

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 1630/2016

1. Smt. Kashmir Kaur W/o Late Shri Jogendra Singh, aged 46 years,
  2. Kum. Geeta Kaur D/o Late Shri Jogendra Singh, aged 25 years,
  3. Saranjeet Singh S/o Late Shri Jogendra Singh, aged 24 years,
  4. Sohan Singh S/o Late Shri Jogendra Singh, aged 22 years,
  5. Gurudev Singh S/o Late Shri Jogendra Singh, aged 20 years,
  6. Sarvajeet Singh S/o Late Shri Jogendra Singh, aged 18 years,
- All R/o Village Barwas, District Bundi (Raj.)

----Appellants/Claimants

7. Smt. Basant Kaur (died and deleted)

Versus

1. Banshi Lal Alias Banshidhar S/o Shri Kishan Lal, R/o Village Raghunathpura, District Jaipur (Raj.) (Driver)
2. Goyal Service Centre, Plot No.6, Shiv Heera Path, Amagadh, Agra Road, Jaipur (Raj.)
3. The National Insurance Company Limited, Regional Office, near Jyoti Nagar Turn, Bhawani Singh Road, Jaipur through Regional Manager.

----Non-Claimants-Respondents

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|-------------------|---|--------------------------|
| For Appellant(s)  | : | Mr. Sandeep Mathur, Adv. |
| For Respondent(s) | : | None Present             |

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**JUSTICE ANOOP KUMAR DHAND**

**Order**

**17/02/2026**

1. The instant appeal has been preferred against the impugned judgment and award dated 11.12.2015 passed by the Motor Accident Claims Tribunal, District Bundi (for short "the Tribunal") in MAC Case No.439/2008, by which the claim petition submitted by the appellants-claimants (for short "the claimants") has been partly allowed and the respondents have

been directed to pay compensation of Rs.11,86,000/- to the claimants along-with interest @ 7.5% per annum from the date of judgment till payment is made.

2. Being dissatisfied by the aforesaid award, the claimants have approached this Court by way of filing the instant Civil Misc. appeal seeking enhancement of the amount of compensation awarded by the Tribunal vide impugned judgment and award dated 11.12.2015.

3. Learned counsel for the claimants submits that the deceased-Jogendra Singh was engaged in mechanical digging of soil using a JCB machine, but an accident was caused by the driver of the other vehicle i.e. dumper bearing registration No. RJ-14-GB-4316, while driving the said vehicle in a rash and negligent manner, due to which Jogendra Singh died on the spot. Learned counsel submits that the claimants being dependents of the deceased approached the Tribunal by way of filing the claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short "the Act of 1988") seeking suitable amount of compensation, but inadequate compensation has been awarded.

4. Learned counsel submits that the deceased was employed as driver with 'Punjilloyd Limited' and his basic salary was Rs.12,000/- and his special allowances were Rs.3,558/- with CA Rs.950/-. Learned counsel submits that the aforesaid salary certificate of the deceased was produced on record and the same was marked as Exhibit-12, but the Tribunal has not relied upon the same without any basis and treating the deceased as a skilled labour driver, his monthly

income has been determined as Rs.5,000/- for the purpose of determination of income. Learned counsel submits that compensation should have been awarded considering the salary certificate produced by the claimants on record.

5. In support of his contention, learned counsel has placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Rajwati @ Rajjo & Ors. Vs. United India Insurance Company Ltd. & Ors.** Reported in **2022 SCC Online SC 1699**. He further submits that under the head of loss of consortium, a very meagre amount has been awarded by the Tribunal. Looking to the facts of the case and applying the law proposed by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 860**, a sum of Rs.40,000/- should have been granted to each of the claimants, who are six in number, as the mother of the deceased has passed away during the pendency of the claim petition. He further submits that the age of the deceased was 40 years at the time of the accident, hence, under the head of future prospects a suitable amount should have been granted, but not a single penny has been awarded and the claimants have been awarded 30% of the amount, under the head of future prospects which should have been 40% in terms of the judgment passed by the Hon'ble Apex Court in **Pranay Sethi** (supra). Under these circumstances, the compensation awarded in the impugned judgment and award needs enhancement accordingly.

6. None has put an appearance on behalf of the respondents in-spite of service.

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

8. Perusal of the record indicates that at the time of the accident, the age of the deceased was 40 years and he has died on account of the accident caused by the driver of the offending vehicle i.e., dumper bearing registration No. RJ-14-GB-4316. Counsel for the claimants has placed reliance upon the Salary Certificate Exhibit-12 of the deceased, which has not been relied by the Tribunal and the monthly income of the deceased has been determined as Rs.5,000/- for the purpose of determination of his income. In the considered opinion of this Court, the Tribunal has not committed an error in doing so, as the employer has not been examined in the witness box, hence, the genuineness of the certificate has not been proved on the record.

9. This Court finds substance in the arguments raised by counsel for the claimants that under the head of loss of consortium, a petty amount of compensation has been awarded in favour of the claimants. In terms of the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra), each of the claimants are entitled to get a sum of Rs.40,000/- separately. Hence, the amount is liable to be enhanced under the head of loss of consortium.

10. This Court also finds substance in the argument of counsel for the claimants that the claimants are entitled to get 40% under the head of future prospects in terms of the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra).

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

|                                                                               |                                                               |
|-------------------------------------------------------------------------------|---------------------------------------------------------------|
| <b>Annual income (along with 40% future prospects)</b>                        | <b>5000 X 12<br/>= Rs. 60,000 + 24,000<br/>= Rs. 84,000/-</b> |
| <b>Multiplier to be applied</b>                                               | <b>15<br/>Rs. 84,000 X 15<br/>= Rs. 1,26,000/-</b>            |
| <b>Deduction towards personal and living expenses of the deceased (1/4th)</b> | <b>Rs. 1,26,000 X 3/4<br/>= Rs. 9,45,000/-</b>                |
| <b>Loss of consortium</b>                                                     | <b>Rs. 40,000 X 6<br/>= Rs. 2,40,000/-</b>                    |
| <b>Funeral Expense</b>                                                        | <b>Rs. 15,000/-</b>                                           |
| <b>Loss of Estate</b>                                                         | <b>Rs. 15,000/-</b>                                           |
| <b>Litigation Expenses</b>                                                    | <b>Rs. 5,000/-</b>                                            |
| <b>Total compensation awardable</b>                                           | <b>Rs. 12,20,000/-</b>                                        |
| <b>Less amount awarded by the tribunal</b>                                    | <b>Rs. 11,86,000/-</b>                                        |
| <b>Enhanced compensation amount</b>                                           | <b>Rs. 34,000/-</b>                                           |

12. 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. 34,000/- by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.

13. It is further ordered that the enhanced compensation amount be deposited in a fixed deposit in the name of claimant No.1-Smt. Kashmir Kaur 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.

14. 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.

15. Pending applications, if any, also stand disposed of.

**(ANOOP KUMAR DHAND),J**

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