IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 18th OF DECEMBER, 2023

MISC. APPEAL No. 985 of 2023

BETWEEN:-

1. **SMT. SUNITA RAJAK W/O LATE SHRILAKHAN RAJAK, AGED ABOUT 42 YEARS, R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

2. **SHAILENDRA RAJAK S/O LATE LAKHAN RAJAK, AGED ABOUT 22 YEARS, R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

3. **KU. MOHANI RAJAK D/O LATE LAKHAN RAJAK, AGED ABOUT 19 YEARS, OCCUPATION: THROUGH NATURAL GUARDIAN MOTHER SMT. SUNITA RAJAK R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

4. **KU. BABITA RAJAK D/O LATE LAKHAN RAJAK, AGED ABOUT 16 YEARS, OCCUPATION: THROUGH NATURAL GUARDIAN MOTHER SMT. SUNITA RAJAK R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

.....APPELLANTS

(CLAIMANTS BY SHRI BHAGIRATH SINGH - ADVOCATE)

AND

1. **DEVENDRA RAJPOOT (LODHI) S/O GORELAL LODHI, AGED ABOUT 25 YEARS, OCCUPATION: DRIVER R/O GRAM RANGUA, TEHSIL BIJAWAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

2. **SHRAVAN KUMAR DWIVEDI S/O SHRI J.P. DWIVEDI, AGED ABOUT 45 YEARS, R/O PATHAPUR, POST RANGOLI, TEHSIL BIJAWAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

3. **SHRIRAM GENERAL INSURANCE COMPANY**

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LIMITED, JAIPUR E 8, I.P.I.P. INDUSTRIAL AREA SITAPUR JAIPUR (RAJASTHAN)

.....RESPONDENTS

(OWNER AND DRIVER BY SHRI ANOOP KUMR SAXENA - ADVOCATE)
(INSURANCE COMPANY BY SHRI R.DUBEY - ADVOCATE)

MISC. APPEAL No. 965 of 2023

BETWEEN:-

1. **DEVENDRA RAJPUT S/O SHRI GORELEL LODHI, AGED ABOUT 25 YEARS, OCCUPATION: AGRICULTURIST R/O VILLAGE RANGUWAN TEHSIL BIJAWAR DISTRICT CHHATARPUR (MADHYA PRADESH)**

2. **SHRAWAN KUMAR DWIVEDI S/O JAGDISH PRASAD DWIVEDI, AGED ABOUT 46 YEARS, OCCUPATION: AGRICULTURIST R/O VILLAGE PATHAPUR, POST RAGOLI, TEHSIL BIJAWAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

.....APPELLANTS

(BY SHRI ANOOP KUMAR SAXENA - ADVOCATE)

AND

1. **LAKHAN RAJAK S/O KAMTU RAJAK DIED THROUGH ITS LRS SHAILENDRA RAJHAK S/O LATE LAKHAN RAJAK R/O RAJNAGR TEHSIL RAJNAGAR DISTRICT CHHATARPUR (MADHYA PRADESH)**

2. **KU. MOHNI RAJAK D/O LATE LAKHAN RAJAK OCCUPATION: MINOR THROUGH NATURAL GUARDIAN MOTHER SMT. SUNITA RAJAK WD/O LATE LAKHAN RAJAK R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

3. **KU. BABITA RAJAK D/O LATE LAKHAN RAJAK OCCUPATION: MINOR THROUGH NATURAL GUARDIAN MOTHER SMT. SUNITA RAJAK WD/O LATE LAKHAN RAJAK R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT CHHATARPUR (MADHYA PRADESH)**

4. **SMT. SUNITA W/O LAKHAN RAJAK R/O RAJNAGAR TEHSIL RAJNAGAR, DISTRICT**

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CHHATARPUR (MADHYA PRADESH)

5. SHRIRAM GENERAL INSURANCE COMPANY LIMITED, THROUGH ITS MANAGER OFFICE AT E 8, E.P.I.P. REEKO INDUSTRIAL AREA SEETAPUR, JAIPUR (RAJASTHAN)

.....RESPONDENTS

(CLAIMANTS BY SHRI BHAGIRATH SINGH - ADVOCATE)
(INSURANCE COMPANY BY SHRI R.DUBEY - ADVOCATE)

These appeals coming on for orders this day, the court passed the following:

ORDER

Learned counsel for the claimants submits that he has paid deficit court fees of Rs.3125/- vide Online Court Fee ID No.308258/2023 dated 18.12.2023 and prays for permission to amend the valuation. In support of the said submission, he has filed a copy of Online Court Fee ID No.308258/2023 dated 18.12.2023, therefore, prayer is made that the deficit court fee may be taken on record.

On due consideration, deficit court fee is taken on record.

These appeals have been filed by the Owner, Driver and Claimants respectively being aggrieved of award dated 17.11.2022 passed by VI Motor Accident Claims Tribunal, Chhatarpur in M.A.C.C No.161/2019.

Learned counsel for the claimants submits that the accident took place on 22.5.2019. The income of the deceased is considered by the Claims Tribunal at Rs.6,000/- Per Month whereas minimum wages even for an unskilled labourer on the date of the accident were to the tune of Rs.7,700/- Per Month. Deceased was aged about 18 years and, therefore, appropriate award should have been passed by the Claims Tribunal.

Learned counsel for the Owner & Driver submits that the driver was

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having a learner's licence, which culminated into a regular licence. Evidence has come that the driver was driving an Auto with one of the persons, who was duly licenced to drive the Auto and, therefore, order of Pay & Recover could not have been passed.

Learned counsel for the Insurance Company in his turn submits that there was breach of fitness and permit as well and, therefore, even if the aspect of driving licence is overlooked then too the order of Pay & Recover cannot be faulted with.

I have heard learned counsel for the parties and gone through the record.

Since minimum wages on the date of the accident even for an unskilled labourer were to the tune of Rs.7,700/- Per Month. Deceased was a bachelor and, therefore, 50% is to be deducted towards living expenses of the deceased and 40% is to be added towards future prospect, which brings the annual dependency to Rs.64680/-. When multiplier of 18 is applied then the total pecuniary compensation will come out to Rs.11,64,240/- Plus Rs.30,000/- under the head of non-pecuniary compensation taking total compensation to Rs.11,94,240/- against a sum of Rs.5,70,000/-. Thus, there will be enhancement to the tune of Rs.6,24,240/- (Rupees Six Lakh Twenty Four Thousand Two Hundred Forty Only).

Since the claimants' appeal is valued at Rs.5,00,000/-, therefore, claimants will be entitled to interest on Rs.5,00,000/- @ 6% per annum from the date of filing of Claim Petition till the date of actual payment. On the remaining amount of Rs.1,24,240/-, interest will be payable from today (18.12.2023) i.e. the date of payment of additional court fee.

This additional amount along with accrued interest shall remain invested in a Monthly Income Scheme of the Indian Post Office or a Nationalized Bank

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for a period of ten years. The claimants will be entitled to utilize its monthly interest for their well being and maintenance, but the principal amount will not allowed to be withdrawn for a period of ten years.

The other terms and conditions of the impugned award shall remain intact.

In above terms, these appeals are disposed of.

Let record of Claims Tribunal be sent back.

(VIVEK AGARWAL)
JUDGE

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THE HIGH COURT OF MADHYA PRADESH
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