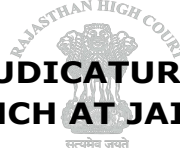




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Miscellaneous Appeal No. 4344/2025

1. Shri Sanwar Lal S/o Shri Gopal, Aged About 43 Years,
2. Ku. Suman D/o Shri Sanwar Lal, Aged About 23 Years,
3. Ku. Sonu Gurjar D/o Shri Sanwar Lal, Aged About 21 Years,
4. Master Saurabh S/o Shri Sanwar Lal, Aged About 17 Years,
5. Master Gaurav S/o Shri Sanwar Lal, Aged About 15 Years,
Appellants - Claimants Nos.4 and 5 are minor represented through their natural guardian / father Shri Sanwar Lal, Appellant No.1
All R/o Village Dilwaadi Tehsil Nasirabad District Ajmer.

----Appellants-Claimants

Versus

1. United India Insurance Company Limited, Through Divisional Manager, Local Office In Front Of SBBJ, Near Post Office, Parbatpura, Ajmer.
(Insurance Company Truck No. HR-46-C-9686). Insurance Policy No.1120003116 P 111657530 Insurance Validity Date 06-12-2016 till 05-12-2017 effective and valid.
2. Shri Ramnarayan S/o Shri Nothuni, R/o Village Kuthra Police Station Rayaaghar District Darbhanga, Bihar.
(Driver Truck No. HR-46-C-9686).
3. Shri Ramkumar S/o Shri Lehna, R/o Makaan No.2630 Ward No.3 Block 1 Vpo Sewah 32 Panipat Byas Project Panipat, Hariyana.
(Vehicle Owner Truck No. Hr-46-C-9686).

.....Respondents-Non-Claimants

4. Shrimati W/o Shri Gopal Gurjar, Aged About 70 Years, Resident Of Village Dilwaadi Tehsil Nasirabad, District Ajmer.

---Performa-Respondent-Claimant

For Appellant(s)	:	Mr. Ram Singh Rathore
For Respondent(s)	:	Mr. V. P. Mathur with Mr. Rajpal Choudhary

HON'BLE MR. JUSTICE SANDEEP TANEJA

Judgment

16/03/2026

1. This appeal has been filed under section 173 of Motor Vehicle Act, 1988 seeking enhancement of compensation awarded, vide award dated 14.07.2025, by the learned Motor Accidents Claims Tribunal, Nasirabad, Ajmer in MAC Case No.118/2022 whereby the



claim petition filed by the claimants- appellants (hereinafter referred to as 'the appellants') was partly allowed and total sum of Rs. 11,17,992/- was awarded, along with interest @ 6% per annum, in favour of the appellants.

2. The brief facts of the case, as pleaded in the claim petition, are that on 07.01.2017 at about 5:00 PM, while Sita Devi was returning to her house and reached near Raigar Mohalla in village Dilwaadi, a Truck bearing registration No. HR-46-C-9686, being driven by respondent No.2 (driver of the truck), in a rash and negligent manner, hit Sita Devi, as a result of which, she sustained injuries and thereafter died.

Subsequently, an FIR bearing No. 8/2017 was registered at police station Nasirabad Sadar and after investigation, charge-sheet was filed under Section 279 and 304-A IPC.

3. The appellants preferred a claim petition before the learned Tribunal for compensation on account of death of deceased- Sita Devi, which was partly allowed.

4. Being aggrieved by and unsatisfied with the said judgment and award, the appellants have filed the present appeal, seeking enhancement of the compensation awarded by the learned Tribunal.

5. Learned counsel for the appellants has submitted that the compensation awarded by the learned Tribunal should be enhanced on the following two grounds: -

(i) While calculating the minimum wages applicable at the relevant time for unskilled labour, the learned Tribunal calculated the monthly income of deceased by taking 26 days in a month and as such the learned Tribunal committed an error, as the monthly



income of the deceased ought to have been calculated by taking 30 days in a month.

(ii) The compensation for the loss of consortium should be awarded to the claimants in accordance with the principles laid down by the Hon'ble Supreme Court in the case 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**, wherein it was held that each dependant is entitled to get compensation of Rs.40,000/- for the loss of consortium.

6. On the other hand, learned counsel for respondents has opposed the submissions made by learned counsel for the appellants 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 both the parties and perused the material available on record.

8. The first contention of the learned counsel for the appellants is regarding calculation of monthly income of the deceased. From a perusal of the material available on record and the impugned award, it is revealed that the learned Tribunal determined Rs. 5382/- as her monthly income, on the basis of the minimum wages, for an unskilled person, applicable at the relevant point of time. However, while calculating the same, calculation was made for 26 days instead of taking 30 days in a month.

8.1 This Court in the case of **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 has held that the monthly income of a daily wager is to be assessed for 30 days instead of 26 days in a month.

8.2 In view of the settled position of law, this Court is of the opinion that the monthly income of the deceased ought to have been calculated for 30 days in a month. Therefore, the monthly income of the deceased would amount to Rs.6210/- (Rs. 207 X 30) instead of Rs.5382/-. Accordingly, the annual income of the deceased would amount to Rs.74520/- (Rs.6210 x 12). According to the age of deceased i.e. 32 years, the learned Tribunal has rightly applied the multiplier of 16, leading to income of Rs.11,92,320 (Rs.74520/- x 16) and after addition of 40% towards future prospects, the total income of the deceased would amount to Rs.16,69,248 (11,92,320 + 4,76,928).

8.3 As per dependency of Claimant Nos.1 to 5, 1/4th income to be deduced for personal expenses of the deceased. Hence the total loss of income of the deceased would be Rs.12,51,936 (Rs.16,69,248 – Rs.4,17,312). Accordingly, the appellants are entitled to Rs. 12,51,936 against the head of loss of income. However, the learned Tribunal has awarded Rs.10,84,992 for loss of income. Hence the compensation under the said head is enhanced by Rs.1,66,944.

9. The second contention of the learned counsel for the appellants is that the learned Tribunal has not awarded compensation on account of loss of consortium to the dependants of the deceased.

9.1 It is undisputed that at the time of death, there were as many as five dependants of deceased who are the present



appellants. Therefore, in the light of the principles laid down in **Pranay Sethi** (supra) and **Nanuram** (supra), this Court deems it justified to grant to the appellants Rs.40,000/- each, under the head of loss of consortium.

9.2 Hence, the appellants are entitled to a total amount of Rs. 2,00,000/- (Rs.40,000 x 5) under the head of loss of consortium.

10. Therefore, in light of the discussions made hereinabove, the appellants are entitled to get enhanced compensation as reproduced in the table hereinunder:-

S.No.	Particular	Enhanced Amount
1.	Loss of Income	Rs.1,66,944
2.	Loss of consortium	Rs.2,00,000/-
	Total enhanced Amount	3,66,944/-

11. Accordingly, the compensation awarded by the learned Tribunal is enhanced by Rs.3,66,944/-. The respondents are directed to deposit the enhanced amount within a period of two months from today. The remaining terms and conditions of the impugned award shall remain intact.

12. It is directed that the enhanced amount shall carry the interest in terms of the award passed by the learned Tribunal and the amount shall be disbursed in terms of the award passed by the learned Tribunal.

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

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

15. Registry is directed to send back the record of the case to the concerned Tribunal forthwith.

(SANDEEP TANEJA),J