

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 480/2026

1. Santa Devi Wife Of Late Ramesh, Aged About 36 Years (Wife Of Deceased),
2. Sunita Daughter Of Late Ramesh, Aged About 20 Years (Daughter Of Deceased),
3. Sachin, Son Of Late Ramesh, Aged About 18 Years (Son Of Deceased)
4. Anita Daughter Of Late Ramesh, Aged About 12 Years (Daughter Of Deceased)

Claimant No.4 is minor Through Mother Santa Devi W/o Late Ramesh, Resident Of Village Ladhaki, Police Station Bahtu Kalan, Tehsil Kathumar District Alwar, (Rajasthan).

----Appellants-Claimants

Versus

1. Hetram Son Of Siyaram, Resident Of Khadraya, Tehsil Bhusawar District Bharatpur, Rajasthan, Driver Vehicle Messy Tractor Regd. No. Rj-05-Rd-2606
2. Gajendra Singh Son Of Shri Rasal Singh, Resident Of Berai Khoh, Tehsil Deeg District Bharatpur, Rajasthan, Registered Owner Vehicle Messy Tractor Regd. No. Rj-05-Rd-2606.
3. The Oriental Insurance Company Limited, Divisional Office Balaji Tower 81 Neb, Subhash Nagar Near Agrasen Circle Alwar Rajasthan Through Divisional Manager Insured Vehicle Massey Tractor Regd. No. Rj 05-Rd-2606.

----Respondents-Non-Claimants

For Appellant(s)	:	Mr. Ram Sharan Sharma
For Respondent(s)	:	Mr. Mukesh Kumar Goyal Ms. Ritu Jindal

HON'BLE MR. JUSTICE ASHUTOSH KUMAR
Order

07/05/2026

1. This civil misc. appeal has been filed by the claimant-appellants against the judgment and award dated 28.11.2025 passed by Motor Accident Claim Tribunal, Alwar (hereinafter

referred to as learned 'Tribunal') in Claim Petition No.278/2023, whereby learned Tribunal allowed the claim petition filed by the claimant-appellants for claiming compensation due to death of one- Ramesh and awarded an amount of Rs.17,07,952/- along with 6% interest per annum in favour of the claimant-respondents.

2. Although the present appeal has been filed on various grounds, learned counsel for the claimant-appellants has confined his submissions only to the issue relating to determination of the income of the deceased on the date of the accident. Learned counsel submits that the learned Tribunal, while treating the deceased Ramesh as a daily wager, assessed his monthly income on the basis of the minimum daily wages of an 'unskilled labour' prevailing on the date of the accident, i.e., Rs.285/- per day, and calculated the monthly income by taking 26 working days in a month. It is contended that the income of the deceased ought to have been calculated by considering 30 days in a month. Therefore, it is prayed that the impugned judgment and award be modified to the aforesaid extent.

3. Learned counsel for the respondents opposed the submissions advanced on behalf of the appellant.

4. Heard learned counsel for the parties and perused the material available on record.

5. It is an admitted position that the learned Tribunal considered the deceased as a daily wager and calculated his monthly income on the basis of minimum wages of 'unskilled labour' for 26 days. In the case of a daily wager, the monthly income ought to have been calculated on the basis of 30 days.

Accordingly, the appeal is allowed to the limited extent that the monthly income of the deceased shall be calculated as $\text{Rs.}285/- \times 30 = \text{Rs.}8,550/-$.

6. Looking to the fact that the deceased was 33 years of age, at the time of accident, the learned Tribunal has rightly added 40% of his income i.e. $\text{Rs.}3,420/-$, towards loss of future income and applied the multiplier of 16, for calculating the loss of future income. Therefore, monthly income of the deceased is calculated as $\text{Rs.}8550/- + \text{Rs.}3420/- = \text{Rs.}11,970/-$.

7. Looking to the fact that the deceased had four dependents at the time of accident, the learned Tribunal has rightly applied the deduction of $1/4$ from the monthly income of the deceased i.e. $\text{Rs.}2,993/-$, towards his personal and living expenses. Thereby, the monthly income of the deceased comes to $\text{Rs.}8,977/-$ and the total loss of future income is calculated as $\text{Rs. } 8,977/- \times 12 \times 16 = \text{Rs. } 17,23,584/-$.

8. Looking to the fact that the deceased had four dependents at the time of accident, the learned Tribunal has awarded an amount of $\text{Rs.}44,000/-$ each, to appellant Nos.1 to 4, under the head of loss of consortium and a cumulative amount of $\text{Rs.}33,000/-$ was awarded towards loss of estate and funeral expenses. Thus, the same warrants no interference from this Court. Learned Tribunal has also awarded an amount of $\text{Rs.}5000/-$ towards the expenses incurred for transportation of the deceased for funeral. This Court is of the view that the same is included in the funeral expenses awarded by the learned Tribunal, therefore, the claimant-appellants are not entitled to any amount towards the same.

9. Considering the overall facts and circumstances of the case, the impugned judgment and award is modified/enhanced in the following terms:-

S. No.	Heads	Amount (in Rs.)
1.	Loss of Future income	Rs. 17,23,584/-
2.	Loss of consortium	Rs. 1,76,000/-
3.	Loss of Estate and Funeral Expense	Rs. 33,000/-
The amount of compensation determined by this Court		Rs. 19,32,584/-
The amount of compensation awarded by the learned Tribunal		Rs. 17,07,952/-
Difference in compensation amount after enhancement		Rs. 2,24,632/-

10. Accordingly, the instant civil miscellaneous appeal filed by the claimant-appellants is partly allowed, and the award of Rs. 17,07,952/- passed by the learned Tribunal is enhanced to **Rs. 19,32,584/-**. Income tax will be deducted from this amount as per the rules. The amount previously received by the claimant-appellants, if any, will be adjusted against the award amount, and the claimant-appellants are entitled to receive the remaining amount. The claimant-appellants are entitled to receive interest at the rate of 8% per annum on the compensation amount enhanced by this order from the date of filing of the claim petition.

11. Accordingly, the instant civil miscellaneous appeal filed by the claimant-appellants is disposed of, in terms of the discussion made hereinabove.

12. Stay application(s), if any, and any other pending application(s) also stand disposed of.

(ASHUTOSH KUMAR),J