

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 186/2019

Shanti D/o Shri Panchu Lal, Aged About 28 Years, R/o Village
Makhupura District Ajmer (Raj)

----Appellant

Versus

1. Sohan @ Sohan Khan S/o Shri Mishriji, R/o Village
Somalpur District Ajmer (Driver Of The Motorcycle No. Rj-
01-15M-2182)
2. Ramjan S/o Shri Banna, R/o Village Somalpur Hmt.
District Ajmer (Owner Of The Motorcycle No. Rj-01-15M-
2182)
3. United India Insurnace Company Ltd. Through Branch
Manager, Office At Ajmer Road Beawar Ajmer (Raj)
Having Its Regional Office At Sahara Chambers Tonk Road
Jaipur (Insurer Of The Motorcycle No. Rj-01-15M-2182)

----Respondents

For Appellant(s)	:	Mr.Jai Prakash Gupta with Mr.Udai Jeet Singh Rathore
For Respondent(s)	:	Ms.Shraya Khandal for Mr.Satish Kumar Khandal

JUSTICE ANOOP KUMAR DHAND

Order

24/02/2026

1. The instant appeal has been preferred against the impugned judgment and award dated 04.10.2018 passed by the Motor Accident Claims Tribunal, Ajmer (for short, "the Tribunal") in Claim Case No.155/2007 by which the claim petition submitted by the claimant-appellant (hereinafter referred to as "the claimant") has been partly allowed and the respondents have been directed to pay a compensation amount of Rs.1,12,282/- to the claimant along-with interest.

2. Learned counsel for the claimant submits that the claimant met with an accident on 20.02.2005 and the same was caused by the driver of motorcycle bearing No.RJ01-15M-2182, i.e., respondent No.1, by driving the vehicle in a rash and negligent manner.

3. Counsel submits that at the time of accident, the age of the claimant was 14 years and she has sustained 50% permanent disability, but not a single penny has been awarded by the Tribunal under the head of Loss of Income. Counsel submits that in terms of the judgment passed by the Hon'ble Apex Court in the case of **Hitesh Nagjibai Patel Vs. Bababhai Nagjibhai Rabari & Anr.** reported in **2025 INSC 1070**, in the case of injury claim of a minor child, the computation of compensation under the head of Loss of Income ought to be made by adopting the formula of payment of minimum wages of a skilled labour as notified at the relevant period in the respective state.

4. Counsel submits that the accident has occurred in the year 2005 and at the relevant time, the daily wages of skilled labour was Rs.81 per day. Counsel further submits that even under the head of Loss of Future Prospects, not a single penny has been awarded by the Tribunal, hence, under these circumstances, the impugned judgment and award needs suitable enhancement.

5. *Per contra*, learned counsel appearing on behalf of the respondent-insurance company opposes the arguments raised by counsel for the claimant and submits that not a single document has been placed on the record before the Tribunal to show that the claimant was engaged in any work as a daily wager or that she

was a skilled workman, therefore, no loss of income has been suffered by the claimant, hence, under these circumstances, the Tribunal was justified in not granting any amount to the claimant under this head and the award passed by the Tribunal is just and proper, which does not require any interference of this Court and the instant appeal is liable to be rejected.

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

7. Perusal of the record indicates that when the accident occurred, the age of the claimant was 14 years and this fact is not in dispute that on account of the injuries sustained by her in the accident, she has suffered 50% permanent disability. This fact is also not in dispute that not a single penny has been awarded by the Tribunal to the claimant under the head of loss of income, looking to the age of the claimant, i.e., 14 years by holding that she was a minor at the time of the accident, hence, she has not suffered any loss of income. Recently, the Hon'ble Apex Court in the case of **Hitesh Nagjibai Patel** (supra) has dealt with the identical issue in Para No.9, which read as under:-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident,

cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in **Kajal v. Jagdish Chand and Ors.** reported in **(2020) 4 SCC 413**, and **Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.** reported in **2024 SCC OnLine SC 3692.**"

8. Perusal of the aforesaid judgment passed by the Hon'ble Apex Court in the case of **Hitesh Nagjibai Patel** (supra), it is clear that even in the case of children, who are not engaged in gainful employment at the time of accident, the computation of compensation under the head of Loss of Income in such like matters is to be decided by adopting the formula of determination of loss of income on the basis of minimum wages payable to a skilled workman as notified for the relevant time in the respective State, where the cause of action has arisen. In the instant case, the accident has occurred in the year 2005 and the daily wages of a skilled workman was Rs.81/- per day, hence, under these circumstances, the claimant has suffered loss of income as a skilled daily wager and she is entitled to receive compensation for the same.

9. Even in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **2017 (16) SCC 860**, the Hon'ble Apex Court has held that even in the case of injury claim, the claimant is entitled to get additional amount of compensation towards future prospects. Since the age of the claimant was 14 years at the time of accident, i.e., below 40 years, hence, she is entitled to get additional compensation at the rate of 40% towards future prospects in light of the judgment passed by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra).

10. Therefore, in light of the discussion made hereinabove, the claimant is entitled to get the following amount of enhanced compensation as reproduced in the table hereinunder:-

Monthly income (along-with 40% addition towards future prospectus)	Rs.81 X 30 = Rs.2,430/- Rs.2,430/- + Rs.972/- = Rs.3,402/-
Annual income	Rs.3,402 X 12 = Rs.40,824/- p.a.
Multiplier to be applied	18 = Rs.7,34,832/-
Loss of Income (Owing to 50% disability)	Rs.3,67,416/-
Pain and suffering	Rs.1,00,000/-
Admission and Nursing Expense	Rs.7,500/-
Medical Bills	Rs.4,782/-
Total compensation awardable	Rs.4,79,698/-
Less amount awarded by the Tribunal	Rs.1,12,282/-
Enhanced amount of compensation	Rs.3,67,416/-

11. Accordingly, the instant appeal stands partly allowed. The award passed by the Tribunal stands modified to the extent that the claimant would now be entitled to get a further sum of Rs.3,67,416/- by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

12. It is further ordered that out of the enhanced amount a sum of Rs.50,000/- be deposited in the Savings Bank Account of the claimant and the remaining amount be deposited in a fixed deposit with any Nationalized Bank initially for a period of three years and the interest accrued on the said amount shall be paid to the claimant on monthly basis.

13. The respondents are directed to deposit the enhanced amount within a period of four weeks from today with interest @ 6% per annum from the date of filing of the claim petition.

14. Pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J