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**HIGH COURT OF CHHATTISGARH, BILASPUR****Review Petition No. 156 of 2020**

*{Arising out of judgment dated 25.09.2020 passed by the learned Division Bench in MAC No. 1316 of 2014}*

- The New India Insurance Company Ltd, Through Its Divisional Office At, Madina Building, Jail Road, Raipur, Raipur Chhattisgarh (Ins. Com. of Truck No. C.G. - 04 / J B / 2663)

**---- Petitioner****Versus**

1. Smt. Parvati Dhritlahre, W/o Late Shri Indal Dhritlahre, Aged About 38 Years.
2. Doman Lal S/o Late Shri Indal Dhritlahre, Aged About 19 Years.
3. Ku. Yamuna, D/o Late Shri Indal Dhritlahre, Aged About 15 Years.
4. Kundan Lal, S/o Late Shri Indal Dhritlahre, Aged About 11 Years.
5. Kartaal, S/o Late Shri Indal Dhritlahre, Aged About 8 Years.

No. 3 to 5 are minor and are represented by the Respondent No. 1 (mother) all the above are R/o Village Machewa, Police Station Mahasamund and Tahsil & Civil District and District Mahasamund, Chhattisgarh.

6. Pardeshi Ram Nishad, S/o Shri Narottam Nishad, Aged About 35 Years, R/o Village Ratakaat, Police Station Aarang, Tahsil and Civil District and District Raipur, Chhattisgarh (Driver Of Truck No. C G 04 / J B / 2663)
7. Smt. Savita Dubey, W/o Shri Shesh Narayan Dubey, Aged About 40 Years, R/o Village Paragaon, Police Station Aarang, Tahsil and Civil District and District Raipur Chhattisgarh. (Owner Of Truck No. C G 04 / J B / 2663)

**---- Respondents**


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|---------------------------|---|--------------------------------------|
| For Petitioner            | : | Shri Prasanjeet Dutta, Advocate.     |
| For Respondents No.1 to 5 | : | Shri Jameel Akhtar Lohani, Advocate. |
| For Respondents No.6 & 7  | : | None.                                |

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**Hon'ble Shri P. R. Ramachandra Menon, Chief Justice****Hon'ble Shri Justice Parth Prateem Sahu, Judge****Order on Board****Per P. R. Ramachandra Menon, Chief Justice****22.01.2021**

1. This review petition has been filed at the instance of the 3<sup>rd</sup> Respondent in the appeal who was the Insurer of the vehicle i.e. Truck bearing registration No. CG-04/JB/2663.

2. Pursuant to the claim for enhancement of the award amount as raised in the appeal, the issue was considered and this Court found that an additional sum of Rs.3,86,100/- was liable to be paid under the relevant heads, which was directed to be satisfied with interest, mulcting the liability upon the Insurance Company. But, with regard to the calculation of loss of dependency, we observed in paragraph 5 that future prospects were liable to be reckoned to an extent of adding 40% to the notional income fixed as Rs.4,500/-.
3. According to the Appellant/Insurer, since there was no dispute with regard to the age of the deceased who was more than 40 years and less than 50 years with no fixed income, the future prospects could only be to an extent of 25% and not 40%, in view of the law declared by the Apex Court as referred to in the relevant paragraph. Since the calculation has been made reckoning 40%, there is an 'error apparent on the face of record' which is sought to be corrected by filing this review petition.
4. We heard Shri Jameel Akhtar Lohani, the learned counsel appearing for the Respondents No. 1 to 5/Claimant. The legal position as to the eligibility is fairly conceded by the learned counsel. In the said circumstance, we recalculate the loss of dependency as given below:
5. On adding the future prospects, the monthly income to be reckoned comes to Rs.5,625/- (Rs.4,500 + (4,500 x 25%)). Since the number of Claimants are '5', the deduction towards the personal expenses should have been only  $\frac{1}{4}^{\text{th}}$  and not  $\frac{1}{3}^{\text{rd}}$ . On effecting the recalculation as above, it becomes  $\text{Rs.}5,625 \times 12 \times \frac{3}{4} \times 13 = \text{Rs.}6,58,125/-$ . After deducting the sum of Rs.3,51,000/- awarded by the Tribunal, the balance payable comes to  $\text{Rs.}6,58,125 - 3,51,000 = \text{Rs.}3,07,125/-$  towards the 'loss of dependency'.

6. There is no change with regard to the amounts award by this Court as dealt with in paragraph 6 under various heads i.e. **Rs.40,000/-** is payable widow of the deceased, towards 'Spousal consortium'. Similarly another sum of **Rs.40,000/-** payable to the children (together) as 'Parental consortium' and **Rs.15,000/-** is payable towards the 'funeral expenses' and another sum of **Rs.15,000/-** towards the 'loss of estate'; which comes to **Rs.1,10,000/-**. The Tribunal has awarded of Rs.10,000/- towards funeral expenses and a consolidated sum of Rs.10,000/- towards loss of consortium; the total of which comes to Rs.1,10,000/-. Since the amounts reckoned by us under the different conventional heads also comes to a total of Rs.1,10,000/-, no addition or deletion is necessitated w.r.t. these heads. As it stand so, the additional compensation payable comes to **Rs.3,07,125/- (Rupees Three Lacs Seven Thousand One Hundred & Twenty Five Only)** and it stands awarded accordingly with interest as specified by us.
7. The verdict passed by this Court on 25.09.2020 stands reviewed and modified to the above extent.
8. The review petition stands allowed. The Registry is directed to take necessary steps to make this order as the part of the records of MA(C) No. 1316 of 2014.

Sd/-

**(P. R. Ramachandra Menon)**  
Chief Justice

Sd/-

**(Parth Prateem Sahu)**  
Judge