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**(2001) 01 MP CK 0018**  
**In the Madhya Pradesh High Court**  
**Case No : M.A. No. 474/94**

Saida Khatoon and Others

APPELLANT

Vs

M.P. State Road Transport Nigam and Others

RESPONDENT

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**Date of Decision :** 04-01-2001

**Acts Referred:**

**Citation :** (2001) 5 MPHT 1

**Hon'ble Judges :** Bhawani Singh, C.J.;A.K. Mishra, J

**Bench :** Division Bench

**Advocate :** P.N. Pathak, for the Appellant; None, for the Respondent

**Final Decision :** Allowed

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## Judgement

Bhawani Singh, C.J.—This appeal is directed against award dated 4-1-1993 of Motor Accident Claims Tribunal, Rewa in Claim Case No. 31 of 1991.

2. Claimants are widow and two sons of deceased Sami Ahmad who died in the motor accident that took place on 6-11-1987 when he was going from Shahdol to Allahabad at 5.00 p.m. in the bus owned by M.P. State Road Transport Corporation and the bus turned turtle at Sohagighat and fell into a khad. Allegation is that the bus was being driven rashly and negligently. The deceased was running a hotel at Calcutta earning Rs. 2000.00 per month, out of which he was giving Rs. 1500.00 to the family for maintenance. At the time of accident, he was 50 year old. Claim for Rs. 5,75,000 has been raised.

3. Taking place of the accident has been admitted by the respondents but it is stated that due to the locking of the steering, the vehicle could not sustain the balance and the same turned turtle. The deceased had protruded his head out of window, as a result of which he sustained injury which caused his death, while the other passengers had not done so, therefore, they did not suffer any injury. Deceased was 70 year old and was not maintaining good health. He was not earning anything, therefore, no loss is sustained by the family due to his death. Consequently, no compensation is payable.

4. The Claims Tribunal accepted the version of claimants about the taking place of accident due to rash and negligent driving of the vehicle by the driver. However, compensation of Rs. 25,000.00 with interest at the rate of 12% per annum from the date of application has been awarded. The Tribunal has come to the conclusion that the deceased was 60-65 year old and it was not proved that he was earning Rs. 2000.00 per month from hotel business and paying Rs. 1500.00 per month to the family. It was also not proved that he could remain alive for 30 years and help the family. Further objection against the award is that dependency has erroneously been held at Rs. 500.00 per month because the income of the deceased has not been accepted the one stated by claimants and that proper multiplier has not been used for settling the just compensation in this case. The claimants are not satisfied with the award and findings recorded by the Tribunal with respect to the age and income of the deceased, hence this appeal.

5. We have examined the matter and perused evidence. From the statement of Smt. Shahida Khatoon, widow of deceased, it is clear that the deceased was 50 year old and was earning Rs. 2000.00 per month out of which he was giving the family a sum of Rs. 1500.00 per month. It may be true that post mortem report fixes the age of deceased at 60 and the witnesses of respondents at 70; but looking to the nature of evidence, it is desirable that the age of the deceased is fixed at 60.

6. Now the question is what income the deceased was earning at the time of accident. The deceased was running a hotel at Calcutta which is the biggest city of the country. Survival of eight members of family with income less than Rs. 2000.00 per month was absolutely difficult. As per evidence, the deceased had daughters also who have been married. In these circumstances, the statement of Smt. Shahida Khatoon and Mohd. Sami Ahmad is satisfactory and dependable. We, therefore, accept that the deceased was earning Rs. 2000.00 per month, out of which he must be spending 1/3rd on himself leaving Rs. 1300.00 to the family. Proper multiplier in this case should be eight.

7. Calculated as aforesaid, the compensation payable in this case would be Rs.  $1300.00 \times 12 \times 8 =$  Rs. 1,24,800.00 plus Rs. 5000.00 (loss of expectancy of life), Rs. 5000.00 (consortium), Rs. 2500.00 (loss to the estate) and Rs. 2000.00 (funeral expenses) taking the total to Rs. 1,39,300.00 (Rupees one lac thirty nine thousand three hundred only). The enhanced compensation would carry interest at the rate of 10% per annum from the date of application till date of payment. Appeal is accordingly allowed. Costs on parties.