

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

S.B. Civil Misc. Appeal No. 3253/2019

1. Kalpana Kanwar W/o Shri Mahendra Singh Ranawat, Aged About 47 Years, B/c Rajput, R/o Village Bhatakada, Sirohi (Rajasthan) (Owner Of Bus No. Rj-24-Pa-2578)
2. Harish Kumar S/o Shri Ganesh Ji, Aged About 40 Years, B/c Heeragar, R/o Village - Sindarat, Tehsil And District Sirohi (Rajasthan) (Driver Of Bus No. Rj-24-Pa-2578)

----Appellants

Versus

1. Chhagan Lal S/o Shri Jagga Ram, Aged About 32 Years, B/c Suthar, R/o Village Noon, Post - Hugani, Tehsil And District Sirohi (Rajasthan)
2. Prakash Kumar S/o Shri Jagga Ram, Aged About 22 Years, B/c Suthar, R/o Village Noon, Post - Hugani, Tehsil And District Sirohi (Rajasthan)
3. Pinky D/o Shri Jagga Ram, Aged About 20 Years, B/c Suthar, R/o Village Noon, Post - Hugani, Tehsil And District Sirohi (Rajasthan)

----Respondents

For Appellant(s) : Mr. Bharat Singh Rathore
(through VC)

For Respondent(s) :

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

05/12/2020

It is submitted by the counsel for the appellant that the Tribunal was not justified in awarding compensation to the claimants despite they having failed to prove the dependency on the deceased.

Further submissions have been made that the Tribunal was not justified in not deducting the amount of compensation for the negligence of deceased Jagga Ram in Case No. 219/2016.

So far as the plea regarding non-deduction is concerned, qua the said deceased the same will be a case of composite negligence and as such the Tribunal apparently was justified in not deducting the amount of compensation on account of negligence of driver of the motorcycle Jagga Ram, on which the deceased was travelling.

However, in view of the submissions made qua the dependency, issue notice. Issue notice of the stay application also, returnable within a period of six weeks.

Notices when issued be given 'dasti' to the learned counsel for the appellants.

In the meanwhile and till further orders, if appellant deposits 50% of the impugned award along with interest as awarded by the Tribunal within a period of six weeks, after taking into consideration any amount deposited under Section 140 and/or proviso to Section 173(1) of the Motor Vehicle Act, 1988, the rest of the award shall remain stayed.

The amount when deposited be disbursed to the claimants in terms of the award.

(ARUN BHANSALI),J