

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1007 of 2013****Judgment reserved on 18.09.2019****Judgment delivered on _____**

1. Heeralal S/o Jethuram Pardhi aged about 27 Years R/o Ganiyari, P.S. and Tah. Patan, Distt. Durg C.G.
2. Jethuram S/o Late Surajlal Pardhi aged about 55 Years R/o Ganiyari, P.S. and Tah. Patan, Distt. Durg C.G.

----Appellants/Non-applicants**VERSUS**

1. Smt. Manju Yadav W/o Late Shivkumar Aged About 39 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.
2. Pitambar Yadav S/o Late Shivkumar aged about 22 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.
3. Kumari Dulari Yadav D/o Late Shivkumar aged about 20 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.
4. Kumari Bharti Yadav D/o Late Shivkumar aged about 18 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.
5. Bishal Yadav S/o Late Derha Ram Yadav aged about 65 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.
6. Smt. Shanti Bai W/o Bishal Yadav aged about 60 Years R/o Somni, P.S. and Tah. Patan, Distt. Durg C.G.

-----Respondents/Claimants

For Appellants	: Ms. Khushboo Dua, Advocate on behalf of Mr. Prateek Sharma, Advocate
For respondents	: Mr. Goutam Khetrapal, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**CAV Order**

1. The appellants/non-applicants have questioned the validity and legality of the award dated 30-04-2013 passed by learned First Additional Claims Tribunal, Durg in claim case No. 10/2012, whereby learned Claims Tribunal allowed the claim application in part and awarded a total sum of Rs. 3,87,500/- along with interest @ 6% p.a. from the date of filing of claim application till its realization in a death case.

2. Facts of the case in nutshell are that, on 12-07-2011 at about 11:30 A.M. when Shivkumar (deceased) was returning to his home from his agriculture field, at that relevant time, one motorcycle bearing No. C.G.07.L.1184 (referred to as "offending vehicle") driven by appellant No. 1/non-applicant No. 1 dashed him due to which deceased fell down and suffered grievous injuries over his person and succumbed to those injuries. The incident was reported to concerned police station based on which crime bearing No. 240/2011 was registered against appellant No. 1/non-applicant No. 1 for offences defined under Sections 279, 337, 304A of the I.P.C. and thereby final report was also submitted before competent Court.
3. The claimants who are widow, children and parents of the deceased filed claim application before the competent Claims Tribunal claiming Rs. 21,30,000/- as compensation on the grounds mentioned therein.
4. Appellant No. 1 & 2/Non-applicant No. 1 & 2 submitted their reply to the claim application and denied the fact of accident and death of Shivkumar from their vehicle. It was also pleaded that the amount of compensation claimed in claim application is on a higher side.
5. Learned Claims Tribunal, on appreciation of the pleadings and evidence placed on record by the respective parties, held that the accident occurred on account of rash and negligent driving of appellant No. 1/non-applicant No. 1-driver of offending vehicle and death of deceased Shivkumar was on account of aforementioned accident. Learned Claims Tribunal, after considering the fact of accidental death, awarded a total sum of Rs. 3,87,500/- as compensation along with interest @ 6% p.a. from the date of filing of claim application.
6. Learned counsel for the appellants submits that no accident took place from the offending vehicle, in fact, the deceased was found lying on the ground when he was crossing the place of accident on his motorcycle. Learned counsel further

submits that there was no eye-witness and prima facie material available to prove that the accident from offending vehicle; in fact, appellant No. 1 stopped at that place only to help the person i.e. deceased Shivkumar who was lying down on the ground. He also submits that the respondents/claimants could not able to prove the death of Shivkumar as an accidental death because they have not produced Doctor as a witness before the competent Claims Tribunal to prove post-mortem report. It was also argued that the learned Claims Tribunal committed error in applying wrong multiplier and deducting $\frac{1}{4}$ towards personal and living expenses ignoring that respondent No. 2 to 4/claimants No. 2 to 4 are major and they could not be said to be dependent on the deceased. Learned counsel for the appellant further submitted that by merely registering criminal case would not connect the appellants in the case in any manner, unless and until, it is proved by the eye-witness that the motorcycle of the appellant was involved in accident. He also submits that AW-2- Pitamber Yadav who has been mentioned as eye-witness to the accident could not be said to be an eye-witness in view of his evidence available on record.

7. Per contra, learned counsel for respondents/claimants submits that on the basis of evidence placed on record, learned Claims Tribunal has rightly passed the impugned award which do not call for any interference. Learned counsel further submits that the F.I.R. (Ex. P/1) was registered against appellant No. 1/non-applicant No. 1 for offences punishable under Sections 279, 337, 304A of the I.P.C. and final report (Ex.P/2) was also submitted by the investigating agency before the competent Court which also shows involvement of appellant No. 1/non-applicant No. 1 in the accident. He further submits that, in the post-mortem report, it has been very specifically mentioned that the cause of death is Haemorrhage and shock as a result of severe head injury which clearly shows that deceased died due to accidental injuries sustained to him. The

learned counsel places his reliance on judgments in the matter of **Mangla Ram v. Oriental Insurance Co. Ltd.** reported in (2018) 5 SCC 656, **Parmeshwari v. Amir Chand and others** reported in (2011) 11 SCC 635, **NKV Bros. P. Ltd. v. M. Karumayi Amma** reported in (1980) 3 SCC 457, **Bala and others v. Motichand Gupta and others** reported in 2006 ACC 337 and a recent judgment of the Hon'ble Supreme Court in its decision dated 14.02.2019 passed in Civil Appeal No. 1665/2019 in **Sunita & others v. Rajasthan State Road Transport Corporation & Another.**

8. I have heard learned counsel for the parties and perused the material available on records.
9. Perusal of records would show that the accident took place on 12-07-2011 at about 11:30 A.M. and on the same day, F.I.R. has been lodged in which it is specifically mentioned appellant No. 1/non-applicant No. 1-driver of the offending vehicle Hero Honda bearing registration No. CG 07 L 1184 as accused of crime. The appellant No. 1/non-applicant No. 1 did not object or challenge the registration of crime against him before any authority or any Court of law. In pleadings made by non-applicant No. 1 & 2 in reply to the claim application they pleaded that the deceased, after seeing motorcycle coming towards him, fell down on the road due to which he suffered injuries.
10. From the above pleadings made by the appellants, it is their admission that on the date of accident, they were available on the spot of accident. Looking to the fact that appellant No. 1/non-applicant No. 1 was found on the spot of accident along with his motorcycle, registration of crime against him was not objected or challenged by him before any forum, cannot be overlooked and in these facts and circumstances of the case, the heavy burden lies upon the appellants/non-applicants to prove the fact pleaded by them that accident did not take place from his motorcycle. In the pleading, appellant no. 1/non-applicant No. 1 has

also pleaded that at the time of accident, one other person was also travelling along with him as pillion rider but he neither mentioned the name of that person nor examined him before the learned Claims Tribunal as witness to controvert the contents of F.I.R. and final report Ex.P/1 & Ex.P/2 respectively.

11. The cases of claim under Motor Vehicles Act are to be decided on the basis of preponderance of probabilities and to prove the facts of accident, it does not require strict proof or to be proved beyond a reasonable doubt. In the case at hand, it is to be looked into on the touchstone of preponderance of probabilities, it would be relevant to look into the reply submitted by the appellants/non-applicants as well as the evidence of the appellant No. 1/non-applicant No. 1 who was examined as NAW-1 before the learned Claims Tribunal. As discussed in preceding paragraph that in the reply to the claim application, non-applicant No. 1 has pleaded that the deceased, on seeing coming of motorcycle from far away, fell down on the road due to which he suffered injuries on his person whereas in his examination-in-chief in the form of affidavit under Order 18 Rule 4 of CPC in paragraph 1, it is stated that on 12-07-2011, at about 11:30 AM, when he was crossing Somni Ganiyari Nala, at that relevant time he saw that one 4 wheeler dashed the deceased and ran away from the spot and on seeing the accident, he called the persons who are available nearby to that place.
12. Looking to the pleadings made in the claim application as well as the statement made in Court by NAW-1, there is contradiction on the fact narrated by appellant No. 1/non-applicant No. 1. The two contradictory submissions are sufficient to arrive at a conclusion that appellant No. 1/non-applicant No. 1 not made correct statement of fact, therefore, after considering overall facts and evidence available on record, even though, if AW-2 Sanjay Yadav not be treated to be an eye-witness to the accident but there is sufficient material available like F.I.R., Final Report, reply to claim application and evidence of Non-applicant

No. 1 to hold that the accident occurred from the vehicle driven by appellant No. 1/non-applicant No. 1. The Hon'ble Supreme Court has dealt similar issue with respect to the accidental death in the matter of **Mangla Ram case** (supra) and held as under:

“25. In *Dulcina Fernandes*¹ (supra), this Court examined similar situation where the evidence of claimant's eyewitness was discarded by the Tribunal and that the respondent in that case was acquitted in the criminal case concerning the accident. This Court, however, opined that it cannot be overlooked that upon investigation of the case registered against the respondent, prima facie, materials showing negligence were found to put him on trial. The Court restated the settled principle that the evidence of the claimants ought to be examined by the Tribunal on the touchstone of preponderance of probability and certainly the standard of proof beyond reasonable doubt could not have been applied as noted in *Bimla Devi*². In paras 8 & 9 of the reported decision, the dictum in *United India Insurance Co. Ltd. v. Shila Datta*³, has been adverted to as under: (*Dulcina Fernandes case*¹, SCC p. 650)

“8. In *United India Insurance Co. Ltd. v. Shila Datta*³ while considering the nature of a claim petition under the Motor Vehicles Act, 1988 a three-Judge Bench of this Court has culled out certain propositions of which Propositions (ii), (v) and (vi) would be relevant to the facts of the present case and, therefore, may be extracted hereinbelow: (SCC p. 518, para 10)

‘10. (ii) The rules of the pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo motu initiated by the Tribunal.

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(v) Though the Tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation. ...

(vi) The Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry, to assist it in holding the enquiry.’

9. The following further observation available in para 10 of the Report would require specific note: (*Shila Datta Case*³, SCC p. 519)

1 *Dulcina Fernandes v. Joaquim Xavier Cruz*, (2013) 10 SCC 646

2 *Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530

3 (2011) 10 SCC 509

'10. ... We have referred to the aforesaid provisions to show that an award by the Tribunal cannot be seen as an adversarial adjudication between the litigating parties to a dispute, but a statutory determination of compensation on the occurrence of an accident, after due enquiry, in accordance with the statute.' "

In para 10 of *Dulcina Fernandes*¹, the Court opined that non-examination of witness per se cannot be treated as fatal to the claim set up before the Tribunal. In other words, the approach of the Tribunal should be holistic analysis of the entire pleadings and evidence by applying the principles of preponderance of probability.

26. In the above conspectus, the appellant is justified in contending that the High Court committed manifest error in reversing the holistic view of the Tribunal in reference to the statements of witnesses forming part of the charge-sheet, FIR, Jeep Seizure Report in particular, to hold that Jeep No. RST-4701 driven by respondent 2 was involved in the accident in question. Indeed, the High Court was impressed by the mechanical investigation report (Ext. 5) which stated that only a scratch mark on the mudguard of the left tyre of the vehicle had been noted. On that basis, it proceeded to observe that the same was in contradiction to the claim of the appellant claimant, ruling out the possibility of involvement of the vehicle in the accident. This conclusion is based on surmises and conjectures and also in disregard of the relevant fact that the vehicle was seized by the police after investigation, only after one month from the date of the accident and the possibility of the same having been repaired in the meantime could not be ruled out. In other words, the reasons which weighed with the High Court for reversing the finding of fact recorded by the Tribunal upon holistic analysis of the entire evidence, about the involvement of Jeep No. RST 4701 in the accident, cannot be countenanced. For, those reasons do not affect the other overwhelming circumstances and evidence which has come on record and commended to the Tribunal about the involvement of the subject jeep in the accident in question. This being the main edifice, for which the High Court allowed the appeal preferred by respondents 2 & 3, it must necessarily follow that the finding of fact recorded by the Tribunal on the factum of involvement of Jeep No. RST-4701 in the accident in question will have to be restored for reasons noted hitherto."

13. The Hon'ble Supreme Court in the matter of **Bimla Devi v. Himachal RTC** reported in **(2009) 13 SCC 530** while dealing with the issue has held that the Tribunal *stricto sensu* is not bound by the pleadings of the parties and its function to determine the amount of fair compensation and held as under:

“11. While dealing with a claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, a tribunal *stricto sensu* is not bound by the pleadings of the parties; its function being to determine the amount of fair compensation in the event an accident has taken place by reason of negligence of that driver of a motor vehicle. It is true that occurrence of an accident having regard to the provisions contained in Section 166 of the Act is a *sine qua non* for entertaining a claim petition but that would not mean that despite evidence to the effect that death of the claimant's predecessor had taken place by reason of an accident caused by a motor vehicle, the same would be ignored only on the basis of a post-mortem report vis-a-vis the averments made in a claim petition.

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15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.”

In the case of **Parmeshwari** (*supra*) the Hon'ble Supreme Court has held thus:

“4. The material facts are that on 22.01.2003 at about 12.00 noon the appellant herein, the claimant before the Tribunal, respondent No.1 before the High Court, was going from Baganwala to Tosham on a Motor Cycle (No.HR 16C-8379), driven by Balwan with the claimant on the pillion seat. When the Motor Cycle was half a kilometer away from Baganwala, Suresh - respondent No.2 herein, came from the other direction in another scooter (No.HR 20-5793) from the wrong side and hit the right leg of the appellant as a result of which she fell down and her right leg was fractured and she received multiple injuries.

6. The Tribunal in its judgment considered the evidence of PW.1-Umed Singh as also the evidence of Dr. Parveen Chawla-PW.2, Dr. R.S. Dalal as PW.5 apart from examining the appellant-PW.4 and also one Satbir Singh as PW.3. It has come on evidence of PW.2-Dr. Parveen Chawla that on 22.1.2003 the appellant was admitted with diagnosis of fracture of tibia. Plating and bone grafting was done by P.W.2-Dr. Parveen Chawla and the appellant was discharged on 6.2.2003. The discharge card was also proved. PW.3-Satbir Singh deposed that the appellant moved a complaint in the

office of SSP Hisar on 11.3.2003 and the same was sent in original on 2.4.2003 by SSP Hisar to SSP Hanumangarh.

13. The other so-called reason in the High Court's order was that as the claim petition was filed after four months of the accident, the same is "a device to grab money from the insurance company". This finding in the absence of any material is certainly perverse. The High Court appears to be not cognizant of the principle that in a road accident claim, the strict principles of proof in a criminal case are not attracted. The following observations of this Court in *Bimla Devi and others vs. Himachal Road Transport Corporation and others* [(2009) 13 SCC 530] are very pertinent. "In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

In the matter of **NKV Bros. P. Ltd.** (supra) the Hon'ble Supreme Court observed as under:

"3. Road accidents are one of the top killers in our country, specially when truck and bus drivers operate nocturnally. This proverbial recklessness often persuades the courts, as has been observed by us earlier in other cases, to draw an initial presumption in several cases based on the doctrine of *res ipsa loquitur*. Accidents Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability must be inferred from the circumstances where it is fairly reasonable. The court should not succumb to niceties, technicalities and mystic maybes. We are emphasising this aspect because we are often distressed by transport operators getting away with it thanks to judicial laxity, despite the fact that they do not exercise sufficient disciplinary control over the drivers in the matter of careful driving. The heavy economic impact of culpable driving of public transport must bring owner and driver to their responsibility to their 'neighbour'."

In the matter of **Bala** (supra), it has been held as under:

“6. Plain reading of Section 158(6) and Section 166(4) of the Act shows that even the charge-sheet submitted by the police officer to the Tribunal is to be treated as an application for compensation by the Claims Tribunal. Once the charge-sheet is forwarded to the Claims Tribunal, the Tribunal is immediately made aware that the accident has been caused by the offending vehicle and the Tribunal in that case is not required to go into any further technicality to direct the claimants to still prove that the offending vehicle was involved in the accident unless, of course, the party opposing the petition denies the involvement of such vehicle. In the present case, neither the owner nor the driver denied the involvement of the offending vehicle in the accident. In that view of the matter, immediately after the report was filed, either by the police officer under Section 158(6) of the Act or was produced in Court by the claimants as certified copy Exh. P-1, in my opinion, Claims Tribunal ought not have discarded the same. As the Tribunal has itself observed that strict rules of evidence are not observed in proceedings before the Tribunal, the Tribunal should not have taken a technical view that the charge-sheet and other documents certified copies of which were produced before it, should have still been proved by a witness. A perusal of the charge-sheet clearly shows that it was the offending vehicle, which was involved in the accident and the driver of that vehicle had been charged to face trial for an offence punishable under Sections 279/304-A of the Indian Penal Code. In this view of the matter, the Tribunal has clearly misdirected itself in observing that the documents Exhs. P-1 to P-19 could not be treated as substantive evidence and could not be read in support of the case of the appellant.”

In **Sunita & others** (supra), the Hon'ble Supreme Court has taken into consideration its earlier verdicts on the issue and held thus:

“21. In the present case, we find that the Tribunal had followed a just approach in the matter of appreciation of the evidence/materials on record. Whereas, the High Court adopted a strict interpretation of the evidence on the touchstone of proof beyond reasonable doubt to record an adverse finding against the appellants and to reverse the well considered judgment of the Tribunal in a cryptic manner.

22. Reverting to the factual matrix, the actual occurrence of the accident between the motorcycle driven by Sitaram bearing registration number RJ 25 SA 6923 coming from one side and a bus belonging to respondent No.1 (the Rajasthan State Road Transport Corporation) bearing registration number RJ26/P.A. 0042 coming from

the opposite direction, is duly proved. The Tribunal has relied upon the uncontroverted evidence of witnesses A.D.1 and A.D. 3, and the documents presented by them, especially FIR No. 247/2011 (Exh. 1) and charge-sheet (Exh.2) against one Banwari Lal Bairwa (respondent No.2), charging him with offences under Sections 279, 337 and 304A of the IPC and Sections 134/187 of the Act, to establish that on 28.10.2011 at around 7 A.M., Sitaram, along with pillion rider Rajulal Khateek, was riding on a motorcycle bearing number RJ 25 SA 6923 from village Bapuee to Chaut ka Barwad for Daug, to his sister, when, near Mahapura tri section, bus number RJ-26/P.A. 0042 belonging to respondent No.1 (the Rajasthan State Road Transport Corporation) coming from the opposite direction hit the motorcycle from the front, resulting in the death of Sitaram.

23. The Tribunal had justly accepted the appellants' contention that the respondents did not challenge the propriety of the said FIR No. 247/2011 (Exh. 1) and charge sheet (Exh. 2) before any authority. The only defence raised by the respondents to this plea was that the said FIR No. 247/2011 was based on wrong facts and was filed in connivance between the appellants/complainants and the police, against which the respondents complained to the in-charge of the police station and the District Superintendent of Police but to no avail. Apart from this bald assertion, no evidence was produced by the respondents before the Tribunal to prove this point. The filing of the FIR was followed by the filing of the charge-sheet against respondent No.2 for offences under u/Sections 279, 337 and 304A of the IPC and Sections 134/187 of the Act, which, again, reinforces the allegations in the said FIR insofar as the occurrence of the accident was concerned and the role of respondent No.2 in causing such accident. Be that as it may, the High Court has not even made a mention, let alone record a finding, of any impropriety against FIR 247/2011 (Exh. 1) or charge-sheet (Exh. 2) or the conclusion reached by the Tribunal in that regard. Yet, the FIR and the Charge-sheet has been found to be deficient by the High Court."

25. The Tribunal's reliance upon FIR 247/2011 (Exh. 1) and charge-sheet (Exh. 2) also cannot be faulted as these documents indicate the complicity of respondent No.2. The FIR and charge-sheet, coupled with the other evidence on record, inarguably establishes the occurrence of the fatal accident and also point towards the negligence of the respondent No.2 in causing the said accident. Even if the final outcome of the criminal proceedings against respondent No.2 is unknown, the same

would make no difference atleast for the purposes of deciding the claim petition under the Act. This Court in Mangla Ram (supra), noted that the nature of proof required to establish culpability under criminal law is far higher than the standard required under the law of torts to create liability.

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34. Be it noted that the evidence of witness A.D.2 (Bhagchand) unequivocally states that the respondent No.2 bus driver was negligent in driving recklessly at a high speed on the wrong side of the road, thus, resulting in the accident which caused the death of Sitaram. It was not open to the High Court to discard this evidence. Additionally, the Tribunal had justly placed reliance on the contents of FIR No.247/2011 (Exh. 1) and charge-sheet (Exh.2) which prima facie indicate the negligence of respondent No.2 in driving the bus. We once again remind ourselves of the dictum in *Dulcina Fernandes* (supra) and thereafter in *Mangla Ram* (supra), and answer the factum of negligence of the driver of the offending vehicle against the respondents.”

14.From the pleadings, evidence of appellant No. 1/non-applicant No. 1 and in the light of the judgment rendered by the Hon’ble Supreme Court as above, I have no hesitation to hold that the learned Claims Tribunal has not committed any error in recording the finding that there was involvement of the vehicle in the accident driven by appellant No. 1/non-applicant No. 1.

15.So far as, other grounds raised by learned counsel for the appellants that the respondents/claimants could not able to prove the fact of accidental death because they have not examined the concerned Doctor who conducted the post-mortem, are also not sustainable in view of the aforementioned finding that the accident took place from the vehicle driven by appellant No. 1/non-applicant No. 1 and further the contents of post-mortem report wherein the cause of death has been shown to be Haemorrhage and shock as a result of severe head injury. In the post-mortem report itself, date and time of accident mentioned as 12-07-2011 at about 12:00 P.M. and date and time of death is

mentioned as 12-07-2011 at about 3:00 P.M. Considering the proximity of time between accident and the death and looking to the part of the body and nature of injury sustained by the deceased, there could not be any other cause of death but the accidental injury. The appellants, if wanted to revert the contents of post-mortem report then he could have very well examined the doctor but he has not made any application or effort to call the doctor as witness.

16. So far as, other grounds raised by learned counsel for the appellants that the learned Claims Tribunal applied multiplier on a higher side and deducted $\frac{1}{4}$ th towards personal and living expenses are concerned, in the post-mortem report, age of the deceased has been shown as 40 years as there is no other material available on record with respect to prove of age, therefore, the age mentioned in the post-mortem report is to be taken for the purpose of applying the multiplier and calculating the amount of compensation. Learned Claims Tribunal has applied the multiplier of 14 which is in accordance with the law laid down by the Supreme Court in the matter of **Sarla Verma & others v. Delhi Transport Corp. & Anr** reported in **(2009) 6 SCC 121**. Further ground raised by learned counsel for the appellant that learned Claims Tribunal committed error in deducting $\frac{1}{4}$ th of the amount of income towards personal and living expenses of the deceased is also not sustainable because merely on attaining the age of majority, it cannot be said that the children who crossed the age of 18 years were not dependent on the deceased. Dependency of children on their parents even after attaining the age of majority can be for several factors. Contrary, the appellants have not placed on record that the children who attained the age of majority are engaged in any employment, profession or business. Learned Claims Tribunal, looking to the number of claimants i.e. six members, in the opinion of this Court, has not committed any error in deducting

$\frac{1}{4}$ th of the amount towards personal and living expenses, which is in conformity with the law laid down by Hon'ble Supreme Court in case of **Sarla Verma** (supra).

17. For the foregoing discussion and reasons mentioned, I do not find any merit in this appeal which is liable to be and is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan