

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 1591/2025

1. Babli W/o Late Gulshan, aged about 52 Years, (wife of deceased) R/o Chandigarh Bas, Nauganva, Tehsil Ramgarh, District Alwar, Rajasthan
2. Rajkumar S/o Gulshan, aged about 35 Years, (son of deceased) R/o Chandigarh Bas, Nauganva, Tehsil Ramgarh, District Alwar, Rajasthan
3. Bharat Bhushan S/o Gulshan, aged about 33 Years, (son of deceased) R/o Chandigarh Bas, Nauganva, Tehsil Ramgarh, District Alwar, Rajasthan
4. Manish S/o Late Gulshan, aged about 32 Years, (son of deceased) R/o Chandigarh Bas, Nauganva, Tehsil Ramgarh, District Alwar, Rajasthan

----Appellants

Versus

1. Altab S/o Bane, R/o Alampur, Police Station Nauganva District Alwar, Rajasthan (Driver vehicle motorcycle Number RJ 02 BY-1393)
2. Mubarik S/o Aas Mohammad, R/o Khilora Police Station Ramgarh, District Alwar, Rajasthan (registered owner vehicle motorcycle Number RJ 02 BY-1393)
3. The New India Assurance Company Limited, through Divisional Manager, Divisional Office, 1st Floor, Dream Building, Opposite Government Geetanand Children Hospital, Near Bijli Ghar Crossing, Alwar (Insurer Vehicle Motorcycle Number RJ 02 BY-1393)
4. Harish Chand S/o Charan Singh, aged about 82 Years, (father of deceased) R/o Chandigarh Bas, Nauganva, Tehsil Ramgarh, District Alwar, Rajasthan

----Respondents

For Appellant(s)	:	Mr.Ram Sharan Sharma
For Respondent(s)	:	Mr.V.P. Mathur

JUSTICE ANOOP KUMAR DHAND

Order

26/02/2026

1. By way of filing the instant appeal, a challenge has been made to the impugned judgment and award dated 03.02.2025 passed by the Motor Accident Claims Tribunal, Alwar (for short, "the Tribunal") in Claim Case No.536/2022 (C.I.S. No.538/2022) by which the claim petition submitted by the claimants-appellants (hereinafter referred to as "the claimants") has been partly allowed and the respondents have been directed to pay compensation of Rs.8,09,392/- to the claimants along-with interest @ 6% p.a. from the date of filing of the claim petition.

2. Aggrieved by the aforesaid, the claimants have approached this Court seeking enhancement of the amount of compensation so awarded by the Tribunal.

3. Learned counsel for the claimants submits that the deceased-Gulshan, i.e., husband of the claimant No.1 and father of claimant Nos.2 to 4, met with an accident on 16.08.2022 and died on the spot. The accident was caused by the driver of the motorcycle bearing No.RJ02-BY-1393, i.e., respondent No.1, by driving the motorcycle in a rash and negligent manner. Counsel submits that thereafter the claimants approached the Tribunal seeking suitable amount of compensation, however, the Tribunal has awarded a meagre amount under the head of loss of consortium. Counsel further submits that as per the judgment passed by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **2017 (16) SCC 860**, all claimants are entitled to receive a sum of Rs.40,000/- each under this head. Counsel further submits that the income of the deceased was assessed for

an unskilled daily wager, but while assessing his monthly income, the same has been determined for 26 days in a month instead of 30 days by the Tribunal. Counsel submits that the same should have been determined for 30 days in a month in light of the judgment passed by this Court in the case of **Nandu Devi & Anr. Vs. Sohan Lal & Ors.**, while deciding **S.B. Civil Misc. Appeal No.769/2017** on 23.02.2022. Lastly, he argued that for the amount awarded under the head of future prospects, interest has not been awarded by the Tribunal. Counsel submits that under these circumstances, the impugned award needs suitable enhancement.

4. *Per contra*, learned counsel appearing on behalf of the respondent-Insurance Company opposes the arguments raised by counsel for the claimants and submits that after considering all documents and evidence available on record, a just compensation has been awarded in favour of the claimants by the Tribunal under all the respective heads. Hence, under these circumstances, the impugned award needs no 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 while passing the impugned award, the Tribunal has determined the income of the deceased for 26 days in a month instead of 30 days. This Court has already taken the view that daily wagers are supposed to work for 30 days in a month and not for 26 days as this view has already been taken in the case of **Nandu Devi** (supra), hence,

under these circumstances, the income of the deceased is required to be determined for 30 days in a month instead of 26 days.

7. This Court finds substance in the arguments raised by counsel for the claimants that each of the claimants, i.e., claimant No.1 to 4 are entitled to receive an amount of Rs.40,000/- separately under the head of loss of consortium in terms of the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra). Looking to the fact that the accident took place in the instant case on 16.08.2022, the amounts awarded by the Tribunal under the heads of Loss of Estate and Funeral Expense, i.e., Rs.18,000/- each, appears to be at the higher side and the same deserves to be reduced. Accordingly, taking note of the facts that the accident in the instant case is on 16.08.2022, this Court deems it just and proper to award Rs.16,500/- under the head of Loss of Estate and Rs.16,500/- under the head of Funeral Expense.

8. This Court also finds substance in the arguments raised by counsel for the claimants that the claimants are entitled to receive interest even on the amount so awarded under the head of future prospects.

9. Considering overall above facts and circumstances of the case, the instant appeal stands partly allowed and the claimants would be entitled to get following enhanced amount of compensation, which is reproduced as under:

Monthly Income (along-with 10% addition towards future prospectus & 1/4 deduction)	Rs.259 X 30 X 3/4 =Rs.5,827.5p Rs.5,827.5 + Rs.582.75p
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	=Rs.6,410.25p
Annual Income	Rs.6,410.25p X 12 =Rs.76,923/-
Multiplier	Rs. 76,923 x 11 =Rs.8,46,153/-
Loss of Consortium	Rs.40,000/- X 4 =Rs.1,60,000/-
Loss of Estate	Rs.16,500/-
Funeral Expense	Rs.16,500/-
Total compensation awardable	Rs.10,39,153/-
Less amount awarded by the Tribunal	Rs.8,09,392/-
Enhanced amount of compensation	Rs.2,29,761/-

10. Accordingly, the instant appeal stands partly allowed and the award passed by the Tribunal stands modified to the extent that the claimants would now be entitled to get a further sum of Rs.2,29,761/- by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

11. It is further ordered that out of the enhanced amount, a sum of Rs.50,000/- be deposited in the Savings Bank Account of the claimant No.1 and the remaining amount be deposited in a fixed deposit with any Nationalized Bank initially for a period of three years and the interest accrued on the said amount shall be paid in the savings bank account of the claimant No.1 on monthly basis.

12. It is further made clear that the respondents would deposit the enhanced amount within a period of four weeks from today with interest @ 6% p.a. from the date of filing of the claim petition.

(ANOOP KUMAR DHAND),J