

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

S.B. Civil Misc. Appeal No. 2066/2023

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

----Appellant

Versus

1. Smt. Meena Kanwar W/o Late Sh. Sanjay Singh, B/c Rawat, R/o Village Barakhan Gogela, Ps Tatgarh, Dist. Ajmer.
2. Amar Singh S/o Deep Singh, B/c Rawat, R/o Village Barakhan Gogela, Ps Tatgarh, Dist. Ajmer.
3. Smt. Asha Devi W/o Amar Singh, B/c Rawat, R/o Village Barakhan Gogela, Ps Tatgarh, Dist. Ajmer.
4. Ishwar Singh S/o Amar Singh, B/c Rawat, R/o Village Barakhan Gogela, Ps Tatgarh, Dist. Ajmer.
5. Mst. Rekha D/o Sh. Amar Singh, B/c Rawat, R/o Village Barakhan Gogela, Ps Tatgarh, Dist. Ajmer. (Now Major)
6. Kesar Singh S/o Chatar Singh Rawat, R/o Lumba Amar Ka Bariya Jassakheda, Tehsil Bhim, Dist. Rajsamand (Driver)
7. Kalyan Singh S/o Dau Singh @ Dasingh Rawat, R/o Tatgarh Road, Tehsil Bhim, Dist. Rajsamand (Owner)

----Respondents

For Appellant(s) : Mr. Jagdish Chandra Vyas

HON'BLE MS. JUSTICE REKHA BORANA
Order

30/01/2024

1. Learned counsel for the appellant submits that the present is a case of implication of false vehicle which is evident from the fact that the vehicle which has been seized is a tempo (three wheeler) of blue colour whereas two alleged eye witnesses (AW-3 & AW-4) specifically mentioned the vehicle to be a tempo (four wheeler) of white colour. He further submits that the notice under Section 133 of Motor Vehicles Act, 1988 was dated 23.12.2020, the seizure memo was also of the same date whereas the mechanical

examination report (M.T.O. report) is of 15.12.2020 that is even prior to the date of seizure of the vehicle.

On quantum, learned counsel for the appellant submits that the claimants Nos.2, 4 & 5 cannot be termed to be the dependents of the deceased being his father, brother and sister.

2. In view of the submissions made, Admit. Issue notice.

Notices be filed in two sets within a period of one week. On the same being filed, one set be given '*dasti*' to learned counsel for the appellant for service through registered post acknowledgment due. Notices be made returnable on 27.02.2024.

Postal receipts of the '*dasti*' notices be filed within a period of one week from the date of receipt of '*dasti*' notices.

3. Meanwhile, effect, operation and execution of the judgment/ award dated 21.08.2023 passed by learned Judge, Motor Accidents Claims Tribunal, Rajsamand (Raj.) in MAC Case No.61/2021 (CIS No.61/2021) shall remain stayed subject to the appellant Insurance Company depositing 60% of the claim amount with interest before the learned Tribunal within a period of six weeks from now. The amount already deposited shall be adjusted qua the amount to be deposited. The amount when deposited be disbursed to the claimants in terms of the award.

4. The record of the Court below be sent to this Court after disbursal of the amount to the claimants-respondents.

(REKHA BORANA),J