

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



S.B. Civil Miscellaneous Appeal No. 36/2016

1. Smt Indra Devi W/o late Shri Sukhdev, aged 33 years
2. Suresh S/o late Shri Sukhdev, aged 15 years
3. Ramesh S/o late Shri Sukhdev, aged 13 years
4. Sonu S/o late Shri Sukhdev, aged 11 years
5. Smt. Sarju Devi W/o Shri Kanaram, aged 68 years
6. Kanaram S/o late Shri Bhura Ram, aged 63 years.

No. 2 to 4 minors through their natural guardian and mother
Smt. Indra Devi W/o late Shri Sukhdev, aged 33 years.

Residents of Gurjaro Ka Bada, Kishangarh, District - Ajmer.

Claimants----Appellants

Versus

1. Kanhiya Lal Raigar S/o Shri Bhanwar Lal Raigar, R/o village Silora, Tehsil Kishangarh, District - Ajmer. (Driver)
2. Ganga Singh S/o Shri Indra Singh, R/o Village Buhada Mundolav, Tehsil Kishangarh, District - Ajmer (Raj.). (Owner)
3. The Iffco Tokiyo General Insurance Co. Limited, Regional Office, 8, Katewa Bhawan, Opposite Ganpati Plaja, M.I. Road, Jaipur, through Regional Manager.

Non-Claimants----Respondents

For Appellant(s)	:	Mr. Kapil Sharma, for Mr. Sandeep Mathur
For Respondent(s)	:	Mr. Ritesh Jain with Dr. Ramdeo Arya

HON'BLE MR. JUSTICE SANDEEP TANEJA

Judgment

24/04/2026

1. The present appeal has been filed by the appellants-claimants (for short 'claimants') under section 173 of the Motor Vehicle Act, 1988 against the judgment and award dated

17.08.2015 passed by the learned Motor Accident Claims Tribunal, Jaipur and Rajasthan State Cooperative Tribunal, Jaipur (for short 'Tribunal') in M.A.C. Case No.149/2014 (491/2012) whereby the claim petition filed by the claimants was partly allowed.

2. The brief facts of the case are that the claimants filed a claim petition before the learned Tribunal, claiming a compensation of Rs.28,78,800/-, on account of death of Shri Sukhdev in a road accident took place on 03.11.2010, while he was travelling on a motorcycle bearing registration No.RJ-01-SF-8198. During the accident, Sukhdev sustained grievous injuries and later on died on 16.11.2010.

3. The learned Tribunal, vide impugned judgment and award, partly allowed the claim petition and awarded a compensation of Rs.4,05,000/- in favour of the claimants, along with interest @9% per annum from the date of filing of the claim petition till payment.

4. Being dissatisfied with the impugned judgment and award, this appeal has been preferred by the claimants seeking enhancement of the compensation so awarded.

5. Learned counsel for the claimants has made the following submissions:-

- i. While calculating the loss of dependency, the learned Tribunal has erred by not making any addition in the income of deceased towards future prospects.
- ii. The learned Tribunal has deducted 1/3rd of the income of deceased towards his personal expenses, however, since the number of dependants on deceased at the time of accident

were six, therefore, deduction of 1/4th should have been made.

iii. Lastly, the compensation under the three conventional heads, i.e., loss of consortium, loss of estate and funeral expenses should also be reassessed.

6. *Per contra*, learned counsel for respondents has opposed the submissions made by learned counsel for the claimants and has submitted that the award passed by the learned Tribunal is just and proper, and requires no interference by this Court.

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

8. In view of the principles laid down by the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** and **Magma General Insurance Company Vs. Nanuram @ Chuhru Ram & Ors.** reported in **(2018) 18 SCC 130**, this Court is in agreement with the submission made by learned counsel for the claimants. Hence, the compensation as awarded by the learned Tribunal deserves to be enhanced in the following terms:-

- i. The learned Tribunal noted that at the time of accident, the age of the deceased was 36 years. Therefore, while calculating the compensation towards loss of dependency, addition @40% will be made in the income of the deceased towards future prospects.
- ii. The learned Tribunal deducted 1/3rd of the income of the deceased towards his personal expenses. Undisputedly, at the time of accident, there were six dependants on the

deceased, therefore, 1/4th of his income would be deducted towards his personal expenses.

- iii. Under the head of loss of consortium, each of the claimants is entitled to get compensation of Rs.40,000/- separately.
 - iv. The claimants are also entitled to Rs.15,000/- under the head of loss of estate.
 - v. The learned Tribunal has awarded Rs.2000/- towards funeral expenses, however, the claimants are entitled for a compensation of Rs.15,000/- towards the same.
9. As a result of the above discussion, the compensation payable to the claimants is re-computed as under:-

S.No.	Particular	Amount assessed
1.	Monthly Income	Rs.3,300/-
2.	Annual Income	Rs.3,300 x 12 = Rs.39,600/-
3.	According to the age of the deceased i.e. 36 years, multiplier of 15 to be applied	Rs.39,600 x 15 = Rs.5,94,000/-
4.	Add 40% towards future prospects (+)	Rs. 5,94,000 + Rs.2,37,600 = Rs.8,31,600/-
5.	As per dependency, 1/4th of the income to be deduced for personal expenses of deceased (-)	Rs.8,31,600 – Rs.2,07,900 = Rs.6,23,700/-
6.	Loss of consortium (six dependants)	Rs.40,000 x 6 = Rs.2,40,000/-
7.	Loss of Estate	Rs.15,000/-
8.	Funeral Expenses	Rs.15,000/-
	Total compensation (S.No.5+6+7+8)	Rs.8,93,700/-
	Less amount awarded by the Tribunal (-)	Rs.4,05,000/-
	Enhanced amount of compensation	Rs.4,88,700/-

10. Accordingly, the compensation awarded by the learned Tribunal is enhanced by **Rs.4,88,700/-**. The rest of the impugned award shall remain intact. The respondents are directed to deposit the enhanced amount within a period of two months from today.

11. 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.

12. The present appeal is disposed of in the above terms.

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

(SANDEEP TANEJA),J