HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 6045/2018

1. Seeta Kumari D/o Late Shri Vinod Kumar Kumawat, Aged About 14 Years, Minor Through Natural Guardian Grandfather Laduram S/o Shri Mannaram Aged About 80 Years R/o Behind Suryamandal, Ward No. 9, Mohalla Ganeshpura Nawalgarh, Tehsil And Police Station Nawalgarh District Jhunjhunu (Raj)
2. Laduram S/o Shri Mannaram, Aged About 80 Years, R/o Behind Suryamandal, Ward No. 9, Mohalla Ganeshpura Nawalgarh,Tehsil And Police Station Nawalgarh District Jhunjhunu (Raj)
3. Smt. Prabhati Devi W/o Shri Laduram, Aged About 72 Years, R/o Behind Suryamandal, Ward No. 9, Mohalla Ganeshpura Nawalgarh, Tehsil And Police Station Nawalgarh District Jhunjhunu (Raj)

----Claimants/Appellants

Versus

1. Hardayal S/o Shri Bhaguram, R/o Kudli Police Station Dadiya Tehsil And District Sikar (Raj) (Driver Of Vehicle Bolero Campad (White) No. Rj-23-GA-9134 Chesis No. Mairu 2 Ghkc 3K 51550 Engine No. Ghc 4 K 54945.
2. Ramchandra Bagadiya S/o Shri Buddharam Bagadiya, R/o Dhani Nagarwala Near Johda Tan Piprali Tehsil And District Sikar (Raj) (Owner Of Vehicle Bolero Campad (White) No. Rj-23-Ga-9134 Chesis No. Mairu 2 Ghkc 3K 51550 Engine No. Ghc 4 K 54945.
3. Branch Manager, The New India Insurance Company Ltd., Regional Branch Jalan Bhawan Opposite Court Sikar (Raj) (Insurance Company Of Vehicle Bolero Campad (White) No. Rj-23-Ga-9134 Chesis No. Mairu 2 Ghkc 3K 51550 Engine No. Ghc 4 K 54945.

----Respondents

For Appellant(s)	:	Mr. Avinash Dhanju for Mr. Amit Singh Shekhawat
For Respondent(s)	:	Mr. Naveen Dhuwan and Mr. Pradeep Bochaliya (for Respondent No. 1) Mr. Ganesh Joshi (for Insurance Co.)

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Judgment

01/05/2026

1. This appeal has been filed against the judgment and award dated 29.08.2018 passed by learned Motor Accident Claim Tribunal, Sikar (hereinafter referred to as learned 'Tribunal') in claim case no. 227/2014 titled Seeta Kumari & Ors. Vs. Hardayal & Ors., whereby the claim petition filed by the claimants was partly allowed and award of the amount of Rs 1,65,000/- along with interest @ 7% per annum was passed by learned Tribunal.

2. Admittedly, this is a case of 5 year old child namely Mona @ Ramchandra. While applying the ratio of the judgment passed by Hon'ble Apex Court in **Kishan Gopal & Anr. Vs. Lala & Ors.** reported in **2013 (2) CCR 898(SC)**, the learned Tribunal has awarded a lump sump amount of Rs. 1,65,000/- in favour of the claimant.

3. Learned counsel for the appellant submits that learned Tribunal has awarded a very meagre amount as compensation, whereas the Hon'ble Apex Court in the case of **Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari & Anr.** in **Civil Appeal No. 10278/2025 (Arising out of SLP (C) No. 14444/2025)**, has held that in case of child death, where the child is below 15 years of age, the child is to be considered as skilled worker and the compensation should be calculated on the basis of minimum wages for the same and the multiplier of 15 shall be applied. Therefore, it is prayed that this appeal may be disposed of and compensation may be awarded in the light of the judgment passed by Hon'ble Apex Court in the case of **Hitesh Nagjibhai** (supra).

4. Learned counsel for the respondents oppose the contention raised on behalf of the appellant and submits that there is no ground for enhancement in the amount of compensation awarded by learned Tribunal.

5. Heard and perused the material available on record.

6. To decide this appeal, this Court relies upon the principles of law laid down by the Hon'ble Apex Court in the case of **Hitesh Nagjibhai** (supra), as held under:

> "15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

7. Relying upon the decision rendered in the case of **Hitesh Nagjibhai Patel** (supra), this Court deems it proper to consider the deceased child under the category of 'skilled worker' and apply multiplier of '15' as the age of deceased child is below 15 years. In such circumstances, based on the then prevalent minimum wages at the time of occurrence of accident in present case i.e. 11.04.2013, this Court deems it appropriate to determine the daily income of the deceased child under the skilled category as Rs.186/- and accordingly, monthly income as Rs.186 x 30 i.e. Rs. 5,580/-.

8. According to the principle enunciated in **National Insurance Company Limited Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, 40% increase in 'Future Prospect' of the monthly income is to be considered while taking the age of the deceased child into account. Accordingly, 40% of Rs. 5580 is Rs.2,232/-. After adding this amount of 40% increment to the monthly income of the deceased child, the total monthly income comes to Rs.5580+Rs.2232= Rs. 7,812/-, which will be the basis for determining compensation.

9. Considering the facts of this appeal that the deceased child was unmarried therefore, 1/2 part of the monthly income assessed of the deceased child is to be deducted. 1/2 X Rs. 7812/- = Rs. 3,906/-, which after deducting from the assessed monthly income, comes to the amount of Rs. 3906/- as dependent income.

10. Based on the principle propounded in the case of **Sarla Verma and others vs. Delhi Transport Corporation and others** reported in **(2009) 6 SCC 121** and **Pranay Sethi** (supra), a multiplier of 15 should be applied keeping in view the age of the deceased child as below 15 years.

11. Accordingly, on the basis of the deceased child's monthly income of Rs.3906 /-, the total loss of dependent income to the appellants comes to Rs. 3906 X 12 X 15 = Rs. 7,03,080/-, which the appellants are entitled to receive.

12. Learned tribunal has not awarded any amount under the head of consortium, even when the deceased child namely Mona @ Ramchandra is survived by his sister and grandparents. As per the judgment passed by Hon'ble Apex Court in the case of **Pranay Sethi** (supra)**, United India Insurance Co. Ltd. Vs. Satindra**

Kaur @ Satvinder Kaur & Ors. reported in **(2021) 11 SCC 780 and Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors.** reported in **(2018) 18 SCC 130,** this Court deems it fit to grant compensation of Rs. 40000/-, under the head of consortium to appellant No. 1 -Seeta Kumari i.e. sister of deceased child. However, appellant Nos. 2 and 3 i.e. grandparents of deceased child, are not entitled to any compensation under the head of consortium.

13. The learned Tribunal has awarded a sum of Rs.15,000/- to the appellants under the head of funeral expenses. Therefore, under the head of funeral expenses, this Court, does not warrant any interference as the amount is awarded in accordance with the principles laid down in **Pranay Sethi** (supra). Further, no sum was awarded under the head of loss of estate to the appellants. Therefore, under the head of loss of estate, this Court, in accordance with the principles laid down in **Pranay Sethi** (supra), considers it just and proper to award a sum of ₹15,000/- to the appellants.

14. Accordingly, the appellants are entitled to receive compensation as follows:

S. No.	**Heads**	**Amount (in Rs.)**
1	Loss of Future income	7,03,080/-
2	Loss of Consortium - Rs. 40,000/- to the sister	40,000/-
3	Funeral Expenses	15,000/-
4	Loss of Estate	15,000/-
The amount of compensation determined by this court		**7,73,080/-**
The amount of compensation awarded by the learned Tribunal		1,65,000/-
Difference in compensation amount after enhancement		**6,08,080/-**

15. Accordingly, the appeal filed by the appellants is partly allowed, and the award of Rs.1,65,000/- passed by the learned Tribunal is enhanced to **Rs. 7,73,080/-**. Income tax will be deducted from this amount as per the rules. The amount previously received by the appellants will be adjusted against the award amount, and the appellants are entitled to receive the remaining amount. The appellants are entitled to receive interest at the rate of 8% per annum on the compensation amount enhanced by this order from the date of filing of the claim petition.

16. Accordingly, the appeal filed by the claimants-appellants is disposed of, in terms of the discussion made hereinabove.

17. Stay application(s) if any and any other pending application(s) also stand disposed of.

(ASHUTOSH KUMAR),J

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