

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

S.B. Civil Misc. Appeal No. 552/2025

The New India Assurance Company Limited, Through Taamil Divisional Manager Jodhpur D.o. 196 Ss Tower Floor Near Akhaliya Circle Chopasani Road, Jodhpur (Insurance Company Of Tanker No. Rj-34-G-0343)

----Appellant

Versus

1. Jhamku Urf Jhammu Devi W/o Vagaram, Aged About 52 Years, R/o Doli Rajguro Tehsil Pachpadra Dist. Balotra,raj.
2. Kherajram S/o Vagaram, Aged About 23 Years, R/o Doli Rajguro Tehsil Pachpadra Dist. Balotra,raj.
3. Gumaanram S/o Vagaram, Aged About 21 Years, R/o Doli Rajguro Tehsil Pachpadra Dist. Balotra,raj.
4. Sanju D/o Vagaram, Aged About 13 Years, Minor Through Natural Guardian Mother Respondent No. 1, R/o Doli Rajguro Tehsil Pachpadra Dist. Balotra,raj.
5. Arjunram S/o Udaram, R/o Khokhsar East, P.s. Gida, Dist. Balotra (Driver Of Tanker No. Rj-34-G-0343)
6. Kaluram S/o Chunnilal, R/o Bheel Basti, Anganwa, P.s. Mandore, Dist. Jodhpur (Owner Of Tanker No. Rj-34-G-0343)

----Respondents

For Appellant(s)	:	Mr. Aditya Singhi
For Respondent(s)	:	Mr. Santosh Kumar Sankhla

HON'BLE DR. JUSTICE NUPUR BHATI

Order

12/02/2025

1. Learned counsel for the parties jointly submits that in a appeal filed by the appellant – Insurance Company arising out of the same award dated 07.11.2024, the co-ordinate Bench of this Court in S.B. Civil Misc. Appeal No.379/2025 has granted interim order.
2. Learned counsel for the appellant-Insurance Company submits that the learned Tribunal erroneously awarded

compensation in favour of the claimants whereas it was proved on record that the accident in question occurred solely because of the negligence of the deceased/injured.

3. Learned counsel submits that the accident in question did not occur because of the use of insured vehicle and hence, the Insurance Company shall not be liable to pay the compensation.

4. In view of the submission made, Admit. Issue notice.

5. Issue notice of stay application also.

6. 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 06.03.2025.

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

8. Meanwhile, the effect, operation and execution of the award dated 17.08.2024 passed by Motor Accident Claims Tribunal, Balotra in MAC Case No.31/2018 (CIS No. 31/2018) shall remain stayed subject to the appellant Insurance Company depositing 70% of the award amount (with interest) with the learned Tribunal within a period of six weeks from now. The amount already deposited, if any, shall be adjusted qua the amount to be deposited now. The amount when deposited be disbursed to the claimants in terms of the award.

(DR. NUPUR BHATI),J