

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

S.B. Civil Miscellaneous Appeal No. 1507/2021

Regional Manager, Iffco Tokio General Insurance Company Limited, Address- Third Floor A-13, And 37, Hanuman Nagar, Khatipura Tiraha, Sirsi Road, Jaipur, Presently At 2Nd Floor, Bhagwati Bhawan, Government Hostel Crossing M.I. Road, Jaipur-302001, Rajasthan (Insurance Company Trailer No. HR-55-N-8581)

----Appellant

Versus

1. Shrimati Sunita Devi W/o Late Shri Omprakash, Resident Of Dhaani Seesatya, Tan Bajrangpura, Antela Police Station Shahpura, District Jaipur.
2. Kumari Ameesha D/o Late Shri Omprakash, Aged About 5 Years, Resident Of Dhaani Seesatya, Tan Bajrangpura, Antela Police Station Shahpura, District Jaipur.
3. Devraj S/o Late Shri Omprakash, Aged About 4 Years, Resident Of Dhaani Seesatya, Tan Bajrangpura, Antela Police Station Shahpura, District Jaipur.
4. Manglaram S/o Shri Nanag, Resident Of Dhaani Seesatya, Tan Bajrangpura, Antela Police Station Shahpura, District Jaipur.
5. Prabhati W/o Manglaram, Resident Of Dhaani Seesatya, Tan Bajrangpura, Antela Police Station Shahpura, District Jaipur.
6. Laxmi Narayan Jat S/o Shri Nanuram Jat, Resident Of 105, Sushant Lok, Gurgaon, Haryana. (Registered Vehicle Owner Trailer No. Hr-55-N-8581)

----Respondents

For Appellant(s) : Mr.Yashdeep Singh, Adv.

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

13/09/2021

Learned counsel for the appellant submitted that the Court below while passing the award dated 29.07.2021 has failed to consider that deceased was not under permanent employment of owner of the vehicle and as such, employee-employer relationship was not established.

Learned counsel further submitted that initially the version of wife of deceased was relating to heart attack suffered by the deceased and later on, version was changed by turning as an accident while driving the vehicle by deceased.

Issue notice of the appeal as well as stay application, returnable within five weeks.

In the meanwhile, the effect and operation of the impugned award dated 29.07.2021 shall remain stayed. The Appellant is directed to deposit the entire award amount within a period of five weeks. The Tribunal is directed to disburse 50% of the amount to the claimants, after taking an undertaking that the amount so paid will be subject to final outcome of the appeal and in case, the appeal of the Appellant is allowed, the claimants would be required to refund the money back.

It is made clear that the aforesaid disbursement of the amount will be made in the Savings Bank Account of the claimant(s).

The rest 50% of the award amount, to be deposited by the appellant, will be kept in FDR for a period of one year and will be renewed from time to time.

(ASHOK KUMAR GAUR), J