

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 721/2024

National Insurance Co. Ltd., Through Authorised Claim Officer,
Divisional Office, Residency Road, Jodhpur (Raj.) Through Its
Authorised Signatory At Sun Tower, 4Th Floor, Above Passport
Office, Main Pal Road, Jodhpur. (Insurer Of Truck Trailer No. Rj-
09-Gb-7185)

----Appellant

Versus

1. Dharopi Bai W/o Lt. Sh. Obaram Ji, Aged About 59 Years,
Occupation - House Hold, R/o Bharkawa Dhani, Meerpur,
Teh. And Dist. Sirohi.
2. Dheli D/o Lt. Sh. Obaram Ji, Aged About 28 Years,
Occupation - House Hold, R/o Bharkawa Dhani, Meerpur,
Teh. And Dist. Sirohi.
3. Mukesh Singh S/o Shankar Singh, B/c Rawat, R/o
Govillya, Post - Karanti, Tehsil Bhinai, Dist. Ajmer (Raj.)
(Driver Truck Trailer No. Rj-09-Gb-7185)
4. Shivraj Singh Rawat S/o Bhom Singh Rawat, R/o Govillya
Post - Karanti, Tehsil Bhinai, Dist. Ajmer (Raj.) At Present
R/o Yytc Shambhupura, Teh. And Dist. Chittorgarh (Raj.)
(Owner Truck Trailer No. Rj-09-Gb-7185)

----Respondents

For Appellant(s) : Mr. Santosh Choudhary

HON'BLE MS. JUSTICE REKHA BORANA

Order

06/05/2024

1. Learned counsel for the appellant submitted that the eye witness of the incident, who was also the informant, was not produced in the witness box and hence, negligence of the driver was not proved.

Learned counsel further submitted that the learned Tribunal wrongly deducted only 1/3rd of the income qua personal expenses whereas admittedly, the deceased was a bachelor and hence, half of the income qua personal expenses ought to have been deducted.

He further submitted that claimant No.2, being sister of the deceased, was not entitled to any consortium.

Further, the learned Tribunal computed the monthly income on basis of complete 30 days whereas the same ought to have been computed on basis of 26 days.

2. In view of the submissions made, Admit. Issue notice. Issue notice of the stay application also.

Notices be filed in two sets within a period of one week. On the same being filed, one set be given '*dasti*' to learned counsel for the appellant for service through registered post acknowledgment due.

Postal receipts of '*dasti*' notices be filed within a period of one week from the date of receipt of '*dasti*' notices.

Notices be made returnable within a period of six weeks.

3. The effect, operation and execution of the impugned judgment and award dated 09.10.2023 passed by Motor Accident Claims Tribunal, Sirohi in Motor Accident Claim Case No.78/2021 (CIS No.78/2021) shall remain stayed subject to the appellant-Insurance Company depositing 70% of the award amount with interest, after adjusting the amount already paid, within a period of six weeks from now with the learned Tribunal. The amount when deposited be disbursed to the claimants in terms of the award.

4. The learned Tribunal is directed to send the record to this Court after disbursement of the amount to the claimants.

(REKHA BORANA),J