**(2008) 02 JH CK 0065**

**In the Jharkhand High Court**

Oriental Insurance Co. Ltd. APPELLANT

Vs

Mina Devi and Others RESPONDENT

**Date of Decision :** 18-02-2008

**Acts Referred:**

**Citation :** (2008) 2 JCR 711

**Hon'ble Judges :** M.Y. Eqbal, J;Dilip kumar sinha, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. This appeal by the Insurance Company is directed against the judgment and award dated on 3rd April, 2006 passed by Motor Vehicles Accidents Claims Tribunal, Godda in MVAC Case No.32/2004 whereby a sum of Rs. 4,39.500/-has been awarded.

2. Learned Counsel appearing on behalf of the appellant assailed the award on the sole ground that the quantum of compensation assessed by the Tribunal is on higher side. According to the learned Counsel the deceased was a mason and according to the evidence his daily earning was Rs. 135-140/- and in that view of the matter compensation of 4 lacs and odd ought not to have been awarded.

3. From perusal of the judgment it appears that after appreciation of entire evidence the Tribunal has come to the conclusion that the deceased''s monthly income was Rs. 4,000/-. Taking the aforesaid amount the annual dependency was assessed at Rs. 16,000/- and by applying 15 years of purchase, a sum of Rs. 4,80,000/- has been assessed. In additional to that the Court has further awarded a sum of Rs. 9,500/-towards funeral expenses, loss of consortium and loss of estate.

4. So far the question of quantum of compensation assessed by the Tribunal is concerned, law has been well-settled that the Insurance Company cannot challenge the quantum of compensation. We, therefore, do not find any reason to interfere with the quantum of compensation awarded by the Tribunal i.e. Rs.

4,80,000/-. However, law has equally been settled that when compensation is assessed by applying multiplier theory then compensation on other heads is not permissible. The Tribunal ought not to have awarded further amount towards funeral expenses, loss of consortium and loss of estate. To that extent we hold that the additional amount of Rs. 9,500/- ought not to have been awarded.

5. We, therefore, modify the award only to the extent that the claimants shall be entitled to Rs. 4,80,000/- as assessed by the Tribunal together with interest @ 6% p.a.

6. With the above modification in the award this appeal is disposed of.

 