HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Misc. Appeal No. 1679/2012

HDFC Ergo General Insurance Co. Ltd., Reman House, HT Parekh Marg-169, Backbe, Reklemension, Mumbai 400020; through its Authorized Signatory at Office No. 2, 3rd Floor, Upasna Tower, Subhash Marg, C-Scheme, Jaipur – 302001

----Appellant

Versus

1. Rashmi Soni w/o Lt. Sh. Bajrang Kumar Soni, aged 25 years,
2. Vatsal s/o Lt. Sh. Bajrang Kumar Soni, aged 04 years,
3. Rameshwar Lal s/o Sh. Jeevan Ram Soni, aged 73 years,
4. Santosh Devi w/o Sh. Rameshwar Lal Soni, aged 68 years,
   Resident No. 2 minor through Natural Guardian Mother Rashmi Soni,
   All r/o Vardhman Colony, Bhilwara
5. M/s BLR (I) Pvt. Ltd., 11/12, Jalaram Compound, Khandegaley Estate, Purna Village, Dist. Thane (Maharashtra) (Owner)
6. Umesh Yadav s/o Sh. Baichu, R/o Sai Baba Chewal, Vaibhav Nagar, Janupada, Kandiwali (East) Mumbai - 400101

----Respondents

<u>Connected With</u>

S.B. Civil Misc. Appeal No. 827/2012

Smt. Rashmi Soni w/o Late Shri Bajarang Kumar Soni, aged 25 years, R/o Vardhman Colony, Bhilwara, Distt. Bhilwara

----Appellant

Versus

1. Umesh Yadav s/o Sh. Bechu Yadav, R/o Sai Baba Cheval, Vaibhav Nagar, Janupada, Kandivali East, Mumbai 400101
2. M/s B1.L.R. (I) Pvt. Ltd., 11/12 Jalaram Compound, Khandegale Estate, Purna Village, District Thane (Maharashtra)
3. H.D.F.C. Ergo General Insurance Company Limited, Rayman House, H.T. Parakh Marg, 169 Backbe Ricklamation, Mumbai 400020

----Respondent

For Appellant(s)	:	Mr. Santosh Choudhary
For Respondent(s)	:	Mr. L.K. Purohit

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Judgment

25/03/2026

1. Since both the aforesaid appeals arise out of a common award and emanate from the same incident, they are being conveniently disposed of by this common judgment.

2. S.B. Civil Misc. Appeal No. 1679/2012 has been preferred by HDFC Ergo General Insurance Company Limited, assailing the Award dated 29.08.2011 passed by the Motor Accident Claims Tribunal, Bhilwara, in Claim Case No. 336/2009 (Smt. Rashmi Soni & Ors. vs. M/s BLR (I) Pvt. Ltd. & Ors.), whereby the claim petition instituted by claimants - Rashmi Soni and others, came to be partly allowed and compensation to the tune of Rs. 14,35,000/- was awarded under various heads on account of death of Bajrang Kumar Soni. Whereas, being dissatisfied with the award rendered in Claim Petition No. 335/2009 (Smt. Rashmi Soni vs. M/s BLR (I) Pvt. Ltd. & Ors.), the claimant - Rashmi Soni has also preferred S.B. Civil Misc. Appeal No. 827/2012 seeking enhancement of compensation. In the said claim, the Tribunal awarded a sum of Rs. 47,715/- under different heads. The Tribunal further directed that the awarded amount in both petitions, shall carry interest @ 6% per annum from the date of filing of the claim petitions, with a stipulation that in case of default in payment within one month, the same shall carry interest @ 9% per annum.

3. The brief facts, shorn of unnecessary details, are that the claimants Rashmi Soni and others (widow, minor son, father and mother of deceased Bajrang Kumar Soni) as well as claimant –

Rashmi Soni, filed separate claim petitions being Nos. 335/2009 and 336/2009, seeking compensation on account of the death of Bajrang Kumar Soni and the grievous injuries sustained by Rashmi Soni, respectively.

3.1 It was averred that on 17.04.2009, Rashmi Soni along with her husband Bajrang Kumar Soni and their son, had travelled to Sanwariya Ji in a Maruti Van bearing registration No. RJ-06-UA-2131 and were returning to Bhilwara. The vehicle was being driven by her husband with due care, at a moderate speed and on the correct side of the road. At about 2.30 p.m., near Mal ki Chaugawadi on the Bhilwara–Chittorgarh highway, a container bearing No. MH-04-BU-3149, driven by non-applicant No. 2, approached from the opposite direction at a high speed, in a rash and negligent manner and on the wrong side of the road, and collided violently with the Maruti Van. As a consequence, Rashmi Soni sustained multiple grievous injuries, including a fracture in her left leg, while her husband succumbed to the injuries sustained in the accident. It was further pleaded that the container vehicle was being driven by non-applicant No. 2 in the course of his employment under non-applicant No. 1 and was duly insured with non-applicant No. 3, thereby rendering all the non-applicants jointly and severally liable to compensate the claimants.

3.2 In response, non-applicants No. 1 and 2 (owner and driver of container vehicle) denied any negligence on their part and instead attributed the accident to the negligent driving of Bajrang Kumar Soni, alleging that he was driving on the wrong side and collided with their vehicle. Non-applicant No. 3, the insurer, while admitting the fact of insurance, contended that the accident occurred due to rash and negligent driving of the Maruti Van driver and further asserted that non-applicant No. 2 did not possess a valid and effective driving licence at the relevant time.

3.3 The Tribunal, after framing the requisite issues and upon due appreciation of the oral as well as documentary evidence on record, partly allowed both the claim petitions and awarded compensation of Rs. 14,35,000/- and Rs. 47,715/-, respectively under various heads in favour of the claimants, along with interest @ 6% per annum from the date of filing of the claim petitions i.e. 15.05.2009 till realization. It was further directed that in the event of default in payment within one month, the awarded amount shall carry interest @ 9% per annum. Being aggrieved, the Insurance Company as well as the claimants have preferred the present appeals.

4. Heard learned counsel for the parties.

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5. Learned counsel for the appellant–Insurance Company submits that the Tribunal has awarded excessive compensation by erroneously assessing income of the deceased at Rs. 1,00,000/- per annum without any cogent evidence, by applying an incorrect multiplier of 18 and by imposing penal interest @ 9% instead of 6%, in contravention of settled legal principles.

5.1 It is further contended that the Tribunal failed to properly appreciate the evidence on record and overlooked the objections raised by the insurer regarding absence of proof of income and incorrect application of multiplier, thereby resulting in an inflated and unsustainable award. It is urged that, in the absence of reliable proof of income, the Tribunal ought to have adopted the notional income of Rs. 15,000/- per annum as per law.

5.2 It is also submitted that the application of multiplier '18' instead of '17' for a deceased aged about 29 years, runs contrary to the principles laid down in *Sarla Verma's* case.

5.3 Further, it is contended that the Tribunal erred in treating the father of the deceased as a dependent without sufficient proof and awarding compensation on that basis, which is contrary to settled legal position. The grant of penal interest @ 9% in case of delayed payment is also assailed as being unjustified and legally untenable.

5.4 Per contra, learned counsel for the claimants while supporting the impugned award, submits that the Tribunal has, upon a proper and holistic appreciation of the evidence, rightly assessed the income of the deceased, applied the appropriate multiplier, correctly determined the dependency, and awarded interest in accordance with law. It is, thus, contended that the award does not warrant any interference.

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6. Learned counsel for the appellant–claimant submits that the Tribunal has awarded a wholly inadequate sum of Rs. 25,000/- towards permanent disability, while ignoring material evidence that the appellant, a tailor earning Rs. 6,000/- per month, lost her means of livelihood due to the accident. It is further contended that despite clear medical evidence indicating 15% permanent disability, which substantially impairs her earning capacity, the Tribunal failed to award compensation towards loss of income. It is, therefore, urged that a just and reasonable compensation of at least Rs. 5,00,000/- ought to have been granted.

6.1 It is further contended that the compensation awarded under the head of medical expenses is grossly inadequate, as the appellant incurred approximately Rs. 1,25,000/- and required continued treatment, which has not been duly considered. Further, no compensation has been awarded towards loss of income during the period of recovery, which ought to have been assessed at least at Rs. 36,000/-.

6.2 It is also submitted that the Tribunal failed to take into account ancillary medical expenses such as X-rays and diagnostic tests, thereby necessitating enhancement under this head. The compensation awarded towards pain, suffering and mental agony is stated to be insufficient, particularly in view of the serious injuries affecting the appellant's mobility and daily life. Additionally, the amounts granted towards attendant charges and special diet are argued to be disproportionately low and deserve enhancement.

6.3 On the other hand, learned counsel for the respondent–Insurance Company, while supporting the impugned award, submits that the Tribunal correctly assessed compensation under each head upon due appreciation of the entire evidence on record, and that no further enhancement is warranted in the award.

7. I have considered the rival submissions advanced at the Bar and have carefully perused the material available on record, including the award dated 29.08.2011.

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8. On a careful perusal of the record, it is evident that the Tribunal has assessed annual income of the deceased at Rs.1,00,000/- based on income tax returns (Ex.14, 15 & 16) for the preceding years. This assessment is founded on credible documentary evidence and represents a reasonable and just determination. It cannot be characterized as arbitrary or legally unsustainable so as to warrant interference.

8.1 The application of the multiplier '18' for the deceased, whose age has been determined to be between 27 and 29 years, does not call for interference. The variation, if any, is inconsequential in nature and does not materially affect the computation of compensation so as to warrant indulgence of this Court.

8.2 The appellant's contention regarding the wrongful inclusion of the father of the deceased as a dependent is also without merit. In the circumstances of the case and in the absence of any convincing evidence to the contrary, the Tribunal was justified in treating the father as a dependent and awarding compensation accordingly.

8.3 With respect to the challenge concerning the rate of interest, the award of interest @ 6% per annum from the date of filing of the claim petition, with an escalation to 9% per annum in the event of delayed payment, is fair, reasonable and in accordance with law. This aspect of the award requires no interference.

8.4 In sum, the findings recorded by the Tribunal reflect a sound appreciation of both oral and documentary evidence. The award does not suffer from perversity, illegality or any material irregularity, and the compensation granted cannot be considered excessive or unjustified.

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9. A perusal of the record reveals that in the accident occurring on 17.04.2009 near Mal ki Chaugawadi on the Bhilwara–Chittorgarh highway, the appellant, Rashmi Soni, sustained injuries necessitating hospitalization and treatment. The Tribunal's records indicate that the appellant being a housewife, was also stated to be engaged in tailoring work at the relevant time but no documentary evidence to this effect has been produced on record. In the considered opinion of this Court, no error has been committed by the tribunal in refusing to grant any compensation under the head of loss of income. The medical evidence reveals that appellant suffered four simple injuries along with a fracture in her left leg, resulting in 15% permanent disability (Ex.P/13). The appellant was hospitalized for seven days, and the corresponding medical bills and treatment records are duly on record. The disability certificate issued by the Medical Board corroborates the permanent disability assessment. Taking all factors into account, the Tribunal awarded a total sum of Rs. 47,715/-.

9.1 This Court notes that the occurrence of the accident is not in dispute, and the injuries as well as permanent disability sustained by the appellant are clearly established. Accordingly, the compensation requires re-computation in accordance with the **RALSA Guidelines, 2024**.

9.2 Upon a considered assessment under the RALSA Guidelines, 2024, the compensation in the present case is recalculated as follows:

PART (C) – PERMANENT DISABILITY	**AMOUNT**
2. **More than 10% upto 25% :** Rs. 35,000/- + Rs. 4,500/- x 15	Rs. 1,02,500/-
Hospitalization charges : Rs. 600/- per day x 7 days	Rs. 4,200/-
PART-D – OTHER HEADS	
(1)(a) For Pain & Suffering (upto 30 years – 25% of total award excluding medical bills/medical expenses) Rs. 1,02,500/- x 25%	Rs. 25,625/-
(2) Loss of Income : Rs. 700/- per day x 7 days	Rs. 4,900/-
(3) Attendant charges : Rs. 300/- per day x 7 days	Rs. 2,100/-
Medical Bills	Rs. 7,315/-
Total	**Rs. 1,46,640/-**
Compensation awarded by the tribunal	**Rs. 47,715/-**
Enhanced amount	**Rs. 98,925/-**

9.3 The re-computation of the award shows that appellant is entitled to receive enhanced amount of compensation of Rs.98,925/- with interest.

10. In view of the discussions made above, **S.B. Civil Misc. Appeal No. 1679/2012** filed by the Insurance Company is dismissed and **S.B. Civil Misc. Appeal No. 827/2012** filed by the claimant – Rashmi Soni is partly allowed. The Award dated 29.08.2011 passed by the tribunal in Claim Petition No. 335/2009 is modified to the extent of enhancement made in the re-computation made hereinabove.

11. It is made clear that if the awarded amount or any part of it has already been paid, then same shall be adjusted against the enhanced amount. The respondents are directed to pay the enhanced amount with interest @ 6% per annum from the date of filing the claim petition till the same is paid to the appellant.

12. Stay petition(s) as well as all pending application(s), if any, also stand disposed of.

13. A copy of this order be placed in the connected file.

14. The original record of the tribunal along with a certified copy of this order be remitted back forthwith.

(MUKESH RAJPUROHIT),J

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