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**(2012) 10 AHC CK 0099**

**In the Allahabad High Court**

**Case No :** First Appeal From Order No.1134 of 2011

Sona Singh and Others

APPELLANT

Vs

Pooran and Another

RESPONDENT

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**Date of Decision :** 30-10-2012

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 168

**Citation :** (2012) 10 AHC CK 0099

**Hon'ble Judges :** Devi Prasad Singh, J and Arvind Kumar Tripathi, J

**Final Decision :** Allowed

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## **Judgement**

Arvind Kumar Tripathi (II),J.

Heard learned counsel for the parties.

This is an appeal preferred under Section 173 of the Motor Vehicles Act against the impugned award dated 17.8.2011 passed by Motor Accident Claims Tribunal, Sultanpur, in Claim Petition No. 376 of 2010.

In brief, on 11.5.2007, at about 4.30 a.m. when deceased Shailendra Singh traveling in a vehicle Tata Sumo bearing No. HR 63/8798, a truck bearing no. UP 85 B9793 driven rashly and negligently hit Tata sumo in the Highway. In consequence thereof, the deceased succumbed to injury at the spot. The Tribunal had framed relevant issues with regard to accident, Insurance policy, driving licence etc. and arrived to the conclusion that accident was caused by a truck bearing no. UP 85 B9793 and it occurred due to rash and negligent driving of the truck driver. With regard to income, the tribunal had recorded a finding that notional income should be taken into account while awarding compensation. Deceased was aged about 24 years and multiplier of 17 has been applied.

Learned counsel for the appellant invited attention of this Court towards a judgement of Laxmi Devi and others Vs. Mohd. Tabbar and another reported in 2008 (2) TAC 394 (SC) whereby their Lordship of Hon'ble Supreme Court has held that Second Schedule of Motor Vehicles Act outlived its utility. The notional

income should be much more than what has been directed than the Second Schedule of Motor Vehicle Act. It has been observed that now a days even unskilled labours are given wages @ of Rs. 100/ per day hence, minimum notional income should be Rs. 3000/ per month. Apart from observation made by Hon"ble Supreme Court in the case of Laxmi Devi (supra) now it is a common thing that in different scheme of Government of India like Manrega, wages are paid to the daily wages @ Rs.150/ per day.

However, keeping in view the judgement of Laxmi Devi (supra), we are of the view that compensation should be enhanced and notional income should be assessed @ Rs. 3000/ per month. One third amount is deducted in lieu of personal expenses. The net income should be Rs.2,000/ per month. Claimant is mother. Accordingly, in view of settled proposition of law and keeping in view the age of mother, multiplier of 13 is applied. Then total income should be Rs. 3,12,000/. Rs. 4,500/ is added in lieu of funeral expenses and loss of Estate. The total compensation come to Rs. 3,16,500/.

Accordingly, appeal is allowed. Impugned award dated 17.8.2011 is modified to the extent that appellant shall be entitled for the compensation to the tune of Rs. 3,16,500/ along with interest @ 8 per cent. The respondent Insurance Company is directed to deposit the entire compensation in terms of award keeping in view the present judgement within a period of two months. Thereafter, Tribunal shall realease the same to the claimant in terms of modified award and keeping in view the present judgement expeditiously, say within a period of next two months.

Appeal is allowed accordingly.