

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

S.B. Civil Misc. Appeal No. 825/2003

United India Insurance Company Limited, Khed Road, Balotra,
through its Divisional Manager, Divisional Office-I, 12-D,
Residency Road, Jodhpur.

----Appellant

Versus

1. Smt. Tarki w/o Shri Govind Ram.
2. Banshi Lal s/o Shri Chhoga Ji,
3. Smt. Dakhu w/o Shri Banshi Lal,
All by caste – Dholi, Residents of Village Kitnod, Tehsil
Pachpadra, District Barmer.

....Claimants

4. Hanwant Khan s/o Shri Bhikhe Khan, R/o Village Siwana,
Tehsil Siwana, District Barmer (Driver)
5. Bharat Kumar s/o Shri Bajrang Das Sant, r/o Mokalsar Road,
Siwana, Tehsil, Siwana, District Barmer (Owner).

----Respondents

For Appellant(s)	:	Mr. Jagdish Vyas
For Respondent(s)	:	None present

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Judgment

11/02/2026

1. Heard learned counsel for the appellant.
2. The present civil misc. appeal has been filed by the appellant – Insurance Company against the judgment and award dated 09.05.2003 passed by the Motor Accident Claims Tribunal, Balotra (hereinafter referred to as 'learned Tribunal') in Claim Case No.09/2002, whereby the claim application filed by the respondents-claimants has been allowed and an amount of Rs.7,14,000/- has been awarded as compensation on account of the death of Govind Ram in the accident, which occurred on 14.11.2001.

3. Briefly noted the facts in the present appeal are that on 14.11.2001 at about 6:00 p.m., the deceased, Govind Ram, was traveling from Balotra to his village Kitnod in bus No. RRN 6633, driven by respondent No. 4 - Hanwant Khan. At a turn near Beriya Wale Bere between Golia and Kitnod, the bus was allegedly driven in a rash and negligent manner, as a result of which, Govind Ram, who was sitting on the roof of the bus, fell down and sustained grievous injuries. He was taken to the Government Hospital, Balotra, in the same bus, where he was declared dead. An FIR was lodged at Police Station Siwana, and after investigation, a charge-sheet was filed against the respondent No. 4. The claimants filed a claim petition before the learned Tribunal, which was allowed and an amount of Rs.7,14,000/- has been awarded as compensation. Aggrieved by the judgment and award dated 09.05.2003, the present appeal has been preferred.

4. Learned counsel for the appellant vehemently submits that while calculating the amount in the present case, the multiplier of 40 has wrongly been applied, whereas as per the judgment delivered by Hon'ble the Supreme Court in the case of ***National Insurance Company Ltd. vs. Pranay Sethi reported in (2017) SC 5157***, the multiplier of 18 is required to be applied. He further submits that in the present case, since the age of the deceased was 25 years, therefore, the multiplier of 18 ought to have been applied. He further submits that the findings on Issue No.2 needs to be rectified and amount is required to be recomputed. Learned counsel for the appellant further submits that since the deceased Govind Ram was sitting on the roof of the

bus and fell down because of his own negligence, therefore, the driver of the bus cannot be fastened with the liability of driving the bus rashly and negligently. He, therefore, prays that the amount awarded by the learned Tribunal needs to be reduced considerably on the basis of contributory negligence. Learned counsel for the appellant submits that the rate of interest awarded on the amount of compensation is also excessive and, therefore, the may also be modified.

5. I have considered the submissions made at the Bar and have gone through the relevant record of the case including the impugned judgment and award dated 09.05.2003.

6. So far as the first argument raised by the learned counsel for the appellant is concerned, the same merits acceptance as the multiplier applied while calculating the amount is contrary to the settled proposition of law laid down by Hon'ble the Supreme Court in the case of *Pranay Sethi (supra)* and the multiplier of 18 is required to be applied while computing the amount in the present case. Thus, the amount needs to be recalculated in the light of the ratio laid down in the judgment rendered by Hon'ble the Supreme Court in the case of *Pranay Sethi (supra)*.

7. As far as the second argument raised by the learned counsel for the appellant with respect to the contributory negligence is concerned, I am not impressed as the findings recorded on Issue No.1 clearly shows that because of Diwali festival, there was rush of the passengers and the bus was overloaded by the passengers and taking into consideration the rush of passengers, the

conductor of the bus himself asked the deceased Govind Ram to sit over the roof of bus.

8. The contention of the learned counsel for the appellant with respect to reduction of the rate of interest is concerned, I am not impressed as Hon’ble the Supreme Court in the case of *Pranay Sethi (supra)* has maintained the rate of interest @ 9% per annum.

9. A bare perusal of the statement of AW-3 Magha Ram, it appears that the bus was being driven by the respondent No.4 rashly and negligently, resulting into felling down of Govind Ram. Thus, the finding recorded by the learned Tribunal on Issue No.1 does not warrant any interference, therefore, learned Tribunal has rightly held that there was no contributory negligence.

10. In view of the discussions made above, the amount awarded in the present case is recomputed in the light of *Pranay Sethi (supra)* as under:-

	Income of the deceased		Rs.2,100/- per month
	Deduction:- Rs.2100 -1/3 (700)		Rs.1,400/-
(I)	Compensation due to death	1400 x12 x 18	Rs. 3,02,400/-
(II)	Future Prospects (40%)		Rs. 1,20,960/-
(III)	Funeral Expenses		Rs.15,000/-
(IV)	For loss of Estate		Rs.15,000/-
(V)	Consortium		Rs.40,000/-
		Total Award	Rs.4,93,360/-
	(-)Amount already awarded by the Tribunal		Rs.7,14,000/-
	Reduced amount		Rs.2,20,640/-

11. Hence, the compensation awarded in the present case vide judgment and award dated 09.05.2003 is modified and the respondent-claimants are entitled for Rs.4,93,360 /- (Rupees Four Lac Ninety Three Thousand Three Hundred Sixty Only) as compensation.

12. The amount of compensation shall carry interest @ 9% p.a. till the same is paid from the date of filing the claim petition.

13. The appeal is, therefore, partly allowed.

(VINIT KUMAR MATHUR),J

14-Payal/-