

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 3999/2015

Smt Aamna Banu W/o Late Shri Shafi Mohammad, aged about 54 years, R/o Bheem, Police Station - Bheem, Tehsil - Bheem, District -Rajsamand (Raj)

----Appellant / Claimant

Versus

1. Mohan Singh S/o Shri Karam Singh, R/o Bhuriya Khera Kalan Police Station Jawaja, Tehsil Beawar, District-Ajmer (Raj)
(Driver of Vehicle Bus No. RJ 36-P-0491)
2. Rajasthan State Road Transport Corporation through Depot Manager, Beawar Depot, Beawar (Raj)
(Owner & Insurer of Vehicle Bus No. RJ36-P-0491)

----Respondents

For Appellant(s)	:	Mr. Akshay Sharma
For Respondent(s)	:	Mr. S.L. Sharma

HON'BLE MR. JUSTICE SANDEEP TANEJA

Judgment

27/04/2026

1. The present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 by the claimant-appellant (for short 'claimant') against the judgment and award dated 10.03.2015 passed by the learned Motor Accident Claims Tribunal and Additional District & Sessions Judge No. 2, Beawar (for short 'Tribunal') in Claim Case No.101/14 (304/13) whereby the claim petition filed by the claimant was partly allowed.

2. The brief facts of the case giving rise to the present appeal are that the claimant filed a claim petition before the learned Tribunal stating therein that on 06.04.2013, at about 2:15 PM, when Shafi Mohammad (since deceased) was going towards his home on his vehicle i.e., Luna, a bus bearing registration No. RJ36-P-0491, being driven by respondent No. 1 in a rash and negligent manner, came from wrong

side and hit the vehicle of deceased, as a result of which, he sustained grievous injuries and died on the spot.

3. The learned Tribunal, vide impugned judgment and award, partly allowed the claim petition and awarded a compensation of Rs.3,00,000/- in favour of the claimant, along with interest @ 6% per annum from the date of filing of the claim petition.

4. Being dissatisfied with the aforesaid judgment and award, the claimant has preferred the present appeal seeking enhancement of the compensation so awarded.

5. Learned counsel for the claimant has submitted that while calculating the monthly income of the deceased on the basis of minimum wages notified by the State of Rajasthan for an unskilled worker for the relevant period, the learned Tribunal has erred in taking 26 days in a month, however, the monthly income ought to have been calculated by taking 30 days in a month.

5.1 Learned counsel further submitted that at the time of accident, the age of deceased was 55 years, hence, addition @ 10% should also be made in the income of the deceased towards future prospects.

5.2 It is also submitted that the compensation under the three conventional heads i.e., loss of consortium, loss of estate and funeral expenses should also be re-assessed.

6. *Per contra*, learned counsel for the respondents has opposed the submissions made by learned counsel for the claimant and submitted that the award passed by the learned Tribunal is just and fair; therefore, no interference by this Court is warranted.

7. Heard learned counsel for the parties and perused the impugned judgment and award.

8. With regard to the first contention raised by the learned counsel for the claimants, a bare perusal of the impugned judgment and award reveals that the learned Tribunal has calculated the monthly income of the deceased at Rs.4316/- by taking 26 days in a month, on the basis of minimum wages payable to an unskilled worker for the relevant period, which were Rs.166/- per day.

8.1 In this regard, the Co-ordinate Benches of this Court, in **Jalaur Singh and Ors. Vs. Barkat and Ors.**, S.B. Civil Misc. Appeal No. 6562/2011, decided on 26.03.2012, and **Nandu Devi and Ors. Vs. Sonhanlal and Ors.**, S.B. Civil Misc. Appeal No. 769/2017, decided on 23.02.2022, have held that the calculation of the monthly income of the deceased, on the basis of minimum wages, is required to be made by taking 30 days in a month.

8.2 In view of the above legal position, the monthly income of the deceased will be calculated by taking 30 days in a month.

8.3 Undisputedly, in the present case, the minimum wages payable to an unskilled worker at the time of the accident, as notified by the State of Rajasthan, were Rs.166/- per day. Therefore, the monthly income of the deceased would amount to Rs.4980/- (Rs.166/- x 30) instead of Rs.4,316/-, and the loss of dependency shall be calculated on the basis of said monthly income.

9. In so far as the second contention of the claimant is concerned, the learned Tribunal has determined that at the time of accident, the age of claimant as 55 years, therefore, as per the guidelines laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. v. Pranay Sethi**, reported in **(2017) 16 SCC 680**, addition @ 10% will be made in the income of the claimant towards future prospects.

10. Moreover, this Court also finds substance in the last contention raised by learned counsel for the claimant. Therefore, the claimant are awarded compensation under the three conventional heads in the following terms:

- (i) Compensation towards loss of consortium will be Rs.40,000/- instead of Rs.10,000/- as awarded by learned Tribunal.
- (ii) Under the head of funeral expenses, compensation will be Rs.15,000/-.
- (iii) The claimant is also entitled to compensation of Rs.15,000/- under the head of loss of estate.

11. In view of the above discussion, the compensation payable to the claimant is re-computed as under:-

S.No.	Particular	Amount assessed
1.	Monthly Income	Rs.166 x 30 = Rs.4,980/-
2.	Annual Income	Rs.4980 X 12 = Rs.59,760/-
3.	According to the age of the deceased i.e. about 55 years, multiplier of 11 to be applied	Rs. 59,760 x 11 = Rs.6,57,360/-
4.	As per dependency, 1/2 income to be deduced for personal expenses of the deceased (-)	Rs.6,57,360 – Rs.3,28,680/- = Rs.3,28,680/-
5.	Add 10% towards future prospects (+)	Rs.3,28,680 + Rs.32,868/- = Rs.3,61,548/-
6.	Loss of Consortium	Rs.40,000/-
7.	Loss of Estate	Rs.15,000/-
8.	Funeral Expenses	Rs.15,000/-
	Total Compensation (S.No.5+6+7+8)	Rs. 4,31,548/-
	Less amount awarded by the Tribunal (-)	Rs.3,00,000/-
	Enhanced amount of compensation	Rs.1,31,548/-

12. Accordingly, the compensation awarded by the learned Tribunal is enhanced by **Rs.1,31,548/-**. The respondents are directed to deposit the enhanced amount within a period of two months from today. The rest of the impugned award shall remain intact.

13. It is directed that the enhanced amount shall carry interest at the same rate as awarded by the learned Tribunal, from the date of filing of the claim petition. The enhanced amount shall be disbursed in terms of the award passed by the learned Tribunal.

14. The impugned award is modified in the above terms and the appeal is partly allowed.

15. All pending applications, if any, also stand disposed of.

(SANDEEP TANEJA),J