

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

S.B. Civil Miscellaneous Appeal No. 5209/2018

Shriram General Insurance Company Ltd., Having Its Registered
Office At E-8 Epip Riico Industrial Area Sitapura Jaipur 302022
Through Its Constituent Attorney -----Appellant

Versus

1. Smt. Suman W/o Balveer, Aged About 49 Years, R/o 79 Sanjay Nagar Bharatpur (Raj)
2. Kumari Hema D/o Balveer, Aged About 17 Years, R/o 79 Sanjay Nagar Bharatpur (Raj)
3. Kumari Lata D/o Balveer, Aged About 14 Years, R/o 79 Sanjay Nagar Bharatpur (Raj)
4. Dushyant S/o Shri Balveer, Aged About 9 Years, R/o 79 Sanjay Nagar Bharatpur (Raj)
5. Krishan Kumar S/o Shri Balveer, Aged About 9 Years, Claimant/respondents No. 2 To 5 Being Minor Represented Through Natural Guardian Mother Smt. Suma W/o Shri Balveer Singh R/o 79 Sanjay Nagar Bharatpur (Raj)
6. Smt. Laxmi Kaur W/o Shri Thandi Singh, R/o 79 Sanjay Nagar Bharatpur (Raj)
7. Bacchu Singh S/o Shri Gobindra Singh, R/o Bavari Tehsil P.s. Rudawal District Bharatpur (Raj) (Vehicle Owner And Driver) -----Respondents

Connected With

S.B. Civil Miscellaneous Appeal No. 897/2019

1. Smt. Suman W/o Balveer, Aged About 50 Years, R/o 79, Sanjay Nagar, Bharatpur (Raj.).
2. Kum. Hema D/o Balveer, Aged About 18 Years, R/o 79, Sanjay Nagar, Bharatpur (Raj.).
3. Kum. Late D/o Balveer, Aged About 15 Years, R/o 79, Sanjay Nagar, Bharatpur (Raj.).
4. Dushyant S/o Balveer, Aged About 10 Years, R/o 79, Sanjay Nagar, Bharatpur (Raj.).
5. Krishna Kumar S/o Balveer, Aged About 10 Years, No. 3 To 5 Minors Through Their Natural Guardian And Mother Smt. Suman W/o Balveer, R/o 79, Sanjay Nagar, Bharatpur (Raj.).

6. Smt. Lakshmi Kaur W/o Shri Thandi Singh, (Died And Deleted)

----Appellants

Versus

1. Bachchu Singh S/o Shri Govind Singh, R/o Gaon Bawari, Tehsil Thana Rudawal, District Bharatpur (Driver As Well As Owner).
2. Shriram General Insurance Company Ltd., Regional Office, E-8, E.p.i.p. Ricco, Sitapura, Jaipur Though Regional Manager.

----Respondents

For Appellant(s)	:	Mr.Chanderdeep Singh Jodha, Adv.
For Respondent(s)	:	Mr.Sandeep Mathur, Adv. with Mr.Kapil Sharma, Adv.

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

15/09/2021

SBCMA No.5209/2018:-

The matter comes up on an application filed for vacating the stay order passed by this Court on 19.11.2018.

Learned counsel for the claimants submitted that the claimants have not received any amount from the award amount on account of stay order passed by this Court.

Learned counsel for the claimants submitted that the claimants include children and wife of the deceased and as such, they have lost their only bread earner in the accident and as such, family of the deceased is in dire need of money.

Learned counsel for the appellant-Insurance Company submitted that this Court after finding *prima facie* case in favour of the appellant has stayed the execution of the award and as such, there is no necessity to modify the order.

This Court considering the fact that the claimants include wife and children of the deceased and they have not received any amount after the award passed in their favour on 30.06.2018, however, the accident relates to the year 2013.

This Court, deems it proper, to modify the order dated 19.11.2018 and directs the Motor Accident Claims Tribunal to disburse 50% of the amount in Savings Bank account of the claimant-respondent No.1—Smt. Suman i.e. wife of the deceased, 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-Insurance Company is allowed, the claimant would be required to refund the money back.

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

Accordingly, the application stands disposed of.

The record may be sent back to the Tribunal for disbursement of the amount and after such disbursement of amount, the same will be returned back to this Court.

SBCMA No.5209/2018:-

Learned counsel for the appellant will furnish a copy of the appeal to Mr.Chanderdeep Singh Jodha, Adv. for appearing on behalf of respondent-Insurance Company. His name be shown in the cause list.

List after four weeks.

(ASHOK KUMAR GAUR), J