

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 492/2010

Om Singh S/o Kishan Singh, Aged about 36 years, R/o G-13,
Mazdoor Nagar, Infront of Gurudwara, Ajmer Road, Jaipur.

----Appellant

Versus

1.Raman Kumar S/o Sh. Bishan Das, Aged about 23 years, R/o
Dihani, Post-Sambha, Distt. Jammu.

At present-Sep. No. 2699569 L-12 Grenadiers C/O 56 A.P.O.
Jaipur.

(Driver of the Vehicle-03 C-068274 w)

2. Pawan Kumar S/o Sh. Ratan Chand, Aged about 50 years,
R/o Gumbhar, Police Station-Jawaljee, Himachal Pradesh.

At present-J.C.O. Subedar No. J.C.449105 K-12 Grenadiers A-
Company C/O 56 A.P.O. Jaipur.

(Owner of the Vehicle-03C-068274w)

3. Union of India, through S.S. Thakur C.C.O. Headquarter,
Colonel Adjutant Radsigence and Vigilance General Officer
Commanding in Chief South Western Command, Jaipur.

----Respondents

For Appellant(s) : Mr. Ram Sharan Sharma

For Respondent(s) : Ms. Shruti Pareek

JUSTICE ANOOP KUMAR DHAND

Judgment

23/02/2026

1. The instant civil miscellaneous appeal has been preferred against the impugned judgment and award dated 29.01.2009, passed in the Motor Accident Claims Tribunal, Jaipur City, Jaipur, hereinafter referred to as "the Tribunal" by which the claim petition submitted by the claimant-appellant (hereinafter referred to as "the claimant") has been partly allowed and the respondents have been directed to pay a compensation of

Rs.1,10,000/- to the claimant along-with interest at the rate 7.5% p.a. from the date of filing of the claim petition. Feeling aggrieved and dissatisfied by the same, the claimant has approached this Court by way of filing this appeal seeking enhancement of the amount of the compensation awarded by the Tribunal.

2. Learned counsel for the claimant submitted that the claimant met with an accident on 12.11.2006 and the accident was caused by the driver of the Army Truck bearing No. 03C-068274W and the driver was working under the employment and for the benefit of the army and therefore the claim petition was submitted against the Union of India. Counsel further submits that in the aforesaid accident the claimant has suffered 13% permanent disability and at the time of accident he was working at a kite manufacturing shop wherein he was earning an income of Rs.6000/- per month, however, without any basis the Tribunal has assessed his monthly income as Rs.2,000/- per month. Counsel submits that in support of his contentions, the owner of the kite manufacturing shop was also examined in the witness box and his evidence has not been rebutted by the respondents. In alternative, he also argued that even looking to the work of the claimant, his income should have been considered at least Rs. 100/- per day. Counsel further submits that in the claim petition, the age of the claimant was mentioned as 34 years but without any basis the same has been determined by the Tribunal in between the age group of 40-45 years. Counsel submits that looking to the age of the claimant, i.e., 34 years, the multiplier of 16 should have been applied but in the instant case, by treating the age of the claimant in between

the age group of 40-45 years, the multiplier of 15 has been applied.

3. Counsel further submits that under the head of future prospects, not a single penny has been awarded and under the head of pain and suffering, a petty amount of Rs. 38,000/- has been awarded by the Tribunal. Hence, under these circumstances the impugned award needs suitable enhancement.

4. *Per contra*, learned counsel appearing on behalf of the respondents opposed the arguments raised by counsel for the petitioner and submitted that no documentary evidence has been produced on record to show that the claimant was earning a salary of Rs.6000/- per month. Counsel submits that that the Tribunal has assessed the income and age of the deceased as per the material available on its record. Hence, under all the heads, a suitable amount of compensation has been awarded by the Tribunal while passing the impugned award which does not require interference of this Court and the instant appeal is liable to be rejected.

5. Heard and considered the submissions made at the Bar and perused the material available on record.

6. Perusal of the record indicates that the claimant has met with an accident on 12.01.2006 and this fact is not in dispute that he has sustained certain injuries on his body parts which resulted in him suffering from 13% permanent disability. Now the question that remains for consideration of this Court is as to whether the Tribunal has committed an error while assessing the income of the claimant as Rs. 2,000/- per month or whether the same requires

any interference by this Court. Though oral evidence has been produced by the claimant before the Tribunal by examining himself as well as the owner of the kite manufacturing shop to show that he was earning a salary of Rs.6000/- per month but no documentary evidence has been produced on record to that effect. Hence, under the impression and belief, that the claimant was earning Rs. 6,000/- per month, while assessing the income of the claimant, he has been treated as a daily wager but while assessing his monthly income without any basis the same has been determined as Rs. 2000/- per month as per the notices issued by the Department of Labour Government of Rajasthan. The daily wages of an unskilled labour at the relevant time was Rs. 73 per day. If the aforesaid wages are calculated for a whole month, i.e., 30 days that comes around Rs.2,190/-. Hence, under these circumstances the claimant is entitled to get a suitable amount of compensation on the basis of this assessment of his monthly income, i.e.,Rs.2,190/-.

7. The Tribunal has assessed the age of the claimant within the age group of 40-45 years without any basis, especially when in the claim petition and in evidence, the age of the claimant has been mentioned as 34 years and no adverse document has been produced on record to show otherwise. Therefore, there was no reason or occasion available for the Tribunal to determine his age within the age group of 40-45 years. In the considered opinion of this Court, the age of the claimant should have been determined as 34 years. Hence, the claimant is entitled to get the benefit of multiplier of 16.

8. This fact is not in dispute that not a single penny has been award to the claimant under the head of additional amount of compensation for future prospects but looking to his age, which is below 40 years, i.e., 34 years at the time of accident, in light of the judgment passed by the Hon’ble Apex Court in the case of **National Insurance Company Vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680**, the claimant is entitled to get additional amount of compensation at the rate of 40% towards future prospects.

9. This Court finds no merit and substance in the arguments raised by the counsel for the claimant with respect to enhancement of compensation awarded under the head of pain and suffering. This Court is of the considered opinion that looking to his permanent disability, an amount of Rs. 38,000/- under the head of pain and suffering is just and proper.

10. Therefore, in light of the discussions made hereinabove, the claimant is entitled to get the following amount of enhanced compensation as reproduced in the table hereinunder:-

Monthly income (along-with 40% addition towards future prospectus)	Rs.210/- + Rs.2,190/- X 40% Rs.2,190+Rs.876/- = Rs.3,066/-
Annual income	Rs.3,066 X 12 = Rs.36,792/-
Multiplier to be applied	16 Rs.36,288 /- X 16 = Rs.5,88,672/-
Loss of Income (Owing to 13% disability)	Rs.5,88,672/- X 13% =Rs.76,527.36p
Pain & suffering for grievous injury	Rs.38,000/-
Pain & suffering for simple injury	Rs.1000/-
Treatment, Nutrition & hospitalization	Rs.24,200/-
Total compensation awardable	Rs.1,39,727.36p

Less amount awarded by the Tribunal	Rs.1,10,000/-
Enhanced amount of compensation	Rs.29,727.36p

10. Accordingly, the instant appeal stands partly allowed. The award passed by the Tribunal stands modified to the extent that the claimant is entitled to get a sum of Rs. 29,727.36p by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.
11. It is further ordered that enhanced compensation amount, a sum of Rs./- 29,727.36p be deposited in the Savings Bank Account of the claimant.
12. The respondents are directed to deposit the enhanced amount within a period of four weeks from today with interest @6% per annum from the date of filing of the claim petition.
13. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J