HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 2923/2020

1. Smt. Imrawati Devi W/o Sh. Ramniwas, Aged About 51 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
2. Ramniwas S/o Sh. Beerbal Ram, Aged About 55 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
3. Sunil Kumar S/o Ramniwas, Aged About 25 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
4. Kanchan Kumari D/o Ramniwas, Aged About 23 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
5. Amit Kumar S/o Ramniwas, Aged About 21 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
6. Beerbal Ram S/o Late Kisna Ram, Aged About 76 Years, R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)
7. Smt. Shanti Devi W/o Beerbal Ram (Since Deceased), R/o - Village Post - Mohanpura, Bhamarwasi, Chidawa, District - Jhunjhunu (Raj.)

----Appellants/Claimants

Versus

1. Ramveer S/o Sh. Karan Singh, R/o Village - Mohi Bharu, Tehsil - Buhana, Police Station - Singhana, District- Jhunjhunu (Raj.) (Driver Of Vehicle.)
2. Manish Kumar S/o Balbeer, R/o Village -Bhainsawata Khurd, Tehsil - Buhana, Police Station- Singhana, District- Jhunjhunu (Raj.) (Owner Of Vehicle.)
3. The New India Assurance Company Limited, Through Its Manager, Nehru Place, Tonk Road, Jaipur. (Insurance Company Of Vehicle.)

----Respondents/Non-Claimants

Connected With

S.B. Civil Miscellaneous Appeal No. 2759/2020

The New India Assurance Company Limited, Having Its

Registered & Head Office At 87, Mahatma Gandhi Road, Fort, Mumbai-400001 And Having Its Regional Office At Second Floor, South Block, Nehru Place, Tonk Road, Jaipur Through Its Constituent Attorney

----Appellant/Non-Claimant

Versus

1. Smt. Imravati Devi W/o Shri Ramniwas, Aged About 51 Years, Resident Of Gram Post-Mohanpura, Bhamarvasi, Chidava. District-Jhunjhunu (Raj.)
2. Ramniwas aged about 55 years Son Of Shri Birbal, R/o Gram Post- Mohanpura, Bhamarvasi, Chidava, District - Jhunjhunu.(Raj)
3. Sunil Kumar aged about 25 years Son Of Ramniwas, R/o Gram Post - Mohanpura, Bhamarvasi, Chidava. District-Jhunjhunu (Raj.)
4. Kanchan Kumari D/o Ramniwas, Aged About 23 Years, R/o Gram Post-Mohanpura, Bhamarvasi, Chidava, District - Jhunjhunu (Raj.)
5. Amit Kumar S/o Ramniwas, Aged About 21 Years, R/o Gram Post- Mohanpura, Bhamarvasi, Chidava, District - Jhunjhunu (Raj.)
6. Birbalram aged about 76 years Son Of Late Kisnaram, R/o Gram Post- Mohanpura, Bhamarvasi, Chidava. District-Jhunjhunu (Raj.)
7. Smt. Shanti Devi W/o Shri Birbal, Aged About 72 Years, R/o Gram Post-Mohanpura, Bhamarvasi, Chidava. District Jhunjhunu (Raj.)

----Respondents/Claimants

8. Ramveer Son Of Shri Karan Singh, R/o Gram Mohi Bharu, Tehsil -Bhuhana, Thana – Singhana, District Jhunjhunu (Raj.) (Driver Pickup No. RJ-18GA-9574)
9. Manish Kumar S/o Balbir, R/o Gram-Bhensavata Khurd, Tehsil Bhuhana, Thana-Singhana, Jhunjhunu (Raj.) (Owner Pickup No. RJ-18GA-9574)

----Respondents/Non-Claimants

For Appellant(s)	:	Mr. Kamal Kumar Gupta, Adv.
For Respondent(s)	:	Mr. Sanjay Kumar Singhal, Adv. with

Mr. Firoz Akhtar Ansari, Adv. &
Ms. Nishtha Jain, Adv. (for appellant in S.B. Civil Miscellaneous Appeal No. 2759/2020)
Mr. Sandeep Garssa, Adv.
Mr. Jitesh Kumawat, Adv. for
Mr. Pradeep Singh, Adv.

JUSTICE ANOOP KUMAR DHAND

Order

18/02/2026

1. A final year student of Bachelor of Medicine and Bachelor of Surgery (for short "MBBS") aged 23 years met with an unfortunate accident and passed away. The claimants being parents and siblings of the deceased has suffered a tragic loss of a future doctor, their dreams have shattered and their lives have been haltered, hence, under such circumstances, they have approached the Motor Accident Claims Tribunal No.2, Jaipur Metropolitan, Jaipur (Raj.) seeking suitable amount of compensation by way of filing Claim Petition No. 181/2016. The Tribunal vide impugned judgment and award dated 28.07.2020 has awarded an amount of compensation of Rs.40,90,000/- in their favour.

2. Being aggrieved and dissatisfied by the aforesaid impugned judgment, the claimants as well as the Insurance Company has approached this Court by way of filing these cross appeals on the issue of quantum of income of the deceased.

3. The brief facts of the case are that the deceased-Sandeep Kumar was a student of final year of the course- MBBS and was riding a motor cycle bearing registration No. RJ-14-KS-9728

along-with his friend, but an accident was caused by the driver of the Pick up Jeep bearing registration No. RJ-18-GA-9574 by driving the said offending vehicle in a rash and negligent manner, wherein, the said Sandeep Kumar sustained several injuries and died.

4. The claimants approached the Tribunal by way of filing claim petition and the same has been partly allowed and driver, owner and the insurance company of the offending vehicle have been directed to pay the above stated amount of compensation to the claimants.

5. Learned counsel appearing on behalf of the Insurance Company submits that the deceased was simply a student of MBBS course and he was not earning a single penny, but inspite of above the Tribunal has determined his monthly income as Rs.20,000/- on a hypothetical assumption, as no proof was available on record that he would earn a sum of Rs.20,000/- per month after becoming a Doctor. Learned counsel submits that on the basis of such hypothetical assumption, it was assumed that the deceased would become Doctor and would earn particular amount of salary, as salary could not be determined, hence, under these circumstances, the Tribunal has committed an error in passing the impugned judgment and award. Hence, interference of this Court is warranted.

6. On the other hand, learned counsel also submits that the actual facts with regard to the date at the time of occurrence of accident are required to be seen and the loss of income is required

to be determined on the basis of the same. No loss of income can be determined on the basis of future prospects.

7. In support of his contentions, he has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Sarla Verma & Ors. vs Delhi Transport Corp.& Anr.** reported in **(2009) 6 SCC 121**.

8. On the other hand, learned counsel appearing on behalf of the claimants opposed the aforesaid arguments raised by learned counsel for the Insurance Company and submitted that the deceased was a student of final year of MBBS and had he after successfully passing the MBBS degree, he would have become a Doctor and would have earned a handsome amount of salary in future. Learned counsel submits that the parents of the deceased borrowed certain amount to pay the MBBS fee of the deceased. The Tribunal has committed an error in determining the income of the deceased as Rs.25,000/- only. Learned counsel submits that recently, the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Indra W/o Rajaram & Anr. Vs. Jagdish Chandra & Anr.** while deciding **S.B. Civil Misc. Appeal No.215/2024** on 29.04.2025 after relying the judgment passed by the Hon'ble Apex Court in the case of **Bishnupriya Panda Vs. Basanti Manjari Mohanty & Anr.** While deciding SLP (C) No.16447/2022 on 29.04.2025, has taken a view that in case of death of a student of 4th year of MBBS course while considering the age of the deceased, i.e., 21 years, the notional income of the deceased was considered as Rs.50,000/- per month looking to the fact that the accident occurred in the year 2013. Learned counsel

submits that even in the case of **Indra** (supra), the notional income of the deceased was treated as Rs.70,000/- per month as the accident occurred in the year 2019. Learned counsel submits that in the present case, the accident has occurred in the year 2015, hence, under these circumstances, atleast the notional income of the deceased should have been considered as Rs.50,000/- per month, hence, under these circumstances, interference of this Court is warranted.

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

10. Perusal of the record indicates that this fact is not in dispute that the deceased was of the age of 23 years and at the time of accident he was a student of final year of MBBS course. The question that remains for consideration of this Court is whether the person like the deceased, the dependents/claimants of the deceased are entitled to get notional income looking to the fact that the accident has occurred in the year 2015.

11. The issue involved in the instant appeal has already been set at rest not only by the co-ordinate Bench of this Court, but also by the Hon'ble Apex Court in the case of **Bishnupriya Panda** (supra), wherein the identical situation arose and looking to the fact that the deceased was a student of 4th year MBBS and his age was 21 years and the accident occurred in the year 2013.

12. Considering the overall facts and circumstances of the case, the Hon'ble Apex Court came to a definite conclusion that notional income of such like student would be Rs.50,000/- per month and

after adding 40% amount under the head of future prospects, the income of the deceased was determined accordingly.

13. It has been held by the Hon'ble Apex Court in Paras 4 to 8, which reads as under:-

> "4. In respect of the accident which had occurred on 27.07.2013, the Motor Accidents Claims Tribunal (for short 'MACT') through its award dated 06.07.2019, had awarded a sum of Rs.68,74,000/- with interest at 7% per annum as compensation. Before the High Court, the appeals filed by both the appellant as also by the respondent-Insurance Company was dismissed. It is in that light, the appellant is before this Court seeking further enhancement of the compensation.
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> 5. The MACT, having taken note that the deceased was a student of 4th year of MBBS and was aged about 21 years at the time of the accident which had occurred on 27.07.2013, had taken the notional income of the deceased at Rs.50,000/- per month and added 40% of the same towards future prospects, which adds up to the sum of Rs.70,000/-. 50% of Rs.70,000/- i.e. Rs.35,000/- is deducted towards self expenses and has thereafter awarded the compensation.
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> 6. In so far as the notional income reckoned and the parameters adopted to reach the same, we are of the opinion that the MACT was justified. However, if the very same parameters are taken note, the actual amount of compensation ought to have been a sum of Rs. 75,60,000/- towards loss of dependency and further a sum of Rs.70,000/- towards conventional heads. Hence, the total compensation amount ought to have been Rs.76,30,000/-, which we accordingly correct and rectify. The award passed by the MACT is accordingly modified/ rectified.
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> 7. Hence, we hold that the appellant is entitled to the actual compensation of Rs.76,30,000/- with interest at 7% per annum. The enhanced amount of compensation shall be deposited by the Insurance Company before MACT within six weeks from the date of receipt of a copy of this judgment, which shall thereupon be released to the appellant/claimant herein.

8. With the above modification, the appeal stands disposed of along with the pending application(s), if any."

14. Following the above analogy as laid down by the Hon'ble Apex Court in the case of **Bishnupriya Panda** (supra), recently the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Indira** (supra) has taken and reiterated the same view, but looking to the fact that in the said matter also the deceased was a 2nd year student of MBBS course and looking to his age, i.e., 21 years and also looking to the fact that he met with an accident and died in the year 2019, his notional income was determined as Rs.70,000/- per month and accordingly the amount of compensation was awarded to dependents of the deceased, i.e., the claimants. It was so held in Para 10 to 13, which reads as under:-

"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. BasantiManjari Mohanty & Anr.** decided on 04.08.2023, relied upon by he 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** 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 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/-."

15. In the instant case, the accident has occurred in the year 2015 and in the considered opinion of this Court and following the judgment passed by the Hon'ble Apex Court in the case of **Bishnupriya Panda** (supra), this Court has no option except to treat the notional income of the deceased as Rs.50,000/- per month as the accident occurred in the year 2015 and in the case of **Bishnupriya Panda** (supra) the accident occurred in the year 2013 and accordingly the notional income of the deceased was determined as Rs.50,000/- per month, hence, this Court also helds that the notional income of the deceased to be assessed as Rs.50,000/- per month in the year 2015 on the assumption that in if after passing the degree of MBBS, he could have become a Doctor.

16. Considering the overall facts and circumstances of the case and following the judgments, proposition of law as laid down by the Hon'ble Apex Court in the case of **Bishnupriya Panda** (supra) and recently the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Indra** (supra), the impugned judgment and award is enhanced with the following terms:-

Monthly income (along with 40% future prospects)	**Rs.50,000/- + Rs.20,000/- = Rs. 70,000/-**
Annual Income	**Rs. 70,000/- X 12 = Rs. 8,40,000/-**

Multiplier to be applied	**18** **Rs. 8,40,000/- X 18** **= Rs. 1,51,20,000/-**
Deduction toward personal and living expenses of the deceased (1/2)	**Rs.1,51,20,000/- – Rs. 75,60,000/-** **= Rs. 75,60,000/-**
Loss of consortium	**Rs. 40,000 X 6** **= Rs. 2,40,000/-**
Loss of Estate	**Rs. 15,000/-**
Funeral Expense	**Rs. 15,000/-**
Total compensation awardable	**Rs. 78,30,000/-**
Less amount awarded by the tribunal	**Rs. 40,90,000/-**
Enhanced compensation amount	**Rs. 37,40,000/-**

17. In view of the above discussions made hereinabove, the appeal submitted by the Insurance Company stands rejected and the appeal submitted by the claimants stands partly allowed and the impugned award passed by the Tribunal stands modified to the extent that the claimants are entitled to get a sum of Rs.37,40,000/- by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.

18. It is further ordered that out of the enhanced compensation amount, a sum of Rs.50,000/- be deposited in the Savings Bank Account of one of the claimants 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 claimants on monthly basis.

19. 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.

20. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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