

**BEFORE THE PRESIDING OFFICER MOTOR ACCIDENTS CLAIMS TRIBUNAL
(PRINCIPAL DISTRICT AND SESSIONS JUDGE)
RAJOURI

Claim Petition No.: 185/2022
CNR No.: JKRJ020010922022
Date of Institution: 03.12.2022

***Reserved on: 16.04.2024
Pronounced on: 30.04.2024***

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1. Sabita Devi, age 35 years, W/O Late Arvind Sharma
 2. Piyush Sharma, age 17 years, S/O Late Arvind Sharma
 3. Prince Sharma, age 16 years, S/O Late Arvind Sharma
(Petitioners No.2 & 3 being minors represented through their mother petitioner No.1)

 4. Lakeshri Devi, age 62 years, W/O Ram Nath Mistri
 5. Ram Nath Mistri, age 71 years, S/O Abhichandra Mistri **(since he has died during pendency of claim petition, as such, his name is deleted from the array of petitioners on the motion of learned counsel for petitioners)**

(Petitioners No. 4 & 5 through their attorney holder and son namely, Jitendra Vishwakarma)

All residents of village Dewari Khurd, Post Japla, District Palamu, Jharkhand.
Petitioners No. 1 to 3 presently residing in the house of one Vipal Sawhney S/O Late Kasturi Lal Sawhney at New Ward No.10, Rajouri.

(Petitioners)

Versus

1. Dharminder Suri S/O Krishan Lal Suri R/O Tatapani, Tehsil Kalakote, District Rajouri. (Driver of offending Tata HGV bearing registration No. PB05Y-9929)
2. Narinder Singh S/O Balwinder Singh R/O Nidhanwala, District Moga, Punjab--142001. (Owner of offending Tata HGV bearing registration No. PB05Y-9929)
3. New India Assurance Co. Ltd., Shaheed Udham Singh Chowk, Malwal Road, Ferozpur, Punjab, through its Manager. (Insurer of offending Tata HGV bearing registration No. PB05Y-9929)

(Respondents)

IN THE MATTER OF:

Claim Petition u/s 166 of M.V. Act.

CORAM:- R. N. WATAL

JO CODE: JK 00047

Appearing Counsel:

For Petitioner(s) : Mr. Ajay Gupta, Advocate

*For Respondent(s) : Exparte against R-1 and R-2
Mr. Vivek Gupta, Advocate, for R-3*

AWARD

1. Petitioners have filed this claim petition for grant of compensation on account of death of Arvind Sharma S/O Ram Nath Mistri, Ward No.10, Rajouri, originally resident of village Dewari Khurd, Post Japla, District Palamu, Jharkhand (hereinafter called as deceased) by averring that on 03.10.2022, he (deceased) was going to one of his sites at Jawahar Nagar on motorcycle No. JK11E-2000 and when reached near Old Ashirwad Hotel, Rajouri, in the meantime, the respondent No.1, while driving a Heavy Goods Vehicle bearing registration No. PB05Y-9929 (hereinafter called as offending vehicle) in a rash and negligent manner, came from opposite direction and hit the motorcycle, as a result Arvind Sharma sustained grievous injuries and died later on at GMC Rajouri, and the Police of Police Station, Rajouri registered a case under FIR No. 524/2022, regarding which challan for the commission of offences U/Ss 279/304-A IPC was presented against respondent No.1 in the court of law. The deceased was aged about 40 years, an interior designer working at Rajouri and also working as a contractor engaged for furnishing of carpentry related work and his total monthly income was Rs. 50,000/- at the time of his death. The petitioner No. 1 is the wife, petitioners 2 & 3 are minor sons and petitioners No.4 & 5 are the

parents of the deceased. The offending vehicle was being driven by respondent No.1, owned by respondent No.2 and it was insured with respondent No.3 at the time of accident. Petitioners have claimed a compensation of Rs.2,33,75,000/- under Motor Vehicles Act from the respondents under different heads on account of the death of deceased in the aforesaid road traffic accident.

2. Notices were issued to respondents. Respondents No. 1 and 2 did not contest the claim petition and they were set *ex parte* by this Tribunal vide order dated 25.02.2023.

3. Respondent No.3/insurance company, in its objections, pleaded that driver of offending vehicle did not possess a valid and effective driving licence at the time of accident and there was violation of terms and conditions of policy of insurance and other documents of the vehicle, as such, the insurance company is not liable to pay any compensation to the petitioners; petitioners have sought exorbitant and exaggerated amount of compensation without any basis; the policy of insurance of offending vehicle, covering the period of accident, has been admitted by respondent No.3.

4. After hearing learned counsel for the contesting parties and on the basis of pleadings/documents placed on record, the following issues have been struck in the claim petition for judicial determination:-

1. *Whether the deceased Arvind Sharma S/O Sh. Ram Nath R/O Ward No.10, Rajouri, died in a road traffic accident on 03.10.2022 near Old Ashirwad Hotel, Rajouri, within the jurisdiction of Police Station, Rajouri, by the offending vehicle (Tata Goods Carrier) No. PB05Y-9929, due to rash and negligent driving of the respondent No.1, when it hit the motorcycle of the deceased bearing No.JK11E-2000 and caused an*

accident due to which the deceased suffered grievous injuries and later on succumbed to the injuries? *OPP*

2. *If issue No.1 is proved in affirmative, whether the petitioners are entitled for compensation, if yes, to what extent?* *OPP*

3. *Whether the offending vehicle was being driven in violation of terms and conditions of the insurance policy and the driver of the offending vehicle was not holding valid and effective driving licence at the time of the accident?* *OPR-3*

4. *Relief?* *OP Parties*

5. Petitioners, besides examining petitioner No.1 Sabita Devi, have also examined two witnesses namely, Ved Parkash Vishwakarma and Dharminder Kumar Sharma, in support of their claim. Respondents did not lead any evidence in rebuttal. Apart from the oral evidence, the petitioners have also placed on record the certified copies of police challan for the commission of offences U/Ss 279/304-A IPC & postmortem examination report of deceased, some photographs showing deceased as interior designer, photocopies of PAN Card of deceased, ITR acknowledgement for the assessment year 2021-22 of deceased, aadhaar cards of petitioners and insurance certificate of offending vehicle.

6. **Petitioner No.1 Sabita Devi** stated that she was wife, petitioners No.2 & 3 were the minor sons and petitioners No. 4 & 5 were the parents of deceased Arvind Sharma; the deceased was a renowned interior designer, working at Rajouri and was residing there alongwith his family; the deceased was also working as a contractor, engaged for furnishing of carpentry related work and was also operating through his face book page with the name as Arvind Interiors; the monthly income of the deceased was Rs.50,000/-, which was likely to be increased with the passage of time;

the deceased was hale and hearty, looking after the petitioners and would have contributed Rs.60,000/- per months towards petitioners in future; on 03.10.2022, the deceased was going to one of his sites at Jawahar Nagar on motorcycle No. JK11E-2000 and when reached near Old Ashirwad Hotel, Rajouri, in the meantime, the respondent No.1, while driving a Heavy Goods Vehicle bearing registration No. PB05Y-9929 (hereinafter called as offending vehicle) in a rash and negligent manner, came from opposite direction and brought the deceased within the ambit of his vehicle, as a result he (deceased) sustained serious bodily injuries, who was shifted to GMC Rajouri, but despite tireless efforts and best possible treatment, he could not survive and died; the accident took place due to rash and negligence act of respondent No.1, regarding which the Police of Police Station, Rajouri registered a case under FIR No. 524/2022 and also filed challan against him for the commission of offences U/Ss 279/304-A IPC in the competent court; had the deceased not met with the accident, he would have naturally worked up to the age of 70 years and would have earned crores of rupees; the untimely death of the deceased has put the petitioners in a deep sea of sorrow, which cannot be compensated with crores of rupees.

In **cross examination** by the counsel for respondent/insurance company stated that she was not present on spot at the time of accident; she has annexed with the file photocopy regarding face book page of deceased and regarding his income, she has annexed copy of ITR; at the time of accident, an amount of Rs.6.00-7.00 lacs were lying in bank accounts of deceased in different banks; she has not annexed any documentary proof regarding the age of deceased; the deceased died

after the accident and his last rites were performed at his native village; she has obtained succession certificate from the court regarding amount of deceased and she can produce its copy; it is correct that there are ups and down in the business and sometimes, there is lot of work and sometimes it came down, however, the deceased was a renowned interior designer and carpenter in Rajouri area; she has not applied for dependent certificate; it is incorrect that she has filed a false case in order to claim the compensation; her mother-in-law and father-in-law were residing with them; she has studied up to 10th standard; she has no knowledge whether the deceased had done any diploma in interior designer or not.

7. **PW-Ved Parkash Vishwakarma** stated that the petitioners are personally known to him; the deceased was also known to him; the deceased was a renowned interior designer, working at Rajouri and was residing there alongwith his family; the deceased was also working as a contractor, engaged for furnishing of carpentry related work and was also operating through his face book page with the name as Arvind Interiors; the monthly income of the deceased was Rs.50,000/-, which was likely to be increased with the passage of time; the deceased was hale and hearty, looking after the petitioners and would have contributed Rs.60,000/- per months towards petitioners in future; on 03.10.2022, the deceased was going to one of his sites at Jawahar Nagar on motorcycle No. JK11E-2000 and when reached near Old Ashirwad Hotel, Rajouri, in the meantime, the respondent No.1, while driving a Heavy Goods Vehicle bearing registration No. PB05Y-9929 (hereinafter called as offending vehicle) in a rash and negligent manner, came from opposite direction and brought the deceased within the ambit of his vehicle, as a result he (deceased)

sustained serious bodily injuries, who was shifted to GMC Rajouri, but despite tireless efforts and best possible treatment, he could not survive and died; the accident took place due to rash and negligence act of respondent No.1, regarding which the Police of Police Station, Rajouri registered a case under FIR No. 524/2022 and also filed challan against him for the commission of offences U/Ss 279/304-A IPC in the competent court; had the deceased not met with the accident, he would have naturally worked up to the age of 70 years and would have earned crores of rupees; the untimely death of the deceased has put the petitioners in a deep sea of sorrow, which cannot be compensated with crores of rupees.

In **cross-examination** by the counsel for respondent/insurance company stated that he was riding on a motorcycle and the deceased was alone riding on his motorcycle ahead of him; no other person was injured in the accident; the deceased was wearing helmet at the time of accident, which was seized by the police from spot; he is mechanic of shocker repairing and was returning home from the shop at the time of accident; the offending vehicle was loaded with chairs and other articles; it is incorrect that the accident took place due to the negligence of deceased; the petitioners are residents of his village; his statement was recorded by the police; prior to this statement, his statement has not been recorded in any other court; he came in this Tribunal on the request of petitioners, however, it is incorrect that he is giving false statement on their asking; he is an eyewitness of the accident in question; he was having knowledge about the income and profession of deceased due to their family understanding; the petitioners are not his relatives, however, they are residents of his village; he does not know how much money was in the

account of deceased; he has studied up to 10th class; he cannot say what was the registration number of the vehicle in which he came in the Tribunal.

8. **PW-Dharminder Kumar Sharma** stated that the deceased was known to him and the petitioners are also known to him; the deceased was a renowned interior designer in Rajouri area, a contractor of carpentry and was getting the work of wood done in the houses of different people; the deceased was taking contract and got prepared doors, almirahs, beds and other furniture items; he was working with deceased for the last five years on monthly salary of Rs.25,000/-; in addition to him, the deceased had also kept about 15 employees, to whom he (deceased) was giving Rs.20,000/-, Rs.25,000/-, Rs.30,000/- as salary per month; the monthly income of the deceased was about Rs.5.00 to 6.00 lacs and after expensing/expenditure, the deceased was saving Rs.80,000/- to 90,000/- per month; the deceased was residing in Rajouri for the last about 20 years; on the day of accident, the work of the deceased was going on at 6-7 sites and he was also working with him; on 03.10.2022 near Old Ashirwad Hotel, the deceased with an accident with the offending vehicle and died; after the death of deceased, there is no source of income of the petitioners, as they were dependent upon his income; the deceased was hale and hearty and if he would not have died in the accident, he would have worked about 30-40 years more, but due to his untimely, heavy loss has been caused to the petitioners.

In **cross-examination** by the counsel for respondent/insurance company stated that the deceased and petitioners were residing on rented accommodation on the monthly rent of Rs.10,000/- to 15,000/-; the deceased had two minor school

going children; now he is working with another contractor; the work on the sites of deceased could not be completed after his death; he cannot say about the exact income of the deceased; on the work sites of deceased, two, three or four or as per requirement 'Mistries' (carpenters) were working; he was not present on spot at the time of accident, as such, cannot say about the reason of accident; the motorcycle, on which the deceased was riding at the time of accident, was purchased by the deceased and its documents were complete; he was also riding as pillion alongwith deceased on work sites on that motorcycle a number of times; the deceased was driving the motorcycle after wearing helmet; he has no knowledge about the bank account of deceased; he came in the Tribunal on the asking of petitioners, however, it is incorrect that he is giving false statement on their asking.

9. I have heard learned counsel for the parties and have perused the entire material on record including the evidence and considered the submissions made by learned counsel for the parties.

Reasons and findings

Issue No.1

Whether the deceased Arvind Sharma S/O Sh. Ram Nath R/O Ward No.10, Rajouri, died in a road traffic accident on 03.10.2022 near Old Ashirwad Hotel, Rajouri, within the jurisdiction of Police Station, Rajouri, by the offending vehicle (Tata Goods Carrier) No. PB05Y-9929, due to rash and negligent driving of the respondent No.1, when it hit the motorcycle of the deceased bearing No.JK11E-2000 and caused an accident due to which the deceased suffered grievous injuries and lateron succumbed to the injuries?

OPP

10. The onus to prove the issue is placed on the petitioners. The petitioners have placed on record certified copy of police challan for the commission of offences U/Ss 279/304-A IPC, arisen out of FIR No. 524/2022 registered at Police Station, Rajouri, filed against respondent No.1 before the court for judicial determination and postmortem examination report of deceased Arvind Sharma. Perusal of the said documentary evidence reveals that on 03.10.2022, the respondent No.1 while driving the offending vehicle bearing registration No. PB05Y-9929 in rash and negligent manner when reached near Old Ashirwad Hotel, Rajouri, within the jurisdiction of Police Station, Rajouri, hit the motorcycle bearing No.JK11E-2000 of deceased, on which he was riding, from opposite side, as a result the deceased sustained grievous injuries and succumbed to them lateron. PW-Ved Parkash Vishwakarma, who is an eye witness of the accident in question as per the police challan, examined in support of petition, has corroborated the statement of petitioner No.1 and her witnesses to the fact of accident, that was caused due to negligence of respondent No.1. The postmortem examination report of the deceased placed on record also reveals that Arvind Sharma (deceased) died on 03.10.2022 in a road traffic accident due to severe head injury with multiple fractures of skull bones with shattered brain extensively leading to sudden death. The final report is a public document and under law can be treated as a piece of prima facie evidence in proceedings in a claim petition under Motor Vehicles Act for proving rash and negligence of respondent No.1, the final conclusion drawn by the investigating agency in the challan ex-facie prove the rash and negligent driving of the respondent No.1 and commission of offences U/Ss 279/304-A IPC.

11. Therefore, on the basis of oral as well as documentary evidence on record, it is safe to conclude here, that accident occurred on 03.10.2022 near Old Ashirwad Hotel, Rajouri, within the jurisdiction of Police Station, Rajouri, due to rash and negligent driving of offending vehicle bearing registration No. PB05Y-9929 by its driver/respondent No.1, which hit the motorcycle bearing registration No. JK11E-2000 on which he was riding, due to which deceased received serious injuries and died due to said injuries. The issue No.1 is, accordingly, decided in favour of the petitioners and against the respondents.

Issues No. 2 and 3

If issue No.1 is proved in affirmative, whether the petitioners are entitled for compensation, if yes, to what extent?
OPP

Whether the offending vehicle was being driven in violation of terms and conditions of the insurance policy and the driver of the offending vehicle was not holding valid and effective driving licence at the time of the accident?
OPR-3

12. Issues No. 2 and 3 are interconnected and are taken for adjudication simultaneously. As discussed above, the petitioners have successfully proved the issue No.1 in their favour, as such, it is to be decided as to what compensation they are entitled for and whether the offending vehicle was being driven in violation of terms and conditions of the insurance policy and the driver of the offending vehicle was not holding valid and effective driving licence at the time of the accident.

13. Learned counsel for the respondent No.3/insurance company has argued that the driver of the offending vehicle was not holding a valid and effective driving

licence at the time of accident and there was violation of terms and conditions of the policy of insurance and other documents of the vehicle, as such, the insurance company is not liable to indemnify the owner or to pay any compensation to the petitioners.

14. It is the rule of evidence that if a party alleges a fact same has to be proved by adducing the evidence. In the instant case, if we go through the file, respondent No.3 did not adduce any evidence to prove the fact that respondent No.1 was not holding a valid driving licence at the time of the accident and that there was any violation of terms and conditions of the policy of insurance and other documents of the vehicle. If the respondent No.1 was not having the driving licence, in the charge-sheet, definitely the reference of same could have been there and commission of offence under section 3/181 of the Motor Vehicles Act or any other offence under the Motor Vehicles Act would have been added in the array of offences against the respondent No.1, but the offences that were proved against the respondent No.1 were under Sections 279/304-A IPC. It is, as such, safe to conclude here that respondent No.3 has miserably failed to prove the onus of the issue No.3 which is, accordingly, decided against the respondent No.3.

15. Since issue No.1 has been decided in favour of the petitioners, now the question arises as to what compensation the petitioners are entitled to. Petitioner No.1 Sabita Devi and PWs Ved Parkash Vishwakarma & Dharminder Kumar Sharma have stated that at the time of accident, the deceased was a renewed interior designer, a contractor for furnishing of carpentry related works, operating his face book account and used to earn Rs. 50,000/ per month and all the petitioners were

dependent on the earnings of the deceased, however, there is no cogent proof on record regarding the monthly income of the deceased is concerned. As per the statement of petitioner No.1 and perusal of record available on file, it reveals that deceased had filed Income Tax Return for the assessment year 2021-22 in which his total income has been shown as Rs.4,92,100/-, but no tax has been charged, as such, the yearly income of the deceased is taken as Rs.4,92,100/-, which is an established income. The age of the deceased has been mentioned as 40 years in the claim petition and 35 years in the postmortem examination report, however, as per the PAN card of deceased available on the file, his date of birth has been mentioned as 01.01.1982, meaning thereby that the deceased was undergoing 41 years of age at the time of his death in the accident in question. Therefore, the age of the deceased is taken as 41 years at the time of his death for the purpose of calculation of the income loss to the petitioners. There is no rebuttal to the occupation, yearly income of Rs.4,92,100/- as per ITR for the assessment year 2021-22 and 41 years of age of the deceased at the time of accident.

16. The principles laid down by the Constitutional Bench of Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others, AIR 2017 SC 5157**, provides that even in the case of self employed or persons with fixed wages, there has to be an addition of 40% to the actual income of the deceased having regard to the future prospects, if the deceased-victim was below 40 years of age; an addition of 25% where the deceased was between the age of 40 to 50 years; and 10% where the deceased was between the age of 50 to 60 years, should be regarded as the necessary method of computation. The established

income means the income minus the tax component. Applying these principles to the present case and adding 25% of income of the deceased to his actual yearly income, who was 41 years old, his total yearly earnings for the purposes of calculation of compensation come to Rs.6,15,125/-.

17. The Hon'ble Supreme Court in a case titled **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported as **2009(3) Supreme 487** has given a new dimension for the standard deduction of personal expenses of the deceased for computation of the loss of dependency to the dependents, which was upheld by the Hon'ble Supreme Court in a recent judgment passed by a Constitution Bench in case titled National Insurance Company Ltd. Vs. Pranay Sethi & Ors., **AIR 2017 SC 5157**.

Para 14 and 15 of Sarla Verma's judgment (**supra**) are relevant and are reproduced here as under:

"14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decision of this Court, we are of the view that where the deceased was unmarried, the deduction towards personal and living expenses of the deceased, should be $\frac{1}{2}$, where the deceased is married, the deduction shall be one-third ($\frac{1}{3}^{rd}$) where the number of dependent family members is 2 to 3, one-fourth ($\frac{1}{4}^{th}$) where the number of dependent family members is 4 to 6, and one-fifth ($\frac{1}{5}^{th}$) where the number of dependent family members exceeds six.

15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the

contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father. Thus 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."

18. For the use of multiplier, the Hon'ble Apex Court in the Judgment (**supra**) has also laid down that in cases falling under Section 166 of the Motor Vehicles Act Davies' method is applicable. The Hon'ble Court has in para 21 of the judgment held as under:-

"21. We, therefore, hold that the multiplier to be used should be as mentioned in column (4) of the table above (prepared by applying Susamma 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."

19. The deceased was married and is survived by wife, two minor children and parents. However, the petitioner No.5 Ram Nath Mistri, father of deceased, died during pendency of this claim petition and his name is deleted from the array of petitioners on the motion of learned counsel for the petitioners. Therefore, the deceased has left only four dependents and as such, $\frac{1}{4}^{\text{th}}$ of his income shall be

deducted towards his personal expenses in view of the law laid down above and accordingly, the yearly/annual loss of income/dependency of the deceased comes to Rs.4,61,344/- to his family. The age of the deceased was 41 years at the time of his death and in the light of Sarla Verma judgment (**supra**), the suitable multiplier in the age group of 41 to 45 is "14", but keeping in view the uncertainties of life, it is slashed down to "13". So, total loss of dependency works out to be Rs.4,61,344/- x 13 = Rs.59,97,472/-.

20. Hon'ble Supreme Court in judgment of National Insurance Company Ltd. Vs. Pranay Sethi & Ors. (**Supra**), has held that in a death case, the claimants are also entitled to funeral expenses and loss of estate in the amount of Rs. 15,000/- each. Therefore, besides the loss of dependence, petitioners No. 1 to 4 are entitled to receive an amount of Rs.15,000/- each as funeral expenses and loss of estate. The petitioner No.1, being wife of the deceased, is also held entitled for an amount of Rs. 40,000/- on account of loss of consortium. The petitioners are, therefore, found entitled to total compensation on the following counts:-

S. No.	Detail of Pecuniary Heads	Amount
1.	Loss of dependency	Rs.59,97,472/-
2.	Loss of estate	Rs.15,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of consortium	Rs.40,000/-
5.	Filial consortium to minor petitioners No. 2 & 3 Rs.40,000/- each	Rs.80,000/-
	Total	Rs.61,47,472/- (rounded off to Rs.61,47,500/-

Issue No.4

Relief?

21. Accordingly, an award for amount of **Rs.61,47,500/-** (rupees sixty one lacs forty seven thousand five hundred only) alongwith interest @7.5% per annum from the date of institution of the petition till realization of the awarded amount is passed in favour of the petitioners No. 1 to 4 and against the respondents. Out of the awarded amount, an amount of Rs.5.00 lacs (rupees five lacs only) shall be paid to the petitioner No.4 and rest of the amount shall be paid to the petitioners No. 1 to 3 in equal shares. The shares of minor petitioners No. 2 and 3 shall be kept as fixed deposits till they attain the age of majority. The payment of court fee shall be first charged on the awarded amount.

22. Since the offending vehicle was duly insured with respondent No.3/insurance company at the time of accident, as such, the insurance company is liable to indemnify the owner of the offending vehicle. Therefore, the respondent No.3/insurance company is directed to make payment of the awarded amount within a period of 60 days from the date of award alongwith interest @ 7.5% per annum from the date of institution of this claim petition till realization of the awarded amount. A copy of the award be forwarded to respondent No.3, for compliance.

23. The claim petition is disposed off accordingly. File be duly compiled and consigned to records.

Announced
30.04.2024

**(R. N. Watal)
Presiding Officer
Motor Accidents Claims Tribunal
Rajouri**

Joginder PA