

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Cross Objection (Civil) No.47/2016

Kailash S/o Shri Umraw, R/o Badh Dhundhla Tehsil Bansur,
District Alwar, Rajasthan

----Petitioner

Versus

1. Ghanshyam S/o Shri Madhadas, R/o Kanugowali Dhani,
Tan Holawas, Police Station Bansur, District Alwar Raj.
Driver Of Vehicle No. Rj-32-C-0564
2. Gokul S/o Shri Madhadas, R/o Kanugowali Dhani, Tan
Holawas, Police Station Bansur, District Alwar Raj.
Owner Of Vehicle No. RJ-32-C-0564
3. National Insurance Company Limited, Through Regional
Manager, Regional Office-6, Aerodrum Road, Alwar
Rajasthan. Insurer Of Vehicle No. RJ-32-C-0564.

----Respondents

Connected With

S.B. Civil Miscellaneous Appeal No.2275/2015

Kailash S/o Shri Umraw, aged about 49 years Resident of Badh
Dhundhla Tehsil Bansur, District Alwar, Rajasthan

----Petitioner

Versus

1. Ghanshyam S/o Shri Madhadas, R/o Kanugowali Dhani, Tan
Holawas, Police Station Bansur, District Alwar Raj.
(Driver Of Vehicle No. RJ-32-C-0564)
2. Gokul S/o Shri Madhadas, R/o Kanugowali Dhani, Tan
Holawas, Police Station Bansur, District Alwar Raj.
(Owner Of Vehicle No. RJ-32-C-0564.)
3. National Insurance Company Limited, Through Regional
Manager, Regional Office-6, Aerodrum Road, Alwar Rajasthan.
Insurer Of Vehicle No. RJ-32-C-0564

----Respondent

For Petitioner(s)	:	Mr. J.K. Yogi Mr. Yenu Satyam
For Respondent(s)	:	Ms. Bharti Trivedi

JUSTICE ANOOP KUMAR DHAND

Order

09/02/2026

1. The instant civil misc. appeal has been preferred by the claimant-appellant (for short "the claimant") against the impugned award dated 13.11.2014 passed by the Motor Accident Claims Tribunal, Bansur, District Alwar (for short "the Tribunal") by which the compensation of Rs.2,53,993/- has been awarded along with interest @8%p.a. with effect from the date of filing the claim petition, till its actual payment.

2. Learned counsel for the claimant submits that on the date of the accident, i.e. 25.07.2008, the claimant was travelling from Talvriksha to Bansur on a motor bike with one Satyanarayan. During their travel, near Khori village one jeep bearing No.RJ32-C-0564, was being driven in a rash and negligent manner and struck the claimant's vehicle causing an accident wherein the claimant sustained several grievous injuries on various parts of his body and also sustained 24% permanent disability. Learned counsel submits that the claimant was hospitalized for more than 18 days, but under the head of pain and suffering, the Tribunal has awarded a petty amount of Rs.10,000/- and not a single penny has been awarded to the claimant under the head of future prospects in accordance with the judgment passed by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 860**. Hence, the impugned award needs suitable enhancement.

3. *Per contra*, learned counsel appearing for the respondent-

Insurance Company opposed the arguments raised by learned counsel for the claimant and submits that the Insurance Company has submitted cross-objection bearing Civil Cross Objection No.47/2016 and she further submitted that the claimant has been treated as daily wager and his daily wages have been determined as Rs.150/- per day while at the relevant time, the daily wages of unskilled labour was Rs.100/- per day only. But without any basis, the Tribunal has determined the claimant's daily wages as Rs.150/-, hence, the impugned award is liable to be modified accordingly and the cross-objection submitted by the Insurance Company is liable to be allowed.

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

5. Perusal of the record indicates that when the accident occurred, the claimant was 49 years old working as an agriculturist and as a result of the accident, he has sustained various injuries on different parts of his body and he has also sustained 24% permanent disability.

6. This fact is not in dispute that at the time of accident, i.e, on 25.07.2008, the daily wages of unskilled labour was Rs.100/- per day, but without any basis, the same has been determined by the Tribunal as Rs.150/-per day. With no stretch of imagination, it can be believed that the unskilled labour was getting Rs.150/- per day in the year 2008. Even if, the claimant is treated as semi-skilled or skilled daily wager then also his wages cannot be treated as Rs.150/- per days because at the relevant time, the daily wages of semi-skilled was Rs.107/- and the daily wages of skilled labour

was Rs.115/-.

7. In this regard, no documentary evidence has been produced, on the record to show that the claimant had any specialised training to be treated as a skilled labour, hence, he is liable to be treated as unskilled labour and he is entitled to get compensation at the rate of daily wages of Rs.100/-. Under these circumstances, the Tribunal has committed an error in determining his income at a daily wage of Rs.150/-, which should have been determined at a daily wage of Rs.100/-. Hence, under these circumstances, Civil Cross Objection No.47/2016 submitted by the Insurance Company stands partly allowed.

8. Now, this Court proceeds to deal with the other two arguments raised by counsel for the claimant with regards to the Tribunal awarding a petty amount of compensation under the head of pain and suffering and also not awarding any amount under the head of future prospects.

9. Looking to the fact that the injured has sustained various injuries on several parts of his body, he has sustained 24% permanent disability and he has also remained hospitalized for a period of 18 days. Hence, under these circumstances, an amount of Rs.10,000/- granted to the claimant under the head of physical pain and mental agony is quite inadequate, and the same is liable to be enhanced to Rs.50,000/-.

10. Similarly, the Tribunal has committed an error in not awarding a single penny to the claimant under the head of future prospects.

11. Looking to the fact that the age of claimant at the time of the accident was 49 years, the claimant is entitled to get 25% under the head of future prospects as per the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra). Thus, the Civil Misc. Appeal No.2275/2015 stands partly allowed. The claimant is entitled to get following amount of enhanced compensation as reproduced in the table hereunder:-

Monthly Income (Add 25% towards future prospects)	$\text{Rs.}100 \times 30 + \text{Rs.}100 \times 30 \times 25/100$ = Rs. 3750/-
Annual Income	$\text{Rs.}3750 \times 12$ = Rs. 45,000/-
Multiplier to be applied	13 $45,000 \times 13 = \text{Rs.}5,85,000/-$
For Loss of Income (owing to 24% permanent disability)	$\text{Rs.}5,85,000 \times 24/100$ = Rs. 1,40,400/-
For Treatment	Rs. 52,513/-
For Nutritious food and Attendant	Rs. 18,000/-
For Transportation	Rs. 5,000/-
Physical Pain and Mental Agony	Rs. 50,000
Total Compensation Awardable	Rs.2,65,913/-
Less amount awarded by the Tribunal	Rs.2,53,993/-
Enhanced amount of compensation	Rs.11,920/-

12. Thus, in the facts and circumstances, an amount of Rs.11,920/- is required to be enhanced in the present case and the respondent-Insurance Company is directed to pay the enhanced amount in addition to the amount already awarded by the Tribunal under the judgment and award dated 13.11.2014 in the savings bank account of the claimant within a period of two months from the date of receipt of certified copy of this order.

Needless to say, the enhanced amount shall carry interest @ 6% per annum from the date of filing of the claim petition, till the actual payment is made.

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

(ANOOP KUMAR DHAND),J

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