

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 409/2025

Jaipur Vidyut Vitran Nigam Limited and Anr.

----Appellants/Defendants

Versus

Kumari Payal Aged 14 Years

----Respondent/claimant

For Appellant(s) : Mr. Alok Garg with
Ms. Swati Daga

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

20/02/2025

1. Aggrieved from judgment and decree dated 28.11.2024 in civil suit No.32/2018 (42/2016) passed by learned District Judge, Jaipur District, Jaipur, the instant civil first appeal is preferred by the appellants-defendants.
2. Learned counsel for the appellants while referreing order dated 13.12.2023 in S.B. Civil First Appeal No.846/2023 passed by this Court, submits that for occurrence and incident in the jurisdiction of Mundawar, District Alwar, a civil suit was filed to procure claim at Jaipur in utter disregard to provision of jurisdiction under the CPC. He submits that they have moved an application under Order 7 Rule 11 CPC but learned trial Court has not decided application till disposal of civil suit on 28.11.2024.
3. He further submitted that father of injured has filed a compliant before the NHRC wherein NHRC has directed to pay final compensation of ₹5 Lacs to minor injured and in pursuant to order, the appellants have deposited compensation of ₹5 Lacs in NHRC but during pendency of proceedings before NHRC, the

father of minor injured has filed a suit under Section 1A of Fatal Accident Act before learned District Judge, Jaipur wherein an objection was raised by appellants after receipt of notice then an application under Order 33 Rule 1 of CPC was filed to treat the petition as pauper but on an enquiry when it has come to notice that the earning / assets of father of injured was more than ₹2 Lacs then respondent plaintiff has filed a Court fee of ₹ 2,02,125/- with claim valuation of ₹ 50 Lacs.

4. He further submits that the claimant has claimed compensation of ₹50 Lac in instant suit filed under general law of torts but learned trial Court awarded compensation of ₹99 Lacs, beyond the relief claimed by plaintiff. He further submits that learned trial Court has erroneously misinterpreted judgments and determined notional income of a five years old minor injured as ₹30,000/- per month which is contrary to law as laid down by Hon'ble Supreme Court in the case of **Meena Devi Vs. Nanu Chand Mahto @ Nemchand Mahto & Ors. : Civil Appeal No..... of 2022 (Arising out of Special Leave Petition (Civil) No.5345 of 2019)**. At last, he submitted that the proceedings and the judgment is a classic example of judicial indiscipline and ignorance of law.

5. Having considered aforesaid, issue notice to respondent.
6. Additional set be issued through registered speed post.
7. Considered stay application.
8. The effect and operation of judgment and decree dated 28.11.2024 in civil suit No.32/2018 (42/2016) shall remain stayed till further orders.



9. The Registrar General is directed to serve a copy of this order to learned Presiding Officer.

10. List in the month of May, 2025.

(ASHOK KUMAR JAIN),J

MR/45