

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 1871/2024

1. Smt. Makhina Devi W/o Ramkaran, Aged About 26 Years, R/o Ward No. 5 Govindpura Dhabai, Tehsil Shahpura, District Jaipur, Rajasthan.
2. Sahil S/o Late Ramkaran, Aged About 6 Years, Minor Through Guardian Mother Smt. Makhina Devi, R/o Ward No. 5 Govindpura Dhabai, Tehsil Shahpura, District Jaipur, Rajasthan.

----Appellants

Versus

1. Kaluram S/o Bheruram, R/o Balaiyo Ka Mohalla Letkabas, Tehsil Shahpura Diss. Jaipur (Driver Of Vehicle Car No. Rj-23-QC-6593).
2. Babulal S/o Pokharmal Sain, R/o Plot No. 20 Kumawat Badi Khatipura, At Present Ward No. 13 Mohalla Letkabas, Tehsil Shahpura Distt. Jaipur. (Registered Owner Car No. Rj-23-QC-6593).
3. HDFC ERGO Insurance Company Ltd., Through Regional Manager Address 3rd Floor Sangi Upasna Tower Subhash Marg, C-Scheme Jaipur (Insurance Company Car No. Rj-23-Qc-6593).

----Respondents

For Appellant(s)	:	Mr. Ram Sharan Sharma
For Respondent(s)	:	Mr. Deshraj Sain with Mr. Lokesh Kumar Sharma Mr. Ankit Nakwal for Mr. Gopal Prasad Gupta

JUSTICE ANOOP KUMAR DHAND

Judgment

18/02/2026

1. By way of filing the present appeal, a challenge has been led to the impugned judgment and award dated 22.02.2024 passed

by the Motor Accidents Claims Tribunal-cum-Additional District Judge No.2, Shahpura, District Jaipur (hereinafter referred to as "the Tribunal") in Claim Case No.191/2018 by which the claim petition submitted by the claimants-appellants (hereinafter referred to as "the claimants") has been partly allowed and the respondents are directed to pay compensation of Rs.11,66,476/- to the claimants.

2. Learned counsel for the claimants submits that the husband of the claimant No.1 met with an accident on 30.04.2018 when he was riding his motor bike, an accident was caused by the driver of the Maruti Car bearing No.RJ-14-QC-6593 by driving the offending vehicle in a rash and negligent manner, due to which the deceased passed away on the spot, for which an FIR was registered with the Police Station Shahpura and after investigation, charge-sheet was submitted against the driver of the vehicle. Thereafter, a claim petition was filed by the claimants seeking suitable amount of compensation against the respondents.

3. Counsel submits that the age of the deceased at the time of the said accident was 25 years and the same was mentioned in the memo of the claim petition and in the post-mortem report as Ex. 13 but without any basis, the Tribunal has recorded a finding that looking to the age of the wife of the deceased i.e. 22 years, the age of the deceased might be within the range of 26-30 years. Counsel further submits that there was no reason to record such finding while considering to the age mentioned in the post-mortem report, and the age of the deceased should have been considered

as 25 years and accordingly the multiplier of 18 should have been applied for assessing the quantum of compensation.

4. Counsel further submits that the Tribunal has treated the work of the deceased as a work of unskilled labour and, accordingly, his monthly income has been assessed as Rs. 5,538/- treating his daily wages as Rs. 213/- per day as per the relevant circular issued by the Government of Rajasthan. Counsel submits that while assessing the aforesaid income of the deceased, the income has been determined for 26 days in a month instead of 30 days. Counsel submits that in the 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 the claimants are entitled to get amount of compensation for 30 days instead of 26 days. Hence, under these circumstances, the impugned award needs suitable enhancement.

5. *Per contra*, learned counsel appearing on behalf of the respondents opposes the arguments raised by counsel for the claimants and submits that not a single document with regard to age of the deceased has been produced on record and under these circumstances, the Tribunal has not committed any error by holding that the age of the deceased falls within the range of 26 to 30 years and while considering the age of the wife of the deceased, i.e., 22 years at the time of accident. Counsel submits that under all the heads, a suitable amount of compensation has been awarded by the Tribunal which needs no interference of this Court and the appeal is liable to be rejected.

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

7. Perusal of the record indicates that the husband of the claimant No.1 met with an accident on 30.04.2018. Thereafter, his post-mortem was conducted, wherein, his age was mentioned as 25 years and even in the claim petition also his age was mentioned as 25 years. At the time of filing of the claim petition, the age of the claimant No.1 was 22 years who was the wife of the deceased. It is correct that no documentary evidence has been produced by both sides with regard to the specific age of the deceased, but this Court failed to understand that on what basis the Tribunal has come to the conclusion that looking to the age of the wife of the deceased i.e. 22 years, the age of the deceased was assumed to be within 26-30 years. Looking to the fact that in the post-mortem report, the age of the deceased has been mentioned as 25 years and the same has been mentioned in the claim petition as well, the Tribunal has committed an error in not treating the age of the deceased as 25 years at the time of accident. Hence, under these circumstances, in the light of the judgment passed by the Hon'ble Apex Court in the Case of **Sarla Verma (SMT.) & Ors. Versus Delhi Transport Corporation & Anr.** reported in **2009 Volume 6 SCC 121**, the multiplier of 18 is applicable in the present case.

8. Looking to the law propounded by this Court in the case of **Nandu Devi** (supra) the claimants are entitled to get compensation for 30 days instead of 26 days.

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

Monthly income (along with 40% future prospects)	$213 \times 30 = \text{Rs. } 6,390/-$ $\text{Rs. } 63,90 + 2556/-$ $= \text{Rs. } 8946/-$
Annual Income	$\text{Rs. } 8946 \times 12$ $= \text{Rs. } 1,07,352/-$
Multiplier to be applied	18 $\text{Rs. } 1,07,352 \times 18$ $= \text{Rs. } 19,32,336/-$
Deduction toward personal and living expenses of the deceased (1/3rd)	$\text{Rs. } 19,32,336 \times 2/3$ $= \text{Rs. } 12,88,224/-$
Loss of consortium	$\text{Rs. } 40,000 \times 2$ $= \text{Rs. } 80,000/-$
Loss of estate	$\text{Rs. } 15000/-$
Funeral Expense	$\text{Rs. } 15000/-$
Total compensation awardable	$\text{Rs. } 13,98,224/-$
Less amount awarded by the Tribunal	$\text{Rs. } 11,66,476/-$
Enhanced compensation amount	$\text{Rs. } 2,31,748/-$

10. With the aforesaid observations and directions, the instant civil misc. appeal stands disposed of and the impugned award passed by the Tribunal stands modified to the extent that the claimant is entitled to get a sum of Rs.2,31,748/- by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.

11. It is further ordered that out of the enhanced compensation 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 to the claimant on monthly basis.

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