



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 1686/2017

Smt. Gurvinder Kaur W/o Late Shri Lakhvinder Singh, By Caste Ramgadiya, Resident Of Ward No. 2, Near Bhajan Singh Ka Aara, Suratgarh, District Sri Ganganagar.

----Appellant

Versus

1. Bhanwara Ram S/o Shri Sahi Ram, By Caste Jaat, Resident Of Khari, P.s. Khari, Tehsil Loonkaransar, District Bikaner. Driver Truck No. Rj07- Gb- 2995
2. Raju Ram S/o Mallu Ram, By Caste Jaat, Resident Of Sublai, Tehsil Loonkaransar, District Bikaner. Owner Truck No. Rj07-Gb-2995
3. The New India Insurance Company Ltd., New India Insurance Building, 87, Mahatma Gandhi Marg, Mumbai. Insurance Company Of Truck No. Rj07-Gb-2995
4. Jasvinder Singh S/o Shri Nakshtra Singh, By Caste Jatt Sikh, Resident Of Bhagwangarh, Tehsil Suratgarh, District Shriganganagar. Power Of Attorney Holder Truck No. Rj07-Gb-2995

----Respondents

For Appellant(s) : Mr. Ravi Panwar with
Mr. Amit Pareek

For Respondent(s) : Mr. Dinesh Kumar Joshi

HON'BLE MS. JUSTICE REKHA BORANA

Order

14/11/2024

1. The present appeal has been preferred against the judgment and award dated 10.01.2017 passed by the Motor Accident Claims Tribunal, Suratgarh in MAC Case No.19/2014 (Computer No.79/2015) whereby the learned Tribunal awarded a compensation amount of Rs.8,04,000/- with interest at the rate of



8% per annum in favour of the claimant. The deceased was 18 years of age on the date of accident i.e. 21.05.2013 which is not disputed. The breakup of the amount of compensation awarded by the learned Tribunal is as under:

1.	Income per month (after addition of future prospects (50%) and deduction towards personal expenses (1/2) in the monthly income of Rs.4500/-)	Rs.3,375/-
2.	Loss of Annual Income (as per the age of the deceased i.e. 18 years, multiplier of 18).	3,375 x 12 x 18 = Rs.7,29,000/-
3.	Under the head of 'consortium'	Rs.50,000/-
4.	Under the head of 'Funeral expenses'	Rs.25,000/-
5.	Total amount of compensation awarded by the Tribunal	Rs.8,04,000/-

Learned Tribunal also awarded interest @ 8% per annum from the date of filing of the claim petition.

2. The only ground argued by learned counsel for the appellant is that the learned Tribunal erroneously computed the income of the deceased at the rate of Rs.150/- per day on basis of the wages of an unskilled labour whereas the deceased was employed in the thermal plant and was earning Rs.8,000/- per month.

3. In the alternate, counsel submits that even otherwise, the wages as notified for the relevant time for an unskilled labour was Rs.166/- per day and not Rs.150/- per day as calculated by the learned Tribunal. Counsel further submits that even otherwise, looking to the age of the deceased, the wages ought to have been considered at least for a semi-skilled labour.



4. Per contra, learned counsel for the respondent Insurance Company submits that there was no evidence available on record to show that the deceased was employed anywhere or was earning any amount, rather the claimant, in her cross-examination, specifically admitted that her son was a student and that she has not placed any document on record to prove the income of her son. Counsel further submits that the computation as made by the learned Tribunal is totally in accordance with the evidence as led by the claimant.

5. Heard learned counsel for the parties and perused the material available on record.

6. It is not disputed on record that the deceased was of 18 years of age. The claimant, in her affidavit of examination-in-chief specifically averred that the deceased was working in Suratgarh Thermal Plant as a mechanic. True it is that no document in support of the said statement/evidence has been placed on record but then this Court cannot lose sight of the fact that the deceased was just 18 years of age and hence, had a huge possibility of excelling in life and a bright future. Therefore, the computation of his income on basis of the minimum wages for unskilled labour cannot be said to be reasonable.

7. In the overall facts, this Court finds it proper to compute the income of the deceased at the minimum wages as applicable to a semi-skilled labour at that point of time.

8. As per the Government notification, the minimum wages as on 01.01.2013 prescribed for a semi-skilled labour was Rs.176/- per day which makes the per month income to be Rs.5,280/-



9. So far as the multiplier and deduction towards personal expenses is concerned, the same have been applied/awarded totally in consonance with law and does not deserve any interference.

10. The learned Tribunal awarded an amount of Rs.50,000/- under the head of 'Consortium' and Rs.25,000/- under the head of 'Funeral Expenses'. The said amounts not being under challenge, this Court is not inclined to interfere with the same.

11. Consequently, the present appeal is **partly allowed** and the impugned judgment & award dated 10.01.2017 passed by the Motor Accident Claims Tribunal, Suratgarh in MAC Case No.19/2014 (Computer No.79/2015) is modified to the extent that the appellant-claimant shall be entitled to the following compensation :

1.	Income per month (after addition of future prospects (50%) and deductions for personal and living expenses (1/2) in the monthly income of Rs.5,280/-)	Rs.3,960/-
2.	Loss of Annual Income (as per the age of deceased i.e. 18 years, multiplier of 18).	3,960 x 12 x 18 = Rs.8,55,360/-
3.	Under the head of 'Consortium'	Rs.50,000/-
4.	Under the heard of 'Loss of estate'	Rs.15,000/-
5.	Under the head of 'Funeral expenses'	Rs.25,000/-
6.	Total amount of compensation	Rs.9,45,360/-
7.	Amount awarded by Tribunal	Rs.8,04,000/-
8.	Enhanced amount of compensation	Rs.9,45,360/- - Rs.8,04,000/- ----- Rs.1,41,360/-



12. The enhanced amount shall carry interest @ 6% from the date of filing of the claim petition till the actual payment is made.

The respondent insurance company is directed to deposit the award amount (if not deposited yet) and the enhanced amount of compensation with the Tribunal within a period of two months from the date of receipt of the copy of this order, failing which, the same shall carry interest @ 7.5% per annum from the date of this order till actual realization. Upon deposition, the learned Tribunal is directed to disburse the same to the claimants in terms of the award.

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

(REKHA BORANA),J

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