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**(1998) 04 MP CK 0011**  
**In the Madhya Pradesh High Court**  
**Case No : M.A. No. 521 of 1996**

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|---------------------------------------|------------|
| Bhiliya by L.Rs. Ram Singh and Others | APPELLANT  |
| Vs                                    |            |
| Nand Kishore and Others               | RESPONDENT |

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**Date of Decision :** 28-04-1998

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 140

**Citation :** (1999) ACJ 1009

**Hon'ble Judges :** Shambhoo Singh, J

**Bench :** Single Bench

**Advocate :** Rajpal, for the Appellant; P. Gupta, for the Respondent

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## Judgement

Shambhoo Singh, J.—The heirs of the original claimant have filed this appeal against the award dated 1.8.1996 passed by the 1st M.A.C.T., Mhow, Indore, in Claim Case No. 407 of 1987 whereby Rs. 15,000 were awarded as compensation for the death of Bhima.

2. The case of the claimant Bhiliya, who died during the pendency of the claim case, was that on 18.6.1987 at 8 a.m. the N.A. No. 2, Ashok Kumar drove truck No. MPF 838, which belonged to N.A. No. 1 and was insured with N.A. No. 3, in a rash and negligent manner and dashed against his brother Bhima as a result of which he died. The deceased Bhima was unmarried and was living with his brother Bhiliya, the original claimant, who died during the pendency of the claim case. The deceased was aged about 40 years and was earning Rs. 10 per day. The claimant Bhiliya, therefore, filed claim petition for award of compensation of Rs. 50,000.

3. N.A. Nos. 1 and 2, owner and driver of the offending vehicle, remained absent and were proceeded ex parte. The N.A. No. 3, insurance company, contested the claim petition and, inter alia, pleaded that Bhiliya was not the legal representative of the deceased Bhima. It was also pleaded that N.A. No. 2 was not having a valid licence.

4. The Tribunal after recording evidence of both sides held that the accident occurred due to rash and negligent driving of the truck No. MPF 838 as a result of which Bhima died. It further held that Bhiliya was legal representative of his brother and was entitled to compensation for the death of his brother. The Tribunal on the basis of no fault liability awarded Rs. 15,000 as compensation to the claimant. The legal heirs of deceased Bhiliya have preferred this appeal for enhancement of the compensation.

5. Mr. Rajpal, learned Counsel for the appellants, submitted that the learned Tribunal committed error in awarding only Rs. 15,000 as compensation for the death of Bhima. He submitted that Parliament amended Section 140 of the Motor Vehicles Act, 1988 and made provision for the payment of Rs. 50,000 for death of a human being on the basis of no fault liability. Under these circumstances, the Tribunal should have awarded Rs. 50,000 as compensation.

6. Mr. P. Gupta, learned Counsel for N.A. No. 3, insurance company, submitted that the accident took place on 18.6.1987 and at that time Motor Vehicles Act, 1939, was in force and according to Section 92-A of the Act Rs. 15,000 were to be paid for the death of a human being on the principle of no fault liability. This provision of Section 140 (old Section 92-A) is not retrospective, therefore the Tribunal was right in awarding the compensation of Rs. 15,000. He further submitted that Bhiliya was not legal heir of the deceased Bhima and the heirs of Bhiliya are not entitled to compensation.

7. I considered the arguments advanced by learned Counsel for both sides. It is true that on the date of incident Section 92:A of Motor Vehicles Act, 1939, was in force wherein it was provided that Rs. 15,000 would be paid on the death of a person in motor accident on the basis of no fault liability. It is settled that this provision is not retrospective but the legislature amended Section 140 of the Act, 1988 and made provision for payment of Rs. 50,000 for death of a human being on the principle of no fault liability. This clearly indicates the intention of the legislature that value of a human life shall not be assessed less than Rs. 50,000.

8. In view of the above, the learned Tribunal committed error in not taking into account the intention of Parliament in awarding compensation. A Division Bench of this Court in case of Dev Chand v. Babulal Faujdar Bus Service 1997 ACJ 392 (MP), awarded compensation of Rs. 50,000 for death of a child taking into consideration the intention of the legislature. Under these circumstances, compensation of Rs. 15,000 is inadequate and it appears just and proper to enhance compensation to the tune of Rs. 50,000.

9. Contentions of Mr. Gupta, learned Counsel for the respondent insurance company, that the appellants, who are L.Rs. of Bhiliya, the brother of the deceased Bhima, are not entitled to compensation is not acceptable. It has come in evidence that Bhima was living with his brother Bhiliya and used to give him Rs. 50 per month. The deceased Bhima had no L.Rs. of class I, under the circumstances Bhiliya was entitled to claim compensation for the death of his

brother and after his death, his heirs are entitled to compensation.

10. So far as the question of interest is concerned, it is clear that the claim case remained pending since 2.8.87 to 1.8.1996, the respondent No. 3 insurance company is not responsible for this delay, claimants took about 9 years to produce their evidence. In view of this I direct that the appellants-claimants would be entitled to interest for total period of six years only [See M.P. State Road Transport Corporation Vs. Sushilabai and Others, . The respondent insurance company is directed to pay compensation of Rs. 50,000 less compensation already paid within a period of three months from today failing which the respondent shall be liable to pay interest at the rate of 15 per cent per annum. On deposit of the amount of compensation, it shall be shared equally by the claimants.

In the result the appeal is partly allowed as indicated above but with no order as to costs.