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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 959 of 2017**

National Insurance Company Limited Through The Branch Manager,
Branch Office, Verdhman Nagar, Nagpur, District Nagpur
(Maharashtra).

---- Appellant**Versus**

1. Smt. Kaushilya W/o Late Bhupat Nishad, Aged About 33 Years
2. Laxman S/o Late Bhupat Nishad, Aged About 15 Years
3. Indresh S/o Late Bhupat Nishad, Aged About 12 Years
No. 2&3 are Minor Represented Through Mother And Legal Guardian
Smt. Kaushilya Bai.
4. Bisantin Bai W/o Bal Singh, Aged About 64 Years
5. Jayshankar Tiwari S/o Mahaveer Prasad Tiwari, Aged About 57
Years
All are R/o Behind Parasar School, C.A.Road, Nagpur, Ward No. 36,
Police Station Ganesh Pet, District Nagpur (Maharashtra).
6. Dilip Uttam Rao Tembhekar S/o Uttam Rao Tembhekar, Aged About
52 Years R/o Ward No.17, Vishram Nagar, Near Hindustan Road,
Nagpur 15, Police Station Dhantoli, District Nagpur
(Maharashtra)(Non-Applicants).

---- Respondents

For Appellant : Shri Goutam Khetrapal, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****10/07/2017**

1. The present appeal under Section 173 of the Motor Vehicles Act has
been preferred by the Insurance Company against the award dated
04.04.2017 passed by the Motor Accident Claims Tribunal,
Rajnandgaon (in short, the Tribunal) in Claim Case No.128 of 2015.
Vide the impugned award, the Tribunal on a claim application filed by
the claimants i.e. wife, minor children and mother of deceased, has
allowed the claim application and has granted compensation of

Rs.20,00,000/-. It is this award which is under challenge in this appeal.

2. The only ground of challenge raised by the insurance company is that of the quantum. The foremost ground raised by the insurance company is that the Tribunal while taking into consideration the income of the deceased has also taken into consideration the daily allowance which was being given to the deceased which the Tribunal has quantified at Rs.2500/-. According to him, this accepting of daily allowance as part of the income of the deceased is bad in law, and therefore, he prayed for interference with the award impugned.
3. Likewise, the insurance company has also questioned the compensation awarded under other heads. The tribunal has granted compensation of RS.2,00,000/- on the other heads to the claimants which being on the higher side, the award deserves to be interfered with on this count also.
4. Having considered the rival contention put forth by the counsel for the appellant particularly in respect of calculation of daily allowance by the Tribunal is concerned, this court is of the opinion that this issue does not require any debate in the light of decision of Supreme Court in case of Mohd. Ameeruddin and Ors Vs. United India Insurance Co.Ltd. & Ors., 2011(1)SCC 304, wherein this issue stands already been decided and thus, the ground raised by the insurance company is not sustainable. So far as the compensation of Rs.2,00,000/- awarded under other heads is concerned, if we look in to the number of dependents i.e. wife, two minor children and also aged mother,

awarding of such amount and the distribution which has been given by the Tribunal in its award in paragraph-25 does not warrant interference as this court does not find the awarded amount to be either excessive or exorbitant in any manner.

5. Thus, considering the aforesaid factual matrix of the case, the appeal fails and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder