherein it has been held that in absence of any proof of income, the income of the deceased should be calculated as per the government guidelines issued time to time.

**19.** When this court has tested the findings of the tribunal with the guidelines, it is found that the date of occurrence of accident is 11.03.2020 and on the said date, prevailing minimum wages for unskilled labour was 7,950/- per month as per the guidelines issued by the Government as also by the M.P. State Legal Services Authority, whereas, the tribunal has assessed income as Rs.7,000/- per month which is on the lower side. Therefore, in the considered opinion of this court, the income of the deceased should be assessed as Rs.7,950/- per month.

**20.** As regards contention for grant of consortium, Hon'ble Apex Court in the case of *Satinder (supra)* which was passed by three judges Bench of the Hon'ble Apex Court has held that consortium can be granted only in three categories viz. spousal consortium, parental consortium and filial consortium. Spousal consortium is granted to the spouse. 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.

**21.** In the present case in hand, it is found that the tribunal has granted consortium to the mother of the deceased as filial consortium, however, father has not been granted any consortium, therefore, this court thinks it proper that compensation in the head of filial consortium be awarded to the father of the deceased. However, respondents No.3 and 4 who are sisters of the deceased are not entitled for consortium in the light of the aforesaid principle of law laid down by the Hon'ble Apex Court in the case of *Satinder (supra)*.

**22.** Accordingly, the compensation is assessed in the table hereinbelow :

<i>Sr.No.</i>	<i>Head</i>	<i>Amount</i>
1	Income of the deceased Rs.7,950/- per month i.e. Rs.95,400/- annually	
2	Deduction towards personal expenses (one-half) $95,400/2=47,700/-$	
3	Future Prospects @ 40% $47,700 \times 40\% = 66,780/-$	
4	Taking Multiplier as 17 $66,780 \times 17 = 11,35,260/-$	Rs.11,35,260/-
5	Consortium to Mother and Father (40,000x2)	Rs.80,000/-
6	Loss of Estate	Rs.15,000/-
7	Funeral Expenses	Rs.15,000/-
8	<b>Total</b>	<b>Rs.12,45,260/-</b>
9	Compensation Awarded by Tribunal	Rs.14,02,800/-





	<b><i>Total reduction in the amount of Rs.1,57,540/- compensation</i></b>	
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**23.** Resultantly, both Misc. Appeal No. 515/2024 and Misc. Appeal No.2376/2024 filed by the Insurance Company and claimants respectively are disposed of with the modification in the assessment of the compensation as mentioned hereinabove.

No order as to costs.

**(DEEPAK KHOT)**  
**JUDGE**

*anand*