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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL
ON THE 26th OF OCTOBER, 2023
MISC. APPEAL No. 1466 of 2022**

BETWEEN:-

**GOURAV TIWARI ATMAJ SANTOSH KUMAR TIWARI
UMRA 37 VARSH (VIKSHIPT) VAAD MITRA SANTOSH
KUMAR TIWARI S/O BHAIKAV PRASAD TIWARI, AGED
ABOUT 56 YEARS, NIWASI GRAM SEONITOLA THANA
BARGI JILA JABALPUR (MADHYA PRADESH)**

.....APPELLANT

(BY SHRI N.P.RATHORE - ADVOCATE)

AND

- 1. JAYNARAYAN SHARMA S/O S.P.SHARMA, AGED
ABOUT 30 YEARS, NIWASI GRAM CHANDRAPUR
POST BARAO THANA V JILA REWA (M.P.)
(MADHYA PRADESH)**
- 2. RAJESH KRISHNAN SINGH S/O KAMALBHAN
SINGH R/O GRAM HATWA TAHSIL KARCHULIYAN
DISTRICT REWA (M.P.) (MADHYA PRADESH)**
- 3. S.B.I. GENERAL INSURANCE LIMITED BHARTIYA
STATE BANK MUKHYA BRANCH CIVIL LINE
JABALPUR (MADHYA PRADESH)**

.....RESPONDENTS

**(RESPONDENT NO.2 BY MS.ALKA SINGH BAGHEL - ADVOCATE)
(INSURANCE COMPANY BY SHRI RAKESH JAIN - ADVOCATE)**

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*This appeal coming on for orders this day, the court passed the
following:*

ORDER

This appeal is filed by the appellant/claimant being aggrieved of award
dated 21.12.2021 passed in M.A.C.C No.507/2014 whereby learned XXI

Additional Motor Accident Claims Tribunal, Jabalpur for an accident, which took place on 6.8.2014, when claimant was travelling alongwith his companion Surjeet Singh in his Scorpio Vehicle from Village Samnapur to Village Jodhpur Padav, was hit by a Truck bearing registration No.MP17-HH-1594, caused multiple injuries resulting in grievous injuries to a 26 years young man, has awarded total compensation of Rs.4,42,677/-

It is submitted by learned counsel for the appellant that injured Gourav Tiwari has lost his memory on account of the accident. The Claims Tribunal has not awarded appropriate compensation under various heads. The Insurance Company had agreed to settle the claim in Pre-Sitting originating from Lok Adalat, which was to take place on 9.9.2023 but did not submit the docket.

Reading from the evidence, it is pointed out by learned counsel for the appellant that there is loss of understanding for which purpose Dr.Ratnesh Kurariya and Dr.Ashish Tandon were examined and according to them, the G.C.S i.e.Glasgow Coma Scale revealed that there was deep head injury sustained by the claimant resulting in loss of IQ, which was measured at 60. It has come on record that later on Dr.Ratnesh Kurariya found his IQ at 94 but there was a change in the mental and physical make up of the claimant so also in his behaviour.

I have heard learned counsel for the parties and gone through the record.

Taking all these facts into consideration, the Claims Tribunal has considered loss of income for a period of five months at the rate of Rs.4,500/- Per Month. It has awarded a sum of Rs.13,800/- under the head of attendant and nutritious diet, Rs.50,000/- under the head of pain and suffering and Rs.50,000/- under the head of future treatment.

Looking to the nature of injuries, the amount under the head of pain and

suffering is enhanced from Rs.50,000/- to Rs.1,00,000/-. Similarly, the amount under the head of future treatment is enhanced from Rs.50,000/- to Rs.1,00,000/-. A sum of Rs.1,50,000/- is awarded for loss of employment and other amenities. The Claims Tribunal has not awarded any amount under the head of nutritious diet, which is computed at Rs.5,000/- Per Month for a period of Six Months totaling to Rs.30,000/-. The Claims Tribunal has only awarded Rs.13,800/- under the head of attendant, which too is enhanced to Rs.30,000/-. Thus, there will be enhancement of Rs.16,200/- under the head of attendant. The Claims Tribunal has only awarded a sum of Rs.22,500/- under the head of loss of earning capacity, which is enhanced to Rs.30,000/- at the rate of Rs.5,000/- Per Month for a period of Six Months and, therefore, there will be addition of Rs.7,500/- under the aforesaid head. Thus, there will be enhancement to the tune of Rs.3,03,700/- (Rupees Three Lakh Three Thousand & Seven Hundred Only) in addition to the amount awarded by the Claims Tribunal alongwith interest @ 7.5% Per Annum as awarded by the Claims Tribunal from the date of filing of the Claim Petition till the date of actual payment. The other terms and conditions of the award shall remain intact.

In above terms, this appeal is allowed and disposed of.

Let record of the Claims Tribunal be sent back.

(VIVEK AGARWAL)
JUDGE

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