

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 108/2019

1. Mohammed Saheed S/o Bafati Khan By Caste Mansuri Musalman, Aged About 50 Years, R/o House No. 3919, F2 Meethi Kothi Ka Rasta, Behind Hanuman Ji Ki Bagichi, Surajpole, Jaipur
2. Jarina Bano W/o Mohammed Saheed By Caste Mansuri Musalman, Aged About 47 Years, R/o House No. 3919, F2 Meethi Kothi Ka Rasta, Behind Hanuman Ji Ki Bagichi, Surajpole, Jaipur
3. Bilkish D/o Mohammed Saheed By Caste Mansuri Musalman, Aged About 17 Years, R/o House No. 3919, F2 Meethi Kothi Ka Rasta, Behind Hanuman Ji Ki Bagichi, Surajpole, Jaipur
4. Ruksar D/o Mohammed Saheed By Caste Mansuri Musalman, Aged About 22 Years, R/o House No. 3919, F2 Meethi Kothi Ka Rasta, Behind Hanuman Ji Ki Bagichi, Surajpole, Jaipur
5. Rajiya D/o Mohammed Sajheed By Caste Mansuri Musalman, Aged About 21 Years, R/o House No. 3919, F2 Meethi Kothi Ka Rasta, Behind Hanuman Ji Ki Bagichi, Surajpole, Jaipur

**-----Appellants/Claimants
Versus**

1. Kamlesh Bagdawata S/o Mohan Lal By Caste Balai, R/o Gudrawan, Tehsil Nalkheda, District Shajahapur, Madhyapradesh (Driver Truck No. MP-09-HF-6246)
2. Archana Khandelwal W/o Mukesh Khandelwal, R/o 17/1, Tezpur Gadbad, Ab Road, District Indore, Madhyapradesh (Registered Owner Truck No. MP-09-HF-6246)
3. Atul Yadav S/o Munni Singh Yadav, R/o Of House No. 42-A, Vindvakla, Tehsil Chakarnagar, District Itawa, Uttarpradesh At Present Resident Of 180, Shubham Palace, Sceme No 51, Indore, Madhyapradesh. (Power Of Attorney Holder Truck No. MP-09-HF-6246)
4. National Insurance Company Limited, Having Its Regional Office At Near Nidhi Bhawan, High Court Circle C-Scheme, Jaipur Through Its Regional Manager (Insurance Company Truck No. MP-09-HF-6246)

-----Respondents/Non-Claimants

For Appellants : Mr. Vinay Mathur with
Mr. Ajay Verma

For Respondent no.4 : Mr. Avadesh Kumar Purohit

HON'BLE MRS. JUSTICE SABINA

Judgment

26/03/2019

Appellants have filed this appeal, challenging the award dated 24.09.2018 passed by the Motor Accident Claims Tribunal, seeking enhancement of compensation amount.

Learned counsel for the appellants has submitted that the Tribunal has erred in taking the income of the deceased as Rs.3,000/- per month, whereas, it was liable to be taken as Rs.5,122/- per month.

Claimants had filed the claim petition seeking compensation on account of death of their unmarried son in the motor-vehicle accident which had occurred on 28.01.2015.

Learned Tribunal has taken the income of the deceased as Rs.3,000/- per month. The income of the deceased was liable to be taken as Rs.5,122/- per month in view of the minimum wages fixed by the State at the relevant time. Out of the said income of the deceased, half of the income of the deceased is liable to be deducted towards his personal expenses and the dependency of the claimants comes to Rs.2,561/- per month. Learned Tribunal has rightly applied the multiplier of '18' to work out the dependency of the claimants. Thus, the claimants would be entitled to receive Rs.2,561/- x 12 x 18 = Rs.5,53,176/- by way of compensation. Claimants would be further entitled to receive an addition of 40% of the said amount towards loss of future earning of the deceased and the said amount comes to

Rs.2,21,270/-. Claimants would be further entitled to receive Rs.15,000/- towards funeral expenses.

Thus, the total amount of compensation liable to be received by the claimants would be Rs.5,53,176/- + Rs.2,21,270/- + Rs.15,000/- = Rs.7,89,446/-.

Accordingly, this appeal is allowed. Impugned award dated 24.09.2018, is modified to the extent that the claimants would be entitled to receive Rs.7,89,446/- by way of compensation instead of Rs.5,23,600/- as awarded by the Tribunal. Remaining terms and conditions of the impugned award shall remain the same. It is further ordered that the share of enhanced amount of compensation of the claimants be invested in Fixed Deposit Receipts with some nationalized bank, initially for a period of three years and the interest accrued on the deposit shall be paid to the claimants on monthly basis. Secretary, District Legal Services Authority, Jaipur, in the interest of the claimants shall invest the amount in Fixed Deposit Receipts in the name of the claimants in some nationalized Bank. The Secretary, District Legal Services Authority, Jaipur shall further apprise the claimants regarding the amount which has been granted to them by way of enhancement and the fact that the enhanced amount shall be invested in Fixed Deposit Receipts in some nationalized Bank for their benefit.

(SABINA)J.