

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2603 of 2001****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

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Approved for Reporting	Yes	No
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ORIENTAL INSURANCE CO LTD.

Versus

HEIRS OF DECD.VALJIBHAI KHODABHAI & ORS.

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Appearance:

MR KK NAIR(499) for the Appellant(s) No. 1

NOTICE SERVED for the Appellant(s) No. 1

MR DIVYESH SEJPAL(1322) for the Defendant(s) No. 1.5

MR YOGEN N PANDYA(5766) for the Defendant(s) No. 1.1,1.2,1.3

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 08/04/2026****JUDGMENT**

1. The original opponent No.3/appellant herein – Oriental Insurance Company Limited has preferred the captioned appeal challenging the impugned judgment and award dated 14.02.2001 passed by the learned Motor Accident Claims Tribunal (Main), at Bhavnagar in M.A.C.P. No. 860 of 1998, whereby the learned Tribunal had partly allowed the Claim Petition and awarded a sum of Rs.5,58,000/- (after deducting 10% on account of the contributory negligence of the deceased himself) along with interest at the rate of 12% per annum, from the date of filing of the claim petition till its realization, as compensation to the original claimants.

2. The succinct facts, which led to the filing of the captioned appeal, as narrated in the Claim Petition are summarized as under :-

- i. On 06.11.1998 at about 5:45 p.m., Mr. Valjibhai (hereinafter referred to as the "**deceased**") was returning from Bagdana village to Bhavnagar along with his friend Mr. Pravinbhai, after performing Darshan, by driving a motorcycle bearing registration No.GJ-4J-6535. The said motorcycle was being driven by the deceased himself at very moderate speed and on the correct side of the road. When they reached near the place of the accident, original opponent No.1/respondent No.6 herein came by driving one Tanker bearing registration No.GJ-2V-4565 in a rash and negligent manner from the wrong side, and dashed with the motorcycle driven by the deceased, thereby causing the accident. As a result of the said vehicular accident, the deceased sustained grievous injuries and he succumbed to the said injuries.
- i. It is the case of the original claimants/respondent Nos.1 to 5 herein before the learned Tribunal that at the time of the vehicular accident, the deceased was aged about 35 years, and was earning Rs.6,000/- per month from running a diamond polishing factory at Bhavnagar and was also earning Rs.25,000/- per annum from his agricultural land. Therefore, the original claimants/respondent Nos.1 to 5 herein has preferred

the Claim Petition before the learned Tribunal seeking compensation on account of the death of the deceased.

ii. Having been served with the notices/summons of the Claim Petition, original opponent Nos.1 & 2/respondent Nos.6 & 7 herein have not filed any Written Statement, while, original opponent No.3/appellant herein – Insurance Company had filed its Written Statement at Exh.13, thereby, denying the averments raised in the claim petition, and in brief, prayed for dismissal of the Claim Petition.

iii. Having considered the pleadings of the parties, the learned Tribunal framed the following issues for determination.

- i. *Whether the claimants prove that the driver of the vehicle Tanker No. GJ-2V-4565 involved in this incident was rash and negligent in driving his motorcycle ?*
- ii. *Whether the claimants prove that deceased Valjibhai Khodabhai died because of rash and negligent driving of the driver of the vehicle involved in this accident ?*
- iii. *Whether the claimants are entitled to any claim compensation ? If yes, to what extent ?*
- iv. *Who are liable to pay aforesaid amount ?*
- v. *What order ?*

iv. Having considered the evidence on record, and having considered the submissions of the learned counsels for the parties, the learned Tribunal had partly allowed the Claim Petition and awarded a sum of Rs.5,58,000/- (after deducting 10% on account of the contributory negligence of the deceased himself) along with interest at the rate of 12% per annum, from the date of filing of the claim petition till its realization, as compensation to the original claimants.

v. Being aggrieved and dissatisfied with the impugned judgment and award, original opponent No.3/appellant herein- Insurance Company has challenged the findings returned by the learned Tribunal on the issue of negligence, income and rate of interest awarded by the learned Tribunal, as well as the passing of cryptic order under Section 170 of the Motor Vehicles Act, 1988.

3. Though Court/Advocate notice has been duly served upon the appellant – Insurance Company, yet the appellant – Insurance Company has chosen not to appear before this Court. The captioned appeal preferred by the Insurance Company is being listed in the list of weekly oldest matters. Perusal of the records transpires that this Court had issued notice to the appellant – Insurance Company on 03.12.2025. The notice has been duly served, however, despite service, none appeared on behalf of the appellant – Insurance Company to assist this Court, as such, this Court on 25.02.2026, had passed the following order : -

“Despite service of notice, there is no appearance on behalf of the appellant when the matter is called out.

In the interest of justice, a last and final opportunity is granted to the appellant – Insurance Company to argue the matter on the next date of hearing, failing which, this First Appeal shall be decided on the basis of material available on record.

It is made clear that no further adjournment shall be granted on any pretext.

*Stand over to **11.03.2026.**”*

4. Thereafter on 11.03.2026, the matter was adjourned to 18.03.2026. On that day, one learned advocate who regularly used to appear on behalf of the appellant – Insurance Company was requested by this Court to inform about the pendency of this matter to the appellant – Insurance Company. She assured the Court that she would intimate the status of this matter to the appellant – Insurance Company and thereafter the matter was listed on 25.03.2026, however, even on that day, there was no appearance on behalf of the appellant - Insurance Company. Even today, when the matter was called out, there was no representation on behalf of the appellant – Insurance Company to assist this Court. Hence, this Court has no other option except to decide this matter on merits on the basis of material available on record and as such, the contentions raised in the memo of appeal shall be considered as the contentions raised by the appellant – Insurance Company.

5. Perusal of the records further transpires that the captioned appeal came to be dismissed by this High Court vide order dated 20.06.2001. Thereafter, the appellant – Insurance Company challenged

the said order before the Hon'ble Apex Court by way of preferring S.L.P. (Civil) No.15569 of 2001. The said S.L.P. was disposed of by the Hon'ble Apex Court vide its order dated 16.09.2022, by which the impugned order was set aside and the matter was remanded back to this High Court to consider the contentions raised by the appellant – Insurance Company on merits. The said order passed by the Hon'ble Apex Court reads as under : -

“Heard the learned counsel for the parties. Having regard to the limited question that is raised, we propose to dispose of this case at the S.L.P. stage itself. In the appeal filed by the petitioner – Insurance Company, the High Court, without considering the contentions raised, dismissed the appeal relying on the decision of this Court in 1998 (3) SCC 140. Learned counsel for the petitioner stated that the petitioner wanted permission to raise certain defence; if the Tribunal has not given reasons for granting such permission, no fault could be found with the petitioner. At any rate, the High Court should have considered whether the permission granted by the Tribunal, under the circumstances, was right, but, unfortunately, the High Court did not consider the contentions raised on merits. In this view, we think it appropriate to set aside the impugned order, particularly, when the driver and owner, did contest the claim, as is evident from the order of the Tribunal. Hence, the impugned order is set aside and the matter is remitted to the High Court to consider the contentions raised by the petitioner – Insurance Company on merits. The interim order made on 21.09.2001 shall remain undisturbed pending the disposal of the appeal in the High Court and it shall be subject to the order to be passed in that appeal.

The special leave petition is disposed of in the above terms.”

6. In view of the above order, the matter was remanded back to this High Court to consider the contentions raised by the appellant-Insurance Company on merits, however, the appellant – Insurance Company has abandoned the appeal and has not bothered to appear to assist this Court, despite service of Court notice.

7. In the memo of appeal it is contended that the learned Tribunal has not considered the issue of negligence in the right perspective. The vehicular accident in question was caused by the rider of the motorcycle, i.e., the deceased himself. It is further contended that the learned Tribunal has not appreciated the oral testimony of eye-witness - Mr. Pravinbhai and the other documents on record such as the FIR and panchnama in the right perspective, as such, had committed the error in holding the driver of the truck negligent for causing the vehicular accident in question. Therefore, it is contended that the findings returned by the learned Tribunal on the issue of negligence is not sustainable. So far as the quantum is concerned, it has been contended in the memo of appeal that the learned Tribunal had assessed the income at higher side and awarded exorbitant compensation. It is also contended that the learned Tribunal had awarded interest at very excessive rate of 12%. It is contended that the learned Tribunal ought to have awarded interest at the rate of 9%. Further, by way of amendment in the memo of appeal, the appellant – Insurance Company further averred that the learned Tribunal have grossly erred in not passing a reasoned order under Section 170 of the Motor Vehicles Act.

8. Per contra, learned advocate appearing on behalf of the original claimants/respondent Nos.1 to 5 herein vehemently submitted that at the time of the vehicular accident, the deceased was doing the business of diamond polishing and was also doing agriculture work. He further

submitted that in order to prove the income from the diamond polishing work, the original claimants have examined Popatbhai Madhabhai as PW-3 at Exh.45, who proved that at the time of the vehicular accident, he along with the deceased was running a factory of diamond polishing in partnership and the deceased was earning Rs.5,000/- to Rs.6,000/- from the said business. He also proved the certificate at Exh.46, showing that the deceased was earning Rs.6,000/- per month. He further submitted that PW1 – widow of the deceased had also stepped into the witness-box and she also proved that at the time of the vehicular accident, her deceased husband was running a factory of diamond polishing and in addition to this, was also doing agriculture work. Learned Counsel for the original claimants/respondent Nos.1 to 5 herein further submitted that the certificate issued by Gram Panchayat has been proved at Exh.32 and the extract of Village Form No.7/12 & 8A has been proved at Exh.33, depicting that the deceased was also having agriculture land in his joint name. Learned counsel for the original claimants/respondent Nos.1 to 5 herein further contended that the learned Tribunal had assessed the income of the deceased at very lower side. He further contended that the learned Tribunal ought to have considered the income of the deceased from both sources of income while assessing the income of the deceased. He further submitted that the learned Tribunal ought to have assessed the income of the deceased at Rs.8,000/- per month, however, the learned Tribunal had assessed the income of the deceased at Rs.5,000/- per month, which is at a very lower side.

9. Learned counsel for the original claimants further contended that at the time of the vehicular accident, the deceased was aged about 35 years, therefore, the learned Tribunal ought to have added 40% of the notional monthly income to the monthly income of the deceased on

account of his future prospects, however, the learned Tribunal had not considered the future prospects of the deceased. In support of his contentions, learned counsel for the original claimants placed reliance upon the judgments rendered by the Hon'ble Apex Court in the case of ***Sarla Verma and Ors. Vs. Delhi Transport Corporation*** reported in ***2009 AIR (SC) 3104*** and ***National Insurance Company Ltd. Vs. Pranay Sethi*** reported in ***2017 (16) SCC 680***. Learned counsel for the original claimants further submitted that the deceased was survived by five legal representatives, i.e., his widow, three children and father, therefore, 1/4th instead of 1/3rd needs to be deducted on account of personal expenses of the deceased. In support of his contentions, he placed reliance upon ***Sarla Verma*** (supra) and ***Pranay Sethi*** (supra). Learned counsel for the original claimants further submitted that the learned Tribunal had awarded a meagre amount of compensation under the head of Loss of consortium. He contended that all the five legal representatives of the deceased are entitled to get compensation under the head of Loss of consortium. In support of his contentions, he placed reliance upon the judgment rendered by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Ors.***, reported in ***(2018) 18 SCC 130***. He further submitted that the learned Tribunal had not awarded any amount of compensation under the head of Funeral expenses. He further submitted that the learned Tribunal had awarded meagre amount of compensation under the head of Loss of estate. He further contended that the claimants can pray for enhancement of compensation in the appeal preferred by the Insurance Company. In support of his contentions, learned counsel appearing on behalf of the original claimants/respondent Nos.1 to 5 herein placed reliance upon the judgment rendered by the Hon'ble Apex Court in the case of ***Surekha and Others v. Santhosh and Others***, reported in

2020 ACJ 2156. Having placed reliance upon the aforesaid judgment, learned counsel for the original claimants/respondent Nos.1 to 5 herein submitted that just compensation be awarded and impugned judgment and award be modified accordingly.

10. Having considered the material available on record as well as the submissions advanced by the learned counsel for the original claimants/respondent Nos.1 to 5 herein, it is to be noted that the appellant - Insurance Company has challenged the findings returned by the learned Tribunal on the issue of negligence, income and rate of interest awarded by the learned Tribunal and the passing of cryptic order under Section 170 of the Motor Vehicles Act, while the original claimants/respondent Nos.1 to 5 herein had raised the contention of enhancement of compensation awarded by the learned Tribunal.

11. So far as the negligence is concerned, the learned Tribunal after considering the material available on record, came to the conclusion that the driver of the offending truck as well as the deceased himself was contributorily negligent in causing the vehicular accident in question. The learned Tribunal apportioned the negligence in the ratio of 90:10 between the driver of the offending truck and the deceased himself. The learned Tribunal, after discussing in detail and appreciating the oral as well as documentary evidence on record, decided the issue of negligence. Perusal of the records transpires that in order to prove the issue of negligence, the original claimant No.1/respondent No.1 herein - Ms. Madhuben and eye-witness - Mr. Pravinbhai had stepped into the witness-box. The deposition of original claimant No.1/respondent No.1 herein - Ms. Madhuben as PW-1 was recorded at Exh.25. Perusal of her deposition transpires that she was not an eye-witness to the vehicular accident, as such, her deposition on the point

of negligence is of no use. The original claimants have also examined Mr. Pravinbhai as PW-2 at Exh.44. He deposed that at the time of the vehicular accident, he was travelling on the motorcycle, as a pillion rider and the deceased was riding the said motorcycle. He also deposed that while the driver of the offending truck while overtaking a scooter, the offending truck came on the wrong side and hit the motorcycle driven by the deceased. He also deposed that the vehicular accident in question took place owing to the sole negligence of the driver of the offending truck. He was cross-examined by the learned counsel for the Insurance Company, but nothing favourable to the Insurance Company came on record. The original claimants has also proved the F.I.R. & panchnama at Exhs. 27 & 28 respectively. Perusal of the Exh.27 - FIR transpires that the FIR came to be lodged by PW-2 – Mr. Pravinbhai. In the said FIR, he stated that the offending truck came from the wrong side and hit the motor cycle in which the deceased and the author of the FIR was travelling. The panchnama of the place of the accident proved at Exh.28 also supports the version of the original claimants. Perusal of the said panchnama further transpires that at the place of the accident, the road was 20ft. wide. The motorcycle after the accident was found 3ft. away from the Kacha road, therefore, the deceased was riding the motorcycle on the extreme left, i.e., on the correct side of the road. It is also evident from the panchnama of the place of accident that after hitting the motorcycle, the driver of the offending truck applied the brake and there were tyre marks on the road to a stretch of 50 ft, which itself suggests that at the time of the vehicular accident, the offending truck was being driven at an excessive speed. After completing the investigation, the prosecution agency has also filed the charge-sheet against the driver of the offending truck. The driver of the offending truck has not stepped into the witness-box to rebut the version of the original claimants. Therefore, considering the evidence on

record, the learned Tribunal had not committed any error in holding that the driver of the truck contributed to a larger extent in causing the vehicular accident in question. Therefore, in my considered view, there is no infirmity in the findings returned by the learned Tribunal on the issue of negligence, as such, the plea raised in the memo of appeal on the issue of negligence is devoid of any merits and is hence rejected.

12. The next plea raised in the memo of appeal is regarding the income of the deceased and computation of compensation. So far as the income is concerned, the learned Tribunal after considering the evidence on record, had assessed the income of the deceased from both the sources of income, i.e., diamond polishing and agriculture, as Rs.5,000/- per month. In order to prove the income of the deceased, the claimant No.1 - widow of the deceased – Ms. Madhuben herself stepped into the witness-box and the claimants has also examined Mr. Popatbhai Madhabhai as PW-3 at Exh.45. The widow of the deceased deposed that at the time of the vehicular accident, her deceased husband was aged about 35 years and he was doing the business of diamond polishing and was also engaged in agricultural work. It was further stated that the deceased was running the business/factory of diamond polishing in partnership with Mr. Babubhai Savjibhai. It was further submitted that the deceased was earning handsome amount from the said business and also earning Rs.25,000/- annually from agricultural work. Perusal of the record transpires that the claimants has also proved the extract of Village Form No.7/12 & 8A on record at Exh.33 and certificate of Gram Panchayat at Exh.32. Perusal of these documents transpires that the deceased was holding agricultural land in his name. PW-3 – Mr. Popatbhai Madhabhai also deposed that he was doing the business with the deceased and the deceased had 5 to 6 machines for polishing the diamond. He further deposed that the

deceased was getting Rs.20/- per piece for polishing the diamond. Mr. Popatbhai Madhabhai was also cross-examined by the learned counsel for the appellant – Insurance Company, but nothing adverse came on record. PW3 also proved the certificate at Exh.46, which shows that the deceased was earning Rs.6,000/- per month from the business of diamond polishing. Therefore, in light of the oral as well as documentary evidence available on record, the learned Tribunal had not committed any error in assessing the income of the deceased at Rs.5,000/- per month. Therefore, the monthly income assessed by the learned Tribunal is upheld.

13. Perusal of the impugned judgment further transpires that the learned Tribunal had not considered the prospective income of the deceased though at the time of the vehicular accident, the deceased was aged about 35 years. Thus, in view of the ratio of the judgments rendered by the Hon'ble Apex Court in the case of **Sarla Verma** (supra) and **Pranay Sethi** (supra), the notional monthly income of the deceased is to be enhanced by 40% on account of the Future prospects of the deceased. Therefore, after adding 40% of the notional income to the monthly income of the deceased, the monthly income of the deceased would come to Rs.7,000/- (i.e, Rs.5,000/- plus 40% of Rs.5,000/-).

14. It is on record that at the time of the vehicular accident, the deceased was survived by five legal representatives, i.e., his widow, three children and aged father, therefore, the learned ought to have deducted 1/4th instead of 1/3rd on account of the personal expenses of the deceased, in view of the ratio laid down by the Hon'ble Apex Court in the case of **Sarla Verma** (supra) and **Pranay Sethi** (supra). Thus,

after deducting 1/4th of the monthly income on account of the personal expenses of the deceased, the monthly income for calculating the future loss of dependency would come to Rs.5,250/- (i.e., Rs.7,000/- minus 1/4th of Rs.7,000/-).

15. Considering the age of the deceased at the time of the vehicular accident, the multiplier of "15" is required to be applied. Therefore, after applying the multiplier of "15", the original claimants/respondent Nos.1 to 5 herein shall be entitled for a sum of Rs.9,45,000/- (i.e., Rs.5,250/- X 12 months X multiplier of "15") under the head of Future Loss of Dependency.

16. The learned Tribunal had awarded a sum of Rs.10,000/- under the head of loss of consortium. It is an undisputed fact that the deceased was survived by five legal representatives, i.e., his widow, three children and aged father. In view of ratio of the judgment rendered by the Hon'ble Apex in the case of **Nanu Ram alias Chuhru Ram & Ors.** (supra), all the five legal representatives are entitled to get compensation under the head of Loss of consortium. Thus, in view of the ratio of the aforesaid judgment, a sum of Rs.2,42,000/- (i.e., Rs.48,400/- X 5) is awarded under the head of Loss of consortium.

17. Perusal of the impugned judgment and award transpires that the learned Tribunal had awarded a sum of Rs.10,000/- under head of Loss of estate and it further transpires that no amount of compensation has been awarded under the head of Funeral expenses. Thus, in view of the ratio of the judgment rendered by the Hon'ble Apex Court in the case of

Pranay Sethi (supra), a sum of Rs.18,150/- is awarded under the head of Loss of Estate, and similarly a sum of Rs. 18,150/- is awarded under the head of Funeral expenses.

18. Therefore, in view of the above discussion, the original claimants/respondent Nos.1 to 5 herein shall be entitled for the following amount of compensation:-

Sr. No.	Head	Amount in rupees.
1	Future Loss of Dependency.	9,45,000/-
2	Loss of Consortium.	(+) 2,42,000/-
3	Loss of Estate.	(+) 18,150/-
4	Funeral Expenses.	(+) 18,150/-
5	Total Compensation	12,23,300/-
6	Less : 10% on account of the negligence attributed to the deceased.	(-) 1,22,330/-
7	Total amount of Compensation	11,00,970/-

19. The learned Tribunal vide its impugned judgment had already awarded a sum of Rs.5,58,000/- to the original claimants/respondent Nos.1 to 5 herein, therefore, original claimants/respondent Nos.1 to 5 herein shall be entitled for an additional compensation to the tune of Rs.5,42,970/- (i.e., Rs.11,00,970/- minus Rs.5,58,000/-).

20. As discussed above, the total compensation comes to the tune of Rs.11,00,970/-, however, the learned Tribunal had awarded a sum of

Rs.5,58,000/- as a compensation. Now the question arises as to whether in an appeal preferred by the Insurance Company, the compensation awarded can be enhanced. It is an undisputed that the Motor Vehicles Act is a benevolent piece of legislation and the Claimants are entitled to get just compensation. The issue is more *res integra*, as the same has been settled by the Hon'ble Apex Court in the case of Surekha (supra), wherein the Hon'ble Apex Court has observed as under :-

2. *This appeal takes exception to the judgment and order dated 04.01.2019 passed by the High Court of judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs. 49,85,376/- (Forty-Nine Lakh Eighty-Five Thousand Three Hundred Seventy-Six Only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.*

3. *By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.*

21. Thus, in view of the above discussion, the original claimants shall be entitled to get the additional amount of compensation of Rs.5,42,970/- (Rupees Five Lakh Forty Two Thousand Nine Hundred Seventy Only) as per settled principles of law.

22. The Insurance Company, in the memo of appeal has also challenged the rate of interest awarded by the learned Tribunal. The

learned Tribunal had awarded interest at the rate of 12% per annum from the date of filing of the Claim Petition till realization. The rate of interest depends upon so many variables, like the banking rate of interest, rate of inflation etc. At this juncture, it would be profitable to refer to the judgment rendered by the Hon'ble Apex Court in the case of ***Abati Bezbaruah vs. Dy. Director General, Geological Survey of India and Anr.*** reported in **(2003) 3 SCC 14**, wherein the Hon'ble Apex Court held as extracted hereinbelow:-

“18. The rate of interest must be just and reasonable depending upon the facts and circumstances of each case and taking all relevant factors including inflation, change of economy, policy being adopted by Reserve Bank of India from time to time, how long the case is pending, permanent injuries suffered by the victim, enormity of suffering, loss of future income, loss of enjoyment of life etc., into consideration....”

23. Adverting to the facts of the present case, the vehicular accident in question took place on 16.11.1998. At that relevant point of time, the rate of interest was at a higher side. Thus, in view ratio laid down by the Hon'ble Apex Court in the case of ***Abati Bezbaruah*** (supra), the learned Tribunal has not committed any error in awarding the rate of interest at 12% per annum. Thus, the original claimants/appellants shall be entitled for the same rate of interest as awarded by the learned Tribunal on the additional amount of compensation from the date of filing of the Claim Petition till its realization. Accordingly, the plea of the appellant – Insurance company with respect to reducing the rate of interest awarded by the learned Tribunal is rejected.

24. The Insurance Company has also took the plea that the learned Tribunal ought to have passed a reasoned order while deciding the application under Section 170 of the Motor Vehicle Act. Section 170 of the Motor Vehicles Act enables the Insurance Company to contest the Claim Petition if the driver and owner are not contesting or if they are in connivance. Perusal of the records transpires that the owner and driver has not appeared before the learned Tribunal and thereafter, the learned Tribunal has permitted the Insurance Company to cross-examine the witnesses produced by the original claimants on all aspects. Perusal of the records further transpires that PW-1, PW-2 & PW-3 were all cross-examined on the point of negligence, income and other aspects. Further, the Hon'ble Apex Court has vide its order has permitted to raise all the plea in the captioned appeal, therefore, the now the issue as to whether the learned Tribunal has passed a cryptic order while allowing the application is of no consequence, more particularly, when the appellant – Insurance Company has been permitted to contest the Claim Petition as well the captioned appeal on all the grounds which were available to the owner and driver. Therefore, the said contention raised by the appellant – Insurance Company is not sustainable and is hence rejected.

25. Thus, in view of the above discussion, the captioned being devoid of any merits, stands dismissed. The impugned judgment and award stands modified to the aforesaid extent. The appellant - Insurance Company shall deposit the additional amount of compensation along with interest at the rate of 12% per annum from the date of filing of the Claim Petition till its realization, within a period of six weeks from today. Upon depositing the said amount, the learned Tribunal shall disburse the entire awarded amount to the original

claimants/respondent Nos.1 to 5 herein (deducting deficit Court fee, if any), after due verification.

26. Statutory amount, if any, lying deposited with the Registry of this Court shall be transmitted to the learned Tribunal concerned forthwith. Records & Proceedings, if any be sent to the learned Tribunal concerned. No order as to costs.

27. Pending application, if any, stands disposed of, accordingly.

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(MOOL CHAND TYAGI, J)