HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Misc. Appeal No. 1084/2014

United India Insurance Co. Ltd. Branch Office Near Alok Cinema, Churu through its Senior Divisional Manager, United India Insurance Co. Ltd., Residency Road, Jodhpur

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Versus

1. Snehlata w/o Late Shri Ashok Kumar, aged 40 years,
2. Rahul s/o Late Shri Ashok Kumar, aged 21 years,
3. Bharat s/o Late Shri Ashok Kumar, aged 19 years,
   All resident of Salasar, Tehsil Sujangarh, District Churu
4. Ayub Khan s/o Shri Samandar Khan, R/o Norangsar, P.S. Salasar, Tehsil Sujangarh, District Churu
5. Mali Ram Sharma s/o Shri Gopi Ram Sharma, Resident of Vatenairy Hospital, Salasar, Tehsil Sujangarh, District Churu

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For Appellant(s)	:	Mr. Anil Kaushik
For Respondent(s)	:	Mr. Dinesh Ojha

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Judgment

10/02/2026

1. The present appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the appellant – United India Insurance Co. Ltd. against the Judgment and Award dated 20.03.2014 passed by the Motor Accident Claims Tribunal, Sujangarh, District Churu in Claim Petition No. 21/2012 (Snehlata & Ors. vs. Ayub Khan & Ors.), whereby the tribunal allowed the claim petition and granted compensation of ₹28,18,222/- with interest @ 6% per annum in favour of the respondent No. 1-claimant, fastening joint and several liability upon the appellant-non-claimant and other respondents-non-claimants.

2. The facts in short are that the claimants, being the widow and sons of deceased Ashok Kumar, filed a petition under Section 166 of the Act seeking ₹51,39,422/- as compensation on account

of Ashok Kumar's death in a motor accident dated 19.08.2011. It was stated that deceased, aged about 40 years, was running a tea shop and earning ₹15,000/- per month. He was allegedly hit by a motorcycle driven rashly and negligently by non-claimant No.1. After prolonged treatment, he succumbed to injuries on 11.10.2011. The motorcycle was owned by non-claimant No.2 and insured with non-claimant No.3 (Insurance Company). The medical expenses of ₹6,19,222/- were also claimed.

The claim petition was contested by the appellant-Insurance company as well as respondents-non-claimants, the owner and driver, who denied the income and alleged exaggeration of facts but admitted insurance coverage. The Insurance Company disputed the income, involvement of the vehicle, medical expenses and validity of the driving licence and alleged delayed FIR and collusion.

The tribunal after framing issues and adducing evidence, allowed the claim petition qua respondent No. 1-non-claimant while holding that respondent Nos. 2 and 3-claimants being adult were not dependent upon deceased and awarded a total sum of ₹28,18,222/- with interest @ 6% per annum in favour of the respondent No.1-claimant, fastening joint and several liability upon the appellant-non-claimant and other respondents-non-claimants. Hence, this claim petition was filed by the appellant – Insurance company.

3. Heard learned counsel for the parties.

4. Learned counsel for the appellant, restricting his arguments to quantum, contends that the tribunal erred in assessing the

deceased's monthly income at ₹15,000/- without any documentary evidence or income tax returns, despite the claim that he ran a small tea shop, making the assessment excessive.

It is further argued that the Tribunal wrongly deducted only 1/3rd of the income for personal expenses of the deceased, treating the major sons as dependents, whereas, only the wife was dependent, and a 50% deduction should have been applied.

Learned counsel submits that under Section 166 of the Motor Vehicles Act, negligence and actual pecuniary loss must be proved. There is no evidence that the tea shop ceased operations after the deceased's death, yet the Tribunal mechanically assessed income loss. The Tribunal relied solely on inconsistent oral testimony as A.W.3 – Heeralal stated he received ₹3,500/- per month from the deceased, while the deceased's son earned ₹2,500/- elsewhere, rendering the ₹15,000/- figure unjustified without documentary proof.

It is also contended that the Tribunal wrongly applied increase of 30% in the income towards future prospects despite the deceased being self-employed with uncertain income, and that basing the income solely on the tea shop's location without records or tax returns for 2011 inflates the assessment, which should be reduced to a reasonable figure.

5. *Per contra*, learned counsel for the respondents–claimants submits that the Tribunal, upon due appreciation of the entire oral and documentary evidence on record, passed a well-reasoned and just award, which calls for no interference under Section 173 of the Motor Vehicles Act.

It is argued that assessment of the deceased's monthly income at ₹15,000/- is reasonable and based on surrounding circumstances, considering that he was a self-employed tea shop owner and the accident occurred in the year 2011.

It is further argued that non-filing of income tax returns cannot be a reason to discredit the claimed income. The deceased operated a tea shop in Salasar and considering the shop's location and business prospective, a monthly income of ₹15,000/- cannot be regarded as excessive; in fact, there was a reasonable likelihood of the income increasing over time. It is also submitted that for small self-employed individuals, rigid insistence on documentary proof of income is neither required nor justified.

Learned counsel further submits that deduction towards personal expenses applied by the tribunal is fair and in accordance with settled principles. It is contended that deceased was a family man contributing to the household and the overall computation made by the tribunal is neither excessive nor arbitrary.

It is also contended that addition towards future prospects is legally permissible even in the case of self-employed persons aged about 42 years. On these grounds, it is urged that the compensation awarded is just, reasonable and in consonance with settled law, and the present appeal deserves to be dismissed.

6. I have considered the rival submissions made by learned counsel for the parties and perused the record of the case.

7. The main contention raised by the appellant concerns the tribunal's assessment of the deceased's monthly income at ₹15,000/- in the absence of documentary evidence. In the present

case, a perusal of the oral testimony of A.W.1 – Snehlata (widow), A.W.2 – Rahul (son), and A.W.3 – Heeralal shows that the accident occurred in 2011, at which time the deceased was operating a tea shop at a prominent religious location. The oral testimony of witnesses consistently testified that deceased earned ₹15,000/- per month. A.W.3 – Heeralal stated that he received wages of ₹3,500/- per month from the deceased. Although, A.W.2, the son of the deceased, stated to be earning ₹2,500/- elsewhere, this does not render the claimants' version improbable. The Tribunal duly considered the place and location of the tea shop and the surrounding circumstances in making a reasoned assessment. Therefore, in the opinion of this Court, the determination of ₹15,000/- per month as income for a self-employed tea shop owner in 2011 cannot be regarded as excessive or perverse.

8. Regarding the appellant's argument on deduction of one-third of income towards personal expenses, the law as laid down in ***Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.*** reported in ***AIR 2009 Supreme Court 3104***; establishes that where the number of dependents ranges from two to three, a deduction of one-third is appropriate. Even though, the adult sons were found not to be dependent, the deceased was a married person maintaining a household. Therefore, the deduction of one-third of income cannot be considered unlawful or excessive.

9. So far as the appellant's contention that the tribunal erred in awarding a 30% addition towards future prospects to the deceased, who was 42 years old and self-employed, is concerned, it is pertinent that the matter was assessed in light of the

precedent laid down in *Rajesh v. Rajbir Singh*. The co-ordinate bench of this Court in the case of ***SBI General Insurance Company Limited vs. Savitri Devi & Ors*** passed in ***S.B. Civil Misc. Appeal No. 127/2018*** held that the learned tribunal did not err in granting a 30% addition towards future prospects that appears to be fair and reasonable. The relevant para is reproduced herein as:

> "13.2. The deceased was doing agricultural work along with cattle rearing and also engaged in transactions of sale/purchase agricultural land and was thus self-employed. Relying upon ***Rajesh v. Rajbir Singh [(2013) 9 SCC 54],*** the learned Tribunal added 30% of the assessed income for future prospects and increase of income. The same is in consonance with the facts of the case and the relevant applicable formula, warranting no interference on that count. Pertinently, though a subsequent Constitution Bench in Supreme Court in *Pranay Sethi (supra)* held that future prospects of a selfemployed deceased, who was between age of 40 to 50 years, by reasonable test is 25%. However, the said test, as held by the Constitution Bench itself, is a degree test and is to be applied based on the variables as per the evidence adduced by the parties. In the present case, I see no reason to differ/interfere with the addition of future prospects of 30%, as determined by the learned Tribunal, which appears to be fair and reasonable a per record."

Therefore, this court is also of the view that the Tribunal's reliance on the aforesaid decision was justified. The addition of 30% towards future prospects, as determined by learned tribunal, is just and fair and does not warrant interference of this Court.

10. The appellant's contention that the Tribunal erred in assessing loss of income without evidence that the tea shop ceased operations after the deceased's death, is misplaced. In cases involving self-employed individuals, compensation for loss of income is determined based on the deceased's earning capacity, rather than on whether the business continued under new management.

11. It is well-settled that compensation under the Motor Vehicles Act must constitute "just compensation," neither a windfall nor a pittance. In the case of ***Hare Krushna Mahanta v. Himadri Sahu & Anr. (Special Leave Petition (C) No. 5541/2023) decided on 24.01.2025***, the Hon'ble Supreme Court reiterated that the objective when granting compensation under the Motor Vehicles Act is to ensure that *just and fair compensation* is paid to the aggrieved party.

12. Applying the principles laid down in ***Hare Krushna Mahanta*** *(supra)*, this Court is of the view that the compensation awarded by the Tribunal in the present case constitutes just and fair compensation, and therefore, no interference with the impugned award is warranted.

13. In view of the above discussion, the appeal preferred by the appellant – Insurance company is hereby dismissed being devoid of any merit.

14. Stay petition and all pending application(s), if any, shall also stand disposed of accordingly.

15. The Registry is directed to send a copy of this order along with the original record to the Tribunal forthwith.

(MUKESH RAJPUROHIT),J

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