

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE ACHAL KUMAR PALIWAL

ON THE 22th OF MARCH, 2024

MISCALLENIOUS APPEAL No. 4495 OF 2022

BETWEEN:-

- 1. MANOHAR LAL S/O HARI SINGH, AGED ABOUT 43 YEARS, R/O VILLAGE DHAVLA DHEER, TEHSIL KALAPIPAL DISTRICT SHAJAPUR M.P. (MADHYA PRADESH)**
- 2. SMT. SUNITA BAI W/O MANHORA LAL, AGED ABOUT 41 YEARS, R/O VILLAGE DHAVLA DHEER, TEHSIL KALAPIPAL DISTRICT SHAJAPUR M.P. (MADHYA PRADESH)**

.....APPELLANTS

(BY SHRI SUREENDRA PATEL - ADVOCATE)

AND

- 1. RAMKISHAN GURJAR S/O GOPAL GURJAR, AGED ABOUT 42 YEARS, OCCUPATION: DRIVER AND OWNER R/O VILLAGE CHANDWAD TEH. AND DISTRICT SEHORE M.P. (MADHYA PRADESH)**
- 2. NATIONAL INSURANCE COMPANY LTD. SEHORE BRANCH OFFICE TEHSIL CHOUHRAHA STATION ROAD SEHORE TEHSIL AND DISTRICT SEHORE M.P. (INSURANCE COMPANY) (MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI – ADVOCATE FOR RESPONDENT
NO.3)**

This appeal coming on for admission this day, the court passed the following:

O R D E R

Learned counsel for the appellants prays for withdrawal of IA No.624/2022.

Prayer is allowed.

Accordingly, IA No.624/2022 is dismissed as withdrawn.

2. With consent learned counsel for the parties, heard finally at motion stage.
3. This miscellaneous appeal has been filed by the appellants under Section 173 (1) of Motor Vehicles Act, 1988, being aggrieved by award dated 28.6.2022 passed by Member Motor Accident Claims Tribunal, Sehore in MACC No.23/2021 for enhancement of compensation.
4. Learned counsel for the appellants submit that tribunal has determined deceased's monthly of Rs.7250/- whereas it should have determined on the basis of minimum wages notified in the Minimum Wages Act. Hence, compensation awarded by the Tribunal suitably be enhanced.

4. Learned counsel for respondent/insurance company submits that amount awarded by the tribunal is just and proper and no enhancement is required. Appeal be dismissed.

5. I have heard the learned counsel for the parties and perused the record of the case.

6. So far as income of deceased is concerned, on the date of accident, minimum wages of an unskilled labour notified under Minimum Wages Act were Rs.8700/- per month. Therefore, deceased's income is determined as Rs.8700/- per month.

7. Looking to the age of deceased 45% is to be added as future prospect. As deceased was bachelor therefore, 1/4th is to be deducted for personal and living expenses and in view of age of deceased multiplier of 18 is to be applied.

8. Further each appellants is also entitled to receive Rs.44,00/- for consortium, Rs.16,500/- for loss of estate and Rs.16,500/- for funereal expenses.

9. In view of above compensation awarded by the Tribunal is recalculated as under :

S. N.	HEADS	COMPENSATION
1.	Monthly Income of the deceased- (A)	Rs.8700/-
2.	Add- future Prospects-40%- (B)	Rs.12,180/- {A+B}
3.	Less-Personal & living expenses of the deceased- (C)	1/2

4.	Monthly loss of dependency- $\{(A+B) - C=D\}$	Rs.10,440/-
5.	Annual loss of dependency- $(D \times 12=E)$	Rs.1,252,80/-
6.	Multiplier- (F)	18
7.	Total loss of dependency- $(E \times F=G)$	Rs.22,55,040 /-
8.	Compensation for loss of spousal/parental/filial consortium- (H)	Rs.44,000/-
9.	Compensation for loss of estate- (I)	Rs.16,500/-
10.	Compensation towards funeral expenses- (J)	Rs.16,500/-
11.	Medical Expenses- (K)	nil
12.	TOTAL COMPENSATION- {G+H+I+J+K=L}	Rs.23,32,040/- {G+H+I+J+K=L}
13.	Total Compensation awarded by the Tribunal- (M)	Rs.11,50,000/-
14.	ACTUAL ENHANCEMENT-(L-M=N)	Rs.11,82,040/- {L-M=N}

10. Hence, compensation awarded by the Tribunal is enhanced by Rs.11,82,040/-.

11. Enhanced compensation (Rs.11,82,040/-) shall carry interest at the rate awarded by the Tribunal. Other findings of the Tribunal shall remain intact.

12. Appellants have valued present appeal for Rs.2,00,000/- & have paid court fees accordingly. Therefore, appellants shall be entitled to receive enhanced amount only after payment of deficit court fees.

13. Appeal filed by the appellants is partly allowed to the extent as indicated above & disposed of accordingly.

(ACHAL KUMAR PALIWAL)
JUDGE