

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

S.B. Civil Miscellaneous Appeal No. 1914/2025

Cholamandalam Ms General Insurance Co. Ltd., Jodhpur Office At
K.p. Tower, Chopasni Road, Jodhpur Through Its Authorized
Representative.

----Appellant

Versus

1. Rehansh S/o Late Sh. Jitendra Kumar, (Now Major) R/o Village Sayala, District Jalore. Claimant.
2. Viren S/o Late Sh. Jitendra Kumar, (Now Major) R/o Village Sayala, District Jalore. Claimant.
3. Bhawani Shankar S/o Bhim Raj, R/o Village Nathara, Ps Sarada, District Udaipur. (Bus Driver)
4. Chief Manager, Rajasthan State Road Transport Corporation, Central Bus Stand, Udiyapole, Udaipur. (Bus Owner)
5. General Manager, Rajasthan State Road Transport Corporation, Parivahan Marg, Chomu House, Jaipur. (Bus Owner)
6. Abdul Shahid S/o Abdul Gafoor, R/o Neelkanth Mahadev Mandir Galli, Falna, Tehsil Bali, District Pali (Toofan Driver)
7. Sayeda Banu W/o Abdul Gafoor, R/o Neelkanth Mahadev Mandir Galli, Falna, Tehsil Bali, District Pali. (Toofan Owner)

----Respondents

For Appellant(s) : Mr. Jagdish Vyas

For Respondent(s) :

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

16/04/2026

This appeal has been preferred by the appellant against the judgment and award dated 30.11.2024 passed by the learned Judge, MACT, Sumerpur, Pali in Claim Case No. 77/2016.

Learned counsel for the appellant contends that the learned Tribunal has erred in law and on facts in recording a finding of sole negligence on the part of driver of Toofan Vehicle. It is submitted

that, as per the material available on record as well as the conclusion of the investigation, negligence is attributable to both the vehicles involved in the accident, and the finding of exclusive negligence against the insured vehicle (Toofan) is unsustainable.

Learned counsel further submits that the learned Tribunal has grossly erred in assessing the income of the deceased. It is contended that the deceased himself had disclosed his salary as Rs. 60,000/- per month for the financial year 2014-15, and the remaining amount has been erroneously added on account of interest income, leading to an inflated and incorrect assessment.

The matter requires consideration.

Issue notice to the respondents, returnable within a period of six weeks.

Meanwhile, effect and operation of the impugned judgment and award dated 30.11.2024 passed by the learned Judge, Motor Accident Claims Tribunal, Sumerpur, District Pali in Claim Case No.77/2016, shall remain stayed qua the appellant subject to the condition that the appellant - Insurance Company deposits 25% of the amount (with interest) awarded by the Tribunal vide award dated 30.11.2024 within a period of six weeks.

The deposited amount shall be disbursed to the respondents-claimants in the manner and proportion as contemplated in the impugned judgment and award with the undertaking that if the appellant-insurance company succeeds, they shall refund the same along with interest in accordance with law.

It is made clear that the amount, if any, previously deposited by the appellant-insurance company, shall be adjusted towards the said amount.

Learned tribunal is directed to send the record after disbursal of the claim amount to the respondent.

It is made clear that if the amount as directed by this Court is not deposited within the stipulated time, the respondents-claimant(s) shall be free to proceed with the execution of the impugned award.

(MUKESH RAJPUROHIT),J

5-AbhishekS/-