



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

S.B. Civil Misc. Appeal No. 215/2024

1. Indra W/o Rajaram, Aged About 48 Years, B/c Bishnoi, R/o BajjuKhalsa, Tehsil Shri Kolayat, Dist. Bikaner. (Claimants)
2. Rajaram S/o Patram, Aged About 49 Years, B/c Bishnoi, R/o BajjuKhalsa, Tehsil Shri Kolayat, Dist. Bikaner. (Claimants)

-----Appellants

Versus

1. Jagdish Chandra S/o Shri Ramuram, B/c Bishnoi, R/o Bishnoiyan Ki Dhani, P.s. Sanchore, Tehsil Sanchore, Dist. Bikaner. (Owner Of Vehicle No. Rj-46-Ca-1766)
2. National Insurance Company, Through Branch Manager, Registered Office At Infront Of Urmul Circle, Near To Audi Motors Showroom, Santa Nagar, Bikaner. (Insurance Company)

-----Respondents

For Appellant(s) : Mr. Aman Bishnoi
For Respondent(s) : Mr. TRS Sodha (R-2)

HON'BLE MR. JUSTICE ARUN MONGA
Judgment

29/04/2025

1. Having suffered the devastating and irreparable loss of their only 20-year-old son, a promising medical student, whose future as a doctor was cruelly cut short in a tragic road accident—the grieving parents are before this Court. With their dreams shattered and their lives forever altered, they seek enhancement of compensation by modification of the impugned judgment/award dated 13.04.2023 passed in Claim Case No. 282/2019 by the learned Motor Accident Claims Tribunal, Bikaner.
2. Brief facts first. The appellants are the legal representatives of the deceased, Sunil Bishnoi, who had filed Claim Petition No. 282/2019 before the learned Motor Accident Claims Tribunal,



Bikaner, seeking compensation for the injuries caused by a road accident. Subsequent to his death because of the injuries suffered in the accident, the petitioners pursued the claim for compensation before the learned Tribunal.

2.1 As per the averments in the claim petition, on 06.02.2019 at around 9:00 AM, Sunil Bishnoi was traveling in Car No. RJ-46-CA-1766 from Jodhpur to Udaipur, along with his friends Rohit, Sunil, and Sonu. When the vehicle reached near Bhairunath Dhaba, it's driver (son of respondent No. 1, also named Sunil, since deceased), due to rash and negligent driving, hit a motorcycle. As a result, the car driver lost it's control and collided with a road divider, leading to injuries from iron angles installed along the divider.

2.2 Sunil Bishnoi sustained grievous injuries in the accident and, despite medical efforts, succumbed to his injuries.

2.3 All parties to the claim petition actively participated in the proceedings. After considering the evidence and hearing the parties, the learned Tribunal awarded total compensation of Rs. 12,52,429/- to the appellants. Finding the compensation amount awarded as inadequate, the appellants filed the present appeal.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file along with the documents annexed therewith.

4. Learned counsel for the appellants, at the outset, submits that the learned Tribunal, while passing the impugned award dated 13.04.2023, failed to consider the material evidence on record, thereby rendering the awarded compensation grossly unjust and



inadequate. The award suffers from a hyper-technical and narrow approach, warranting its modification.

4.1 He contends that the Tribunal erred in assessing the income of the deceased by merely applying the standard of minimum wage of skilled worker without any realistic and reasonable estimation or guesswork. This approach ignored the deceased's academic background and future earning potential. It is submitted that the deceased, Sunil Bishnoi, was a second-year MBBS student at Sampurnanand Medical College, Jodhpur, having secured admission through the highly competitive NEET examination. His academic excellence and career prospects clearly demonstrated a potential for significantly higher earnings than that of an unskilled labourer, a factor the Tribunal failed to acknowledge.

4.2 Moreover, the Tribunal overlooked the socio-economic status of the claimants and did not award reasonable amounts under the heads of funeral expenses and loss of estate. Further, the Tribunal applied an incorrect multiplier and made improper deductions, thereby underestimating the compensation.

4.3 In light of the above, he argues that the impugned award is arbitrary and legally unsustainable, therefore, the compensation awarded by the Tribunal be suitably enhanced by modifying the impugned award.

5. Per contra, learned counsel for the Insurance Company-respondent No.2 opposes the appeal, primarily on the ground that it is a conceded position that the victim (deceased) was a student at the time of his death and being so, he did not have any income

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The claimant, Rajaram, stated that at the time of the accident, the deceased Sunil was earning ₹25,000/- per month by providing tuition to students alongside his medical studies. However, no documentary evidence such as a bank passbook or similar proof has been presented to support this claim; hence, it is not deemed acceptable. Considering that the deceased was a meritorious student who had qualified the national-level NEET examination and secured admission in a Government Medical College where he was pursuing his second year of studies, it is just and appropriate to determine the deceased's income based on the minimum wages applicable to highly skilled workers, as per the notification issued by the Labour Department, Rajasthan, for the year 2019.

Accordingly, based on the prevailing rate of minimum wages for highly skilled workers in Rajasthan at that time, the monthly income is assessed at ₹7,774/- (calculated at the rate of ₹299/- per day).

In accordance with the principles laid down by the Hon'ble Constitutional Bench of the Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi & Others, it is appropriate to award compensation to the claimants towards loss of future prospects. Since the deceased was self-employed and aged below 40 years, an addition of 40% towards future prospects is justified, which amounts to ₹3,109.6/- (i.e., 40% of ₹7,774/-).

Thus, after including the component towards future prospects, the total monthly income is determined at ₹10,883.6/-.

The claimants no. 1 and 2 are the parents of the deceased, who were dependent upon him at the time of the accident. Therefore, it is appropriate to deduct 50% of the income towards the personal and living expenses of the deceased. Accordingly, the calculation of the loss caused due to the death of the deceased is as follows:

Monthly Income × 12 Months × Multiplier of 18 = ₹10,883.6 × 12 × 18 = ₹23,50,858/-

After deducting 50% towards the deceased's personal and living expenses:

₹23,50,858 ÷ 2 = ₹11,75,429/-

Thus, the total loss of dependency is assessed at ₹11,75,429/-.

Accordingly, the claimants are entitled to receive compensation of ₹11,75,429/- under the head of loss of income due to the death of Sunil.

The Hon'ble Constitutional Bench of the Supreme Court, in the case of National Insurance Company Limited vs. Pranay Sethi and Others, has laid down the guidelines for the computation of compensation in accident claim cases. In the said judgment, the Apex Court directed that under the conventional heads such as compensation for loss of love and affection, funeral expenses, and loss of estate, the amounts shall be increased by 10% every three years.

Accordingly, in the present case, the claimants, having lost the love, affection, and daily care of the deceased due to his untimely demise, are entitled to be awarded a sum of ₹44,000/- towards compensation for loss of love and affection. Further, since the claimants conducted the funeral rites of the deceased, they are also entitled to ₹16,500/- towards funeral expenses. Additionally, ₹16,500/- is awarded towards loss of estate on account of the accident.

Thus, the claimants are entitled to receive compensation for the deceased under the following heads:

S.No.	Particulars	Amount (₹)
1.	Loss of income due to death	11,75,429/-
2.	Compensation for loss of love and affection	44,000/-



S.No.	Particulars	Amount (₹)
3.	Funeral expenses	16,500/-
4.	Loss of estate	16,500/-
	Total	12,52,429/-

Accordingly, the claimants No. 01 and 02 are entitled to a total compensation amount of ₹12,52,429/- in relation to the death of Sunil. Hence, this issue is decided in favour of the claimants accordingly.

DECREE

In view of the deliberations on the disputed points, it is concluded that the application filed by the claimants, Rajaram et al., is admissible against the respondents, namely Respondent No. 01 (Jagdishchandra) and Respondent No. 02 (National Insurance Company Limited).

ORDER

Thus, the application of the claimants, Rajaram et al., under Section 166 of the Motor Vehicles Act and the Rajasthan Motor Vehicles Rules, 1990, is accepted against Respondent No. 01 (Jagdishchandra) and Respondent No. 02 (National Insurance Company Limited) either separately or jointly. An award of ₹12,52,429/- (Twelve Lakh Fifty-Two Thousand Four Hundred Twenty-Nine Only) is granted.

If any interim compensation assistance has been received by the claimants under Section 140 of the Motor Vehicles Act, it shall be adjusted from the awarded amount, and the remaining amount shall be paid accordingly.

The award amount will bear simple interest at the rate of 7.00% per annum from the date of the application submission, 02.07.2019. The request for the remaining compensation amount by the petitioners is rejected. The applicant has not submitted a certified copy of their savings account from the bank officer, a copy of the PAN card, and a copy of the Aadhaar card, which must be submitted to the authority immediately. The division of the award amount among the petitioners will be done as follows:

Sr. No.	Petitioner's Name	Savings Account	F.D.R. Amount	Duration
01	Rajaram, son of Shri Patram	1,88,429/- with interest	1,00,000/-	One year
			1,00,000/-	Three years
			1,00,000/-	Five years
			1,38,000/-	Seven years
02	Indra, wife of Shri Rajaram	1,88,000/- with interest	1,00,000/-	Two years
			1,00,000/-	Four years
			1,00,000/-	Six years
			1,38,000/-	Eight years

Xxxx

xxxx

8. Having perused the impugned award, at the outset I may express my opinion that the learned Tribunal's approach has been wholly unrealistic, unduly pedantic, hypertechnical and very narrow leading to the too low assessment of the income potential of the deceased. The MACT awarded ₹12,52,429 based on the



minimum wage for a skilled worker (₹7,774/- per month), even though the deceased, Sunil Bishnoi, was a second-year MBBS student, having cleared NEET — one of India's toughest competitive exams.

9. I am of the considered opinion that in cases of the nature, as the one in hand, when dealing with young professionals-in-training, courts must rise above the rigid arithmetical calculations and insistence of income proof. A purely mathematical or minimum-wage-based approach risks devaluing education, aspiration, and merit — which are highly valued and zealously protected by the law. Apart therefrom, realistic compensation not only ensures restorative justice for the bereaved family but also serves as a deterrent to negligent driving, reinforcing accountability in road safety.

10. In present case, there has been wholly unrealistic and unduly low assessment of income of the victim of accident as that of a skilled worker, totally ignoring the earning potential of a future doctor — a respected and remunerative profession. This, in my opinion, is/ was a grave error and gross underestimation of the income potential of the accident victim. It is common knowledge that on completion professional courses like MBBS or engineering, such students have the potential to earn far above and multiple times of the minimum wage of a skilled worker. The Tribunal rejected the claim of income of ₹25,000/- per month tuition earnings due to lack of documentary proof. However, it failed to make a realistic assessment and apply judicial mind to the deceased's academic trajectory while assessing his potential



future earnings. Thus, the learned Tribunal committed a manifest error in law by applying a rigid and overly conservative formula for assessment of notional income to a case where the deceased's future earnings and familial contribution were clearly poised for excellence. A corrective and compassionate course is warranted in the case in hand.

11. In ***Bishnupriya Panda Vs. Basanti Manjari Mohanty & Anr.***¹ decided on 04.08.2023, relied upon by the Learned counsel for the appellants the deceased was 4th year student of MBBS aged about 21 years when the accident occurred in July, 2013. The learned Tribunal had assessed his notional income of Rs. 50,000/- per month in year 2013 and added 40% of the same towards future prospects. The Apex Court held that in so far as the notional income reckoned and the parameters adopted to reach the same, the Tribunal was justified.

12. In the light of aforesaid precedent and bearing in mind the spirit of law and the relevant principles enunciated in *National Insurance Company Ltd. vs. Pranay Sethi*² and for a holistic, realistic and just approach to valuing the life and earning potential of the deceased, I am of the view that the award needs to be modified for upward reassessment of his notional income.

13. In present case, the accident took place on 06.02.2019. At that time, the deceased was 21 years and 8 months old and was a second-year MBBS student at Sardar Patel Medical College, Jodhpur. Taking cue from the view taken by the Apex Court in ***Bishnupriya Panda*** supra and allowing for overall general trend

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2 (2017) 16 SCC 680



of increase in the income with passage of time from 2013 to 2019, I am of the opinion that it would be fair and reasonable to assess the income potential of the Sunil Bishnoi deceased at the time of his death in 2019 as Rs. 70,000/- per month. Adding 40% of the same towards future prospects, his notional income would come up to the sum of Rs.98,000/-. By deducting it's 50% i.e. Rs.49,000/- towards self expenses, the dependency of the claimants comes to Rs.49,000/- on which compensation ought to be calculated and awarded. Applying the multiplier of 18 (as also applied by the learned Tribunal), the compensation for the death of the deceased would come to Rs. 1,05,84,000/-.

14. Under the head 'loss of love and affection / consortium', the learned Tribunal awarded total combined compensation of Rs. 44000/- to both the unfortunate petitioner/parents. Each of them ought to have been awarded compensation of Rs. 44000/- on this count i.e. total Rs. 88,000/-.

15. In view of my discussion and reasoning contained hereinabove and in light of the judgments supra, revised / modified calculations of the compensation are tabulated as below:

Particulars	Details
Date of Accident/Death	06.02.2019
Age of Deceased	20 years and 7 months 23 days
Claimants	Mother and Father
Monthly Income of Deceased	₹ 70,000/-
Future Prospects (40%)	₹ 70,000 + ₹ 28,000- = ₹ 98,000/-
Deduction for Personal Expenses (½)	₹ 98,000 - ₹ 49,000 = ₹ 49,000/-
Annual Dependency	₹ 49,000 × 12 = ₹ 5,88,000/-
Total Loss of Dependency (Multiplier of 18)	₹ 5,88,000 × 18 = ₹ 1,05,84,000/-



Particulars	Details
Loss of Consortium for the two parents (₹44,000 × 2)	₹ 88,000/-
Loss of Estate and Funeral Expenses	₹ 33,000 (Estate) + ₹ 16,500 (Funeral) = ₹ 49,500/-
Total Compensation	₹ 1,05,84,000 + ₹ 88,000 + ₹ 49,500 = ₹ 1,07,21,500/-
Compensation Awarded by Tribunal	₹ 12,52,429/-
Enhanced Compensation amount to be Paid	₹ 1,07,13,500 - ₹ 12,52,429 = ₹ 94,69,071/-



16. The enhanced amount of compensation with interest thereon @ 7% per annum from the date of filing of compensation application (02.07.2019) before the learned Tribunal shall be paid to appellants No. 1 and 2 in equal shares initially by respondent No. 2 (insurance company), who may, thereafter, take appropriate proceedings against respondent No.1 for it's recovery, if so advised and found otherwise admissible.
17. The appeal is allowed as above.
18. Pending application, if any, stands disposed of.

(ARUN MONGA),J

92-DhananjayS/-
Whether fit for reporting: Yes / No