

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2083 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE NISHA M. THAKORE**

Approved for Reporting		
Yes	No	

LEELABEN WD/O PARVATSINH BHIMSINH BARIYA & ORS.
Versus
ABHESING KANABHAI NAYKA & ORS.

Appearance:

DECEASED LITIGANT for the Appellant(s) No. 6

DELETED for the Appellant(s) No. 3

MR VIJAL P DESAI(5505) for the Appellant(s) No. 1,2,4,5,7

MR VIBHUTI NANAVATI(513) for the Defendant(s) No. 3

MR.HIREN M MODI(3732) for the Defendant(s) No. 1,2

CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 02/04/2026****ORAL JUDGMENT**

1. Heard Mr. Vijal P. Desai, learned advocate for the appellants-original claimants, learned advocate Ms. Masumi Nanavati has appeared on behalf of Mr. Vibhuti Nanavati learned advocate on record for the respondent No.3 - Insurance Company and learned advocate Mr. Hiren Modi has appeared on behalf of respondents No.1 and 2, the driver and owner of the offending vehicle, involved in the accident.

The appellants No. 3 and 6 has been deleted from the array of parties. It is reported that the mother of the deceased has expired, pending the proceedings. With the able assistance of learned advocate on record the appeal is peremptorily heard finally.

2. The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short “the Act”) at the instance of the original claimants, being aggrieved and dissatisfied with the judgment and award dated 03.07.2015 passed by the Motor Accident Claims Tribunal, Panchmahal at Godhra in MACP No. 768 of 2010. By the said judgment and award though the Tribunal has partly allowed the claim petition preferred by the original claimants under Section 166 of the M.V. Act, 1988, holding them entitled to seek recovery of sum of Rs. 6,00,960/- from the opponents No.1 and 2 jointly and severally towards compensation with proportionate costs and interest at the rate of 9% per annum from the date of filing of the claim petition till its realisation, however, has not entertained the entire claim of compensation of Rs. 9,75,000/-. Hence, the present appeal praying for enhancement of the amount of compensation to the tune of Rs. 3,74,049/- with interest and costs.

3. Before considering the merits of the appeal, appropriate would be to take note of the brief facts of the case pleaded before the Claim Tribunal. The claimants have

pleaded that on 17.05.2010, the deceased Parvatsinh Bariya was riding on motorcycle bearing registration GJ-6BC 7188. The deceased was driving the said motor cycle along with one pillion rider Ashokbhai Bariya and was going towards village Sureli. While he was passing near Borada Primary School, the driver of the tractor bearing registration No. GJ 17 D 9186 with trailer bearing registration No. GJ-17-Y-4663, came from the opposite direction in a rash and negligent manner and driving with excessive speed, dashed with the motorcycle. As a result the deceased was thrown out off the road and had sustained severe injuries. The deceased unfortunately succumbed to the fatal injuries.

4. The cause of action arose for the claimants, who are heirs and legal representatives of the deceased, to seek compensation from the original opponents viz the driver, owner and the insurance company of the offending vehicle, tractor and trailer being joined as opponents No. 1 to 3 respectively. Before the Claims Tribunal, it was pleaded by the claimants that the deceased was aged 34 years and was hale and hearty and was earning income of Rs. 4,500/- per month by attending Centering work and doing agricultural activities. The claimants have, therefore, prayed for total amount of compensation of Rs. 9,75,000/- with interest and proportionate costs from the original opponents. The said claim petition was presented before the Motor Accident Claims Tribunal, Panchmahal at Godhara on 02.08.2010

which was registered as MACP No. 768 of 2010.

Before the Claim Tribunals, the opponents were duly served with the summons. The opponents No.1 and 2 have jointly entered appearance through their lawyer and had submitted their written statement at Exh. 13. The said opponents have objected to the occurrence of accident and have also attributed negligence towards the deceased. However, he has admitted to the fact that the deceased had succumbed to the fatal injuries caused due to the motor vehicle accident of his vehicle. The said opponents have also admitted about the registration of the police complaint being FIR bearing registration No. ICR 75 of 2010 against the driver of the tractor. The said opponents have disputed their claim of quantum of compensation. The opponent No. 3 Insurance Company has also entered appearance through their lawyer and has submitted their written statement at Exh. 14. The Insurance Company had raised specific defense about the negligence attributed on the part of the driver of the offending vehicle tractor and had thereby disputed their liability to pay the amount of compensation. The quantum of compensation as prayed for was also objected. Considering the pleadings of the respective parties on record the Tribunal had framed the issues at Exh. 15 incorporating the amended issue also. The same are reproduced here under :-

1) *Whether it is proved that the deceased sustained injuries and died on account of rashness or negligence in driving on part of the driver/s of the vehicle/s involved in the accident?*

2. *What amount, if any, the claimants are entitled to by way of compensation and from which of the opponents?*

2A. *Whether the driver of the offending vehicle was holding effective driving license on the day of accident? If no, whether Insurance company is liable to pay the compensation in the present case?*

3. *What order?*

5. Before the claim Tribunal, the wife of the deceased had entered the witness box, her evidence was recorded at Exh. 24. The Tribunal while examining the issue of negligence had referred to the FIR produced on record at Exh. 20 and the charge sheet produced on record at Exh. 25. The Tribunal noted that the FIR has been filed against the driver of the tractor and the same has culminated into charge sheet, however, has held the driver of the tractor as well as the deceased motor cyclist negligent towards the occurrence of the accident. The Tribunal has further apportioned negligence on the part of both the drivers of the vehicle involved in the accident by holding the driver of the tractor

negligent to the extent of 80% and the deceased to the extent of 20%. On the quantum of compensation, the Tribunal has appreciated the evidence of the wife of the deceased recorded at Exh. 24 wherein she has reiterated the fact in her deposition about the income of the deceased being Rs. 4,500/- per month. In absence of any proof of income being produced on record, considering the fact that the accident had taken place in the year 2010, the Tribunal has determined the income of the deceased as Rs. 3000/- per month.

6. Considering the principles governing the field as on the date of the judgment, the Tribunal has followed the principles laid down by the Hon'ble Supreme Court in the case of **Rajesh and Ors. Vs. Rajbir Singh and Ors reported in (2013) ACJ 1403** as well as the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma and ors. vs. Delhi Transport Corporation and Anr.** reported in **(2009) 6 SCC 121**, and has applied addition of 50% rise towards prospective income. Thus, future prospective income of the deceased has been determined as Rs. 4,500/- (Rs. 3000 plus Rs. 1,500/-). Noticing the fact that the deceased was survived by 7 members in the family, the Tribunal had deducted 1/5th of the aforesaid amount towards personal and living expenses of the deceased. The Tribunal has applied multiplier of 16 considering the age of the deceased as 34 years at the time of accident as evident from the

postmortem report produced on record.

7. By considering the aforesaid components the Tribunal has assessed the loss of dependency benefit as Rs. 6,91,200/- (Rs. 3,600/- multiply by 12 multiply by 16).

8. The Tribunal has further considered the amount of compensation under the conventional heads and has held the claimants entitled for sum of Rs. 20,000/- towards loss of love and affection and Rs. 10,000/- towards loss of estate. At the same time, the Tribunal has also awarded Rs. 20,000/- towards loss of consortium in case of the widow of the deceased being one of the claimant in the claim petition. The amount towards funeral expenses has been determined as Rs. 10,000/-. Thus, by impugned judgment and award the Tribunal has held the original claimants entitled to total amount of compensation of Rs. 7,51,200/-, however, considering the negligence of the driver of the offending tractor limited to the extent of 80%, has deducted 20% of the amount towards negligence of the deceased and has thereby awarded the amount of compensation of Rs. 6,00,960/- i.e (Rs. 7,51,200/- minus Rs. 1,50,240/-) with interest at the rate of 9% from the date of filing of the claim petition till its actual realisation from the original opponents jointly and severally.

9. The Tribunal while considering the issue of liability has taken into consideration the evidence more particularly the statement of one Ms. Chandubhai Bariya produced on record at mark 19/9 wherein he has admitted that the tractor and trailer were used to carry the passengers at the time of accident as well as the evidence of Assistant Motor Vehicle Inspector at Exh. 41 who has admitted that the opponent No.1 was issued driving license to drive tractor only. The Tribunal has thus, noted that the driver of the offending tractor was not holding driving license or transport vehicle and therefore, he could not have driven the tractor with trailer. The aforesaid conclusion drawn by the Tribunal has further been taken into consideration while considering the policy conditions and has thereby exonerated the opponent No. 3 Insurance Company from paying the aforesaid amount of compensation. Hence, the present appeal at the instance of the original claimants assailing the impugned judgment and award.

10. Learned advocate Mr. Vijal P. Desai appearing for the appellant has vehemently assailed the impugned judgment and award by submitting that the Tribunal committed grave error in holding the deceased 20% negligent towards the occurrence of the accident. Assailing the findings and reasons assigned by the Tribunal, learned advocate has placed heavy reliance upon the panchnama of the scene of accident produced on record at Exh. 21. The attention of

this Court was also invited to the evidence of the widow of the deceased being recorded at Exh. 24 along with the copy of the complaint being produced on record at Exh. 20. Learned advocate has submitted that the complaint was registered by the brother of the deceased and at the end of the investigation, the driver of the tractor of opponent No.1 was charge sheeted for the offence alleged. He has therefore, submitted that the involvement of the vehicle has been established by the claimants by leading the cogent material on record. As regards the issue of negligence no reasons has been assigned by the Tribunal for holding the deceased 20% negligent towards the occurrence of the accident. In absence of the driver of the tractor who was otherwise an eyewitness to the accident being not examined by the Insurance Company, the Tribunal ought to have held the driver of the tractor solely negligent towards occurrence of the accident. In order to substantiate his argument learned advocate had referred to the panchnama and the case of the claimants pleaded in the claim petition to point out that in fact the deceased was driving on his right side of the road and considering the damage sustained, the tractor had hit the motor cycle on the front side of the vehicle which clearly suggest the rash and negligent driving on the part of the driver of the offending truck. On the issue of quantum of compensation, learned advocate had submitted that admittedly the accident had taken place on 17.05.2010 as rightly noted by the Tribunal. In absence of any

documentary evidence brought on record with regard to proof of income of the deceased, the standard rates of minimum wages notified by the State Government were required to be followed. Referring to the standard rates notified by the State Government as prevailing on the date of accident, learned advocate has submitted that the income of the deceased was required to be fixed as Rs. 4,210/- per month. The reliance was also placed on the land mark decision of the Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi & ors** reported in **(2017) 16 SCC 680**, to contend that the deceased was self employed, earning his livelihood by attending centering work and doing agricultural activities, and his age of 34 years being not in dispute, which is below the age of 40 years, addition of 40% is required to be considered towards future rise instead of 50% as has been applied by the Tribunal. Learned advocate has further fairly conceded that in the facts of the case the Tribunal has rightly applied multiplier of 16. By referring to the aforesaid components, learned advocate has urged this Court to compute the dependency loss benefit as Rs. 9,05,472/-. As regards the amount under the conventional heads are concerned, the learned advocate had referred to the principles laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi (supra)**, to contend that the amount towards loss of estate was also required to be considered while enhancing the amount of compensation. He has,

therefore, prayed to award the amount of compensation under the head of loss of estate to the tune of Rs. 18,150/-. Similarly, the amount of compensation under the head of funeral expenses may also be determined as Rs. 18,150/-.

11. As regards the loss of consortium is concerned, learned advocate has pointed out that considering the fact that the deceased was survived by 7 members in the family, the Tribunal has rightly applied deduction of 1/5th towards loss of dependency of personal expenses, however, the minor daughter unfortunately having been reported to have expired pending the original claim petition and being deleted from the array of parties, the consortium may be awarded to the tune of Rs. 2,90,400/-.

12. Learned advocate has therefore, prayed to enhance the total amount of compensation to the tune of Rs. 12,32,172/- which may be awarded with interest at the rate of 9% interest per annum as awarded by the Tribunal with proportionate costs. As regards the issue of liability is concerned, learned advocate has submitted that the Tribunal committed grave error in exonerating the original opponent No. 3 Insurance Company from its liability to pay the amount of compensation to the claimants. It was submitted that though the issue of the absence of the driving license to drive the trailer was involved, however, in view of the subsequent decision of the Hon'ble Supreme

Court in the case of **M/s Bajaj Allianz General Insurance Co. Ltd.Vs. Rambha Devi and Ors, Neutral citation :2024 2NSC 840** since the driver of the offending tractor was holding valid driving license to drive the tractor, on bare appreciation of the contents of the driving license which is produced on record at Exh. 34, it permits the driver to drive class of vehicles including LMV apart from tractor. He, therefore, submitted that it can be inferred that the driver was also authorised to drive tractor along with trailer. He has therefore, prayed to quash and set aside the impugned judgment and award exonerating the original opponent No. 3 Insurance Company from its liability to pay the amount of compensation. Learned advocate has therefore, urged this Court to allow this appeal and to issue appropriate directions enhancing the amount of compensation.

13. Per contra, learned advocate Ms. Masumi Nanavati appearing on behalf of Mr. Vibhuti Nanavati learned advocate on record for respondent No. 3 Insurance Company submitted that considering the findings and reasons assigned by the Tribunal on the issue of negligence, noticing the manner in which the complaint was registered, the panchanama of the place of accident being appreciated, the Tribunal has rightly arrived at a conclusion that the drivers of both the vehicles were negligent towards the occurrence of accident. On the quantum of compensation learned advocate has submitted that in the P.M note

produced on record, the age of the deceased is indicated as 34 years. Considering the avocation of the deceased and in absence of any proof of income being produced on record, in view of the well settled principles laid down by the Hon'ble Supreme Court, the Courts may take guidance from the minimum wages notified by the State Government prevailing at the time of the accident for the purpose of determination of income of the deceased. She has therefore, submitted that considering the aforesaid components, addition of 40 % future rise can be considered for the purpose of determination of just and reasonable amount of compensation. However, she has vehemently objected to the deduction of $\frac{1}{4}^{\text{th}}$ being applied by the Tribunal. The attention of the Court was invited to the fact that originally the claim proceedings were pursued by 7 claimants. Unfortunately, pending the claim proceedings the minor daughter of the deceased had expired and therefore she was deleted from the array of parties. She has further invited my attention to the judgement of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra)**, to contend that in case of 6 dependents, it would be appropriate to apply $\frac{1}{5}^{\text{th}}$ deduction as the number of dependent family members exceeds 6 as on the date of the accident. The relevant observations of the Hon'ble Supreme Court in the case of **Sarla Verma (supra)**, in this regard were reconsidered. She has further invited my attention to the fact that the mother of the deceased who has been initially joined as appellant

No. 6 in the present proceedings has expired pending the present appeal. She has, therefore, submitted that the Tribunal having awarded the amount of compensation under the head of loss of love and affection, the appellant may not be entitled to further amount of compensation under the head of loss of consortium if the Court is considering the enhancement of the amount of compensation under the head of loss of consortium in view of the judgment of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra)**, then the aforesaid amount may be adjusted. She has further submitted that at the most loss of consortium may be confined to five members in the family of the deceased. On the issue of liability learned advocate has invited my attention to the findings and reasons assigned by the Tribunal. She has pointed out that before the Tribunal the issue of liability was raised mainly on two counts i.e firstly, the unauthorized passengers traveling in the offending vehicle and secondly, the absence of driving license to drive the tractor. It was submitted that the issue of unauthorized passenger will not apply in the facts of the case inasmuch as for the opponent No.3 Insurance Company of the offending vehicle tractor, the deceased would be considered as a third party. She has fairly pointed out that it was a case of contributory negligence. As regards driving license, learned advocate had submitted that though the aforesaid issue was raised at the relevant stage of proceedings, however, in view of the subsequent decision of

the Hon'ble Supreme Court in the case of **Rambha Devi (supra)** the same may be re-appreciated accordingly. The reliance was placed on the written statement submitted by the Insurance Company at Exh. 14. Learned advocate has, therefore, urged this Court not to interfere with the findings and reasons assigned on the issue of negligence, however, has urged to pass appropriate orders on the issue of quantum of compensation in light of the decision relied upon.

14. Mr. Hiren Modi learned advocate appearing for respondents No.1 the driver and owner of the offending tractor/trailor has though supported the case of original claimants as regards the issue of liability of the Insurance Company, however, has objected to the enhancement of the quantum of compensation as prayed for. Learned advocate has also relied upon the decision of the Hon'ble Supreme Court in the case of **Rambha Devi (supra)** and has submitted that the impugned judgment and award is required to be quashed and set aside by holding the Insurance Company jointly and severally liable to pay the amount of compensation. As regards the quantum of compensation as prayed for, learned advocate has submitted that it is rightly submitted by learned advocate for the respondent Insurance Company, for the reasons and finding assigned by learned Tribunal, the amount awarded is just and reasonable which may not be interfered with the

present appeal.

15. I have heard learned advocate appearing for the respective parties at length and I have also perused the findings and reasons assigned by the Tribunal. I have also re-appreciated the entire evidence on record in light of the arguments made by learned advocates appearing for the respective parties. The short question which arises for the consideration of this Court in the present appeal is as to whether the Tribunal committed any error in facts or in law, while passing the impugned judgment and award of compensation of Rs. 6,00,960/- with interest at the rate of 9% per annum with proportionate costs, to be realized from the original opponents 1 and 2, jointly and severally and exonerating original opponent No. 3 Insurance Company from its liability to pay such compensation, while deciding the claim petition preferred under Section 166 of the Motor Vehicles Act, 1988?

16. At the outset, it would be appropriate to examine the issue of negligence. On close appreciation of the findings and reasons assigned by the Tribunal as rightly pointed out by learned advocate for the appellant the Tribunal has failed to assign any reasons while fixing the liability of the deceased to the extent of 20%. As noted earlier the Tribunal has taken into consideration the evidence of the wife of the deceased at Exh. 24 and the FIR at Exh. 20 and the charge

sheet produced on record at Exh. 25. While appreciating the aforesaid evidence on record, the Tribunal has completely lost sight of the panchnama produced on record at Exh. 21. On careful consideration of facts emerging on record, it is evident that the deceased was residing at Matariya Vyas Taluka, Shahera, District Panchmahal and as pleaded by the claimants, the deceased along with pillion rider Ashokbhai Somabhai Bariya had proceeded towards Sureli village. Considering the aforesaid case of the claimants if one looks at the contents of the FIR, in light of the panchnama produced on record, it appears that the deceased had started with the said pillion rider from Borad bus stand and had proceeded towards road leading to Sureli village. From the panchnama it can be noted that the tractor with trailor had hit front part of the body of the motorcycle. The front part of the motorcycle has been completely damaged. The width of the road is 22 foot whereas the motorcycle is lying on the left side of the road at a distance of 3 feet away from the road side. In absence of any contradiction brought on record about the assertion made by the claimant about the motorcycle driven on its right side, this Court does not agree with the conclusion of the deceased motorcyclist being held contradictory negligent to the extent of 20%. For the aforesaid reasons, I am of the view that it was the driver of tractor, solely negligent towards accident. I, therefore, answer the issue of negligence accordingly.

17. As regards the quantum of compensation is concerned, on close reading of the evidence of the wife of the deceased, whose evidence has been recorded at Exh.24, she has categorically deposed before the Tribunal that the deceased was doing centering work and, was thereby earning Rs.4,500/- per month. It is required to be noted that except the aforesaid oral deposition, no other proof of income has been produced on record by the claimants. In light of the well settled principles laid down by the Hon'ble Supreme Court in the case of **Govind Yadav vs The New India Insurance Co.Ltd** reported in **2011 (10) SCC 683**, the Courts/Tribunals are at liberty to follow the yardstick of minimum wages, as notified by the State Government. Admittedly, the accident had taken place on 17.05.2010. Considering the rates of minimum wages notified in the State of Gujarat, during the aforesaid period, the Tribunal ought to have fixed the monthly income of the deceased as Rs.4,210/- per month instead of Rs.3,000/- per month. The addition of the future prospects is also required to be revisited, in view of the subsequent decision of the Constitutional Bench of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra)**. Considering the fact that the deceased was earning by attending centering work and, was aged 34 years at the time of the accident, his case would fall in the category of self-employed persons below the age of 40 years, and therefore, addition of 40% of the aforesaid

income is required to be considered, while determining the dependency loss. Thus, the addition of Rs. 1,684/- (Rs.4210/- x 40%) is therefore, required to be considered towards the future prospects, which comes to Rs.5,894/- per month. Considering the fact that the deceased was survived by 7 members in the family, at the time of the accident, in view of the principles laid down by the Supreme Court in the case of **Sarla Verma (supra)**, wherein, in Para 30, the Court has held that, when the deceased was married, the deduction towards personal and living expenses of the deceased could be considered as $1/5^{\text{th}}$, where the number of the dependent family members exceeds 6. The appropriate amount is, accordingly, required to be deducted towards personal and living expenses of the deceased, which comes to Rs.1,178/- (Rs.5,894x 1/5). The loss of future prospective income of the deceased is, therefore, re-determined as Rs.4,716/- (Rs.5,894/- - Rs.1,178/-). Considering the fact that the deceased was aged 34 years, the multiplier of 16 is required to be adopted, in view of the guidelines laid down in Para 42 in the case of **Sarla Verma (supra)**. Considering the aforesaid components, the loss of dependency is redetermined as Rs.9,05,472/- (Rs. 4716X12x16).

18. Having held so, the amount of compensation under conventional heads is also required to be revisited, in light of the well settled principles laid down by the Supreme

Court in cases of **Pranay Sethi (supra)** as well as **Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram** reported in **AIRONLINE 2018 SC 1249**. Though, the deceased was survived by 7 members in the family, at the time of the accident, as evident from the record, the father of the deceased is reported to have expired. Unfortunately, the minor daughter of the deceased had also expired, pending the claim proceedings and, was deleted from the array of the parties. Thus, the present appeal is pursued by the wife of the deceased, their three children and the mother of the deceased. The wife, having lost the companionship of her husband in early marital life, is entitled to compensation for loss of company, society, co-operation, affection, and aid of the conjugal relations. The wife is, therefore, held entitled to spousal consortium of Rs.48,400/-. Similarly, the three children of the deceased are also entitled to parental consortium because of the untimely death of their father, towards loss of parental aid, protection, affection, society, discipline, guidance, and training, and are held entitled to compensation of Rs. 48,400/- each towards parental consortium. The mother of the deceased is also held entitled to filial consortium of Rs. 48,400/-, because of the shock and agony suffered by the parent due to the untimely death of her child during her lifetime, towards the loss of love, affection, and companionship and his role in the family unit. Having held so, the amount of compensation under the heads of loss of

estate and funeral expenses, is also re-determined as Rs.18,150/- each.

19. For the foregoing reasons, the amount of compensation awarded by the Tribunal by the impugned judgment and award is re-appreciated and is re-determined. The same is reproduced in tabular form hereunder:

Under the Head of	Compensation awarded by the Tribunal in Rs.	Compensation Awarded by this Court in Rs.
Loss of Future Income	6,91,200/-	9,05,472/-
Loss of Consortium	40,000/- (20,000/- qua applicant no.1-wife + Rs.20,000/- (rest of the applicants))	2,42,000/-
Loss of Estate	10,000/-	18,150/-
Loss of Funeral Expenses	10,000/-	18,150/-
Negligence 20%	1,50,240/- (Rs.7,51,200x 20%)	NIL
Total	6,00,960/-	11,83,772/-

Enhanced Amount (Rs.11,83,772/- - 6,00,960/-)		5,82,812/-
Interest		9%

20. For the foregoing reasons, the appeal is allowed. The impugned judgment and award dated 03.07.2015 passed by the Motor Accident Claims Tribunal (Main), Panchmahals at Godhra in M.A.C.P. No.768 of 2010, is hereby modified by holding the original claimants entitled to seek recovery of sum of Rs.**11,83,772/-** towards compensation with interest at the rate of 9% per annum from the date of filing of the claim petition, till its actual realization, from the original opponent nos.1, 2 and 3, jointly and severally. Since, by the impugned judgment and award, the Tribunal has held the applicants entitled to amount of compensation of **Rs. 6,00,960/-** with proportionate costs and interest, the respondent no.3-Insurance Company is hereby directed to deposit the enhanced amount of compensation of **Rs.5,82,812/-** with interest and costs as awarded by this Court, within a period of **Six Weeks** from the date of receipt of the copy of this order. On deposit of the entire aforesaid amount of compensation, the Tribunal shall be at liberty to proceed with the release and disbursement of the entire

award amount in favour of the appellants herein. The Tribunal shall be at liberty to disburse the amount by passing appropriate orders of disbursement amongst the claimants. The Tribunal shall also duly verify the identity of the claimants and shall adhere to the guidelines issued by the Hon'ble Supreme Court in this regard. While making the payment, the Tribunal shall deduct the Court Fees, if not paid, in accordance with prevailing Rule. Let the aforesaid exercise be undertaken by the Tribunal within a period of **Two Weeks** from the date of deposit of the award amount.

21. At this stage, learned advocate for the appellants, under instructions, has submitted that, since the Tribunal had exonerated the respondent no.3-Insurance Company, so far the claimants have not realized the fruits of the compensation, in absence of any amount being deposited by the original opponent nos.1 and 2.

22. Considering the submissions made by the learned advocate for the appellants, since the appeal is allowed, the respondent no.3-Insurance Company is hereby directed to deposit the entire amount of compensation as awarded by this Court with proportionate costs and interest, as directed by this Court, within a period of six weeks, from the date of receipt of the copy of this order.

23. With these observations, the First Appeal stands

disposed of in the aforesaid terms. Record and proceedings, if any, are directed to be sent back to the concerned Tribunal forthwith along with the Writ of this judgment.

MARY VADAKKAN

(NISHA M. THAKORE,J)