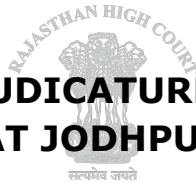




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Civil Miscellaneous Appeal No. 514/2008
CNR: RJHC010123282007 | URN: CMA / 2102U / 2008

1. Babita W/o Late Kamal Kishore, aged 56 years, R/o House Number 79,11th B Road, Sardarpura, Jodhpur (Raj.)
2. Ms. Harshita D/o Late Kamal Kishore, aged 30 years R/o House Number 79,11th B Road, Sardarpura, Jodhpur (Raj.)
3. Ms. Roopal D/o Late Kamal Kishore aged about 21 years R/o House Number 79,11th B Road, Sardarpura, Jodhpur (Raj.)

----Appellant

Versus

1. Shankar Singh S/o Heersing R/o House Number 41, Isiyo Ka Kabristan, Police Station Shastri Nagar, Jodhpur.
2. Mahendra Singh S/o Shankar Singh R/o House Number 41, Isiyo Ka Kabristan, Police Station Shastri Nagar, Jodhpur.
3. United India Insurance Company Limited, Divisional Office- Near Jaljog Circle, Residency Road, Jodhpur.

----Respondent

For Appellant(s) : Mr. Pravin Vyas
For Respondent(s) : Mr. Anil Kaushik

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

17/09/2026

1. Present Civil Miscellaneous Appeal has been filed against the judgment and award dated 29.01.2007 passed by Motor Accident Claims Tribunal (First), Jodhpur ("learned Tribunal") to the extent of quantum of compensation in Claim Case No. 123/2006, whereby the claim petition filed by claimants was allowed and compensation of ₹6,15,500/- along with interest at the rate of 6%



per annum was awarded. The respondents were held jointly and severally liable to satisfy the award.

2. The facts giving rise to present appeal, in brief, are that on 20.12.2005, at about 7:30 p.m., Kamal Kishore Sharma was returning from Basni to his home on his motorcycle bearing registration No. RJ-19-12M-2119 when, near Rotary Circle, 7th Section Main Road, an auto-rickshaw bearing registration No. RJ-19P-7344, allegedly driven rashly and negligently by respondent No. 1, Shankar Singh, collided with his motorcycle. As a result of the accident, Kamal Kishore Sharma sustained grievous injuries and later on succumbed to the same on 29.12.2005.

Thereafter, a claim petition was filed by legal representatives of late Kamal Kishore Sharma seeking compensation of Rs.37,68,500/-.

2.1 On the basis of the pleadings, the learned Tribunal framed four issues for determination. While deciding Issue No. 1, it, upon appreciation of the oral and documentary evidence on record, held that the accident resulting in the death of late Kamal Kishore Sharma occurred due to the rash and negligent driving of the offending vehicle by its driver.

2.2 With regard to Issue No. 2 pertaining to the quantum of compensation, the learned Tribunal held that the deceased, Kamal Kishore Sharma, was employed as a Supervisor at an Art Emporium and was earning a monthly salary of ₹4,800/-. The said income was assessed on the basis of the income certificate (Exhibit-13) placed on record. After deducting one-third of the said income towards the personal and living expenses of the



deceased, the Tribunal assessed the loss of dependency and, applying a multiplier of 15, awarded a sum of ₹5,76,000/- under that head, taking the age of the deceased to be 43 years at the time of the accident. The Tribunal further awarded ₹9,000/- towards medical expenses, ₹2,000/- towards funeral expenses, ₹500/- towards transportation expenses and ₹3,000/- towards loss of property on account of damage caused to the motorcycle of the deceased.

Accordingly, a total compensation of ₹6,15,500/- was awarded in favour of the claimants.

3. Assailing the quantum of compensation awarded by learned Tribunal, it was contended that the learned Tribunal erred in assessing the monthly income of the deceased at ₹4,800/- solely on the basis of the salary certificate (Exhibit-13). Inviting the attention of this Court to the testimony of AW-3 Mahendra Mehta, employer of the deceased, learned counsel submitted that the witness categorically stated that apart from a monthly salary of ₹4,800/, the deceased was also receiving telephone and petrol allowances amounting to ₹2,000/- per month. It was argued that such allowances formed part of the earnings of the deceased and could not have been excluded for the purpose of computation of compensation. According to learned counsel, the monthly income of the deceased ought to have been assessed at ₹6,800/- and not ₹4,800/. Learned counsel further submitted that the Tribunal also erred in deducting one-third of the income towards personal and living expenses of the deceased, despite there being four dependents at the time of the accident. It was argued that, in



such circumstances, only one-fourth of the income ought to have been deducted and the loss of dependency should have been computed accordingly.

3.1 Learned counsel further submitted that Tribunal awarded only ₹9,000/- towards medical expenses, despite evidence on record indicating that the deceased remained hospitalized from 20.12.2005 till 29.12.2005 and that the claimants had incurred expenditure of about ₹40,000/- towards his treatment. It was also contended that the award of ₹3,000/- towards damage to the motorcycle of the deceased is grossly inadequate. In this regard, reliance was placed upon Exhibit-9, the mechanical inspection report, which reflects damage to various parts of the motorcycle, including the indicators, handle and petrol tank.

Moreover, learned counsel submitted that the compensation awarded under the conventional heads is also liable to be enhanced in accordance with law, including under the heads of consortium, funeral expenses and loss of estate. It was further contended that the rate of interest awarded by the learned Tribunal is on the lower side and deserves to be enhanced in view of the settled legal position governing grant of interest on compensation under the Motor Vehicles Act.

3.2 In support of the aforesaid contentions, learned counsel for appellants placed reliance upon the judgments of Hon'ble Supreme Court in

(i) ***Kirti v. Oriental Insurance Co. Ltd., (2021) 2 SCC 166;***





(ii) ***Triveni Kodkany v. Air India Ltd., (2021) 19 SCC 214;***

(iii) ***Fakir Chand Taneja v. Oriental Insurance Co. Ltd., Civil Appeal No. 6550 of 2022*** and

(iv) ***Manorma Sinha v. Oriental Insurance Co. Ltd., 2025 SCC OnLine SC 2241.***

4. Per contra, learned counsel for respondents supported the impugned judgment and award and submitted that the same has been passed after due appreciation of the oral and documentary evidence available on record and, therefore, warrants no interference by this Court. Learned counsel contended that learned Tribunal has correctly assessed the income of the deceased on the basis of the salary certificate (Exhibit-13) and rightly determined his monthly income at ₹4,800/-. It was submitted that the telephone and petrol allowances referred to in the testimony of AW-3 Mahendra Mehta were in the nature of expenses incurred in the course of employment and could not be treated as part of the income of the deceased for the purpose of computation of compensation. Therefore, the Tribunal committed no error in excluding the said allowances while assessing the monthly income of the deceased.

4.1 Learned counsel further submitted that the deduction towards personal and living expenses, the multiplier applied by the Tribunal, and the amount awarded under the various heads of compensation are all based on the evidence available on record and do not suffer from any infirmity. It was argued that the claimants failed to produce satisfactory documentary evidence to substantiate their claim for higher medical expenditure or greater



damage to the motorcycle and therefore, the amounts awarded by Tribunal under those heads are just and reasonable.

4.2 In support of the aforesaid submissions, learned counsel for respondents placed reliance upon the judgment of Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Indira Srivastava, (2008) 2 SCC 763.***

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

6. The principal grievance of the appellants relates to the assessment of the deceased's income. While computing compensation, the learned Tribunal considered only the salary certificate issued by Art Emporium and assessed the deceased's monthly income at ₹4,800/-. However, AW-3 Mahendra Mehta, the employer of the deceased, categorically deposed that, besides the salary of ₹4,800/- per month, the deceased was also receiving ₹2,000/- per month towards telephone and petrol allowances. Nothing has been brought on record to discredit this testimony.

6.1 In considered opinion of this Court, while assessing the income of a deceased for the purpose of determining compensation under the Motor Vehicles Act, the Court is required to take into account the real earnings and pecuniary benefits accruing to the deceased from his employment. Such assessment cannot be confined merely to the basic salary reflected in the salary certificate if the evidence on record demonstrates that the employee was regularly receiving additional monetary benefits as part of his service conditions. Benefits received by an employee in monetary terms, whether by way of salary, allowances or other



emoluments having a nexus with employment, ordinarily form part of the income available to him and cannot be excluded merely because they are described as allowances.

6.2 This view also finds support from the judgment of the Hon'ble Supreme Court in **Triveni Kodkany v. Air India Ltd., (2021) 19 SCC 214** wherein it was held that the income of the deceased for the purpose of computation of compensation has to be assessed on the basis of the entire remuneration and benefits receivable by the employee and that allowances forming part of the employment package cannot be excluded merely because the salary is bifurcated under different heads. Relevant paragraph is reproduced herein below:

"9. Both the sides have prefaced their submissions by relying on the principles which have been evolved by the court in determining compensation under the Motor Vehicles Act, where an accident has resulted in death. The table which we have reproduced in the earlier part of the judgment would indicate that the total CTC per annum, on account of the employment of the deceased, to his employer was AED 4,82,395. This comprises of the basic pay, house rent allowance, transport allowance, telephone allowance, LTA, medical aid and gratuity. The ion which has been made by the employer in the salary of the deceased is, in our view, no reason to make any deductions from the total CTC of AED 4,82,395. The consolidated amount is the amount annually borne by the employer on account of the employment of the deceased. Hence, we are unable to accept the reasons which weighed with Ncdrc in making a deduction of AED 30,000 from the total CTC. Similarly and for the same reason, we are unable to accept the submission of Air India that the transport allowance should be excluded. The bifurcation of the salary into diverse heads may be made by the employer for a variety of reasons. However, in a claim for





compensation arising out of the death of the employee, the income has to be assessed on the basis of the entitlement of the employee. We, therefore, proceed for the purpose of computation on the basis of the annual income of AED 4,82,395."

(emphasis supplied)

6.3 Hon'ble Supreme Court in **Manorama Sinha (supra)**, reiterated the settled position. Relevant paragraph is reproduced herein below:

"12. Now, the next question is whether allowances are to be added to the salary for determining the multiplicand. In *National Insurance Co. Ltd. v. Indira Srivastava* it was held that "the term income has different connotations for different purposes. A court of law, having regard to the change in societal conditions consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family". In *Vijay Kumar Rastogi v. Uttar Pradesh State Roadways Transport Corporation* a three-Judge Bench of this court noticing earlier decisions on the point observed that "the income should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may not be taxable due to exemption conferred thereupon under the statute." Following the decision in *Vijay Kumar Rastogi (supra)* in *National Insurance Company Ltd. v. Nalini* it was held by this Court that the emoluments and the benefits accruing to the deceased under various heads for the purposes of computation of loss of income, ought to be included irrespective of whether they are taxable or not. Thus, in our view, the High Court erred in excluding the allowances from the computation to arrive at the multiplicand. Hence, the total monthly income was rightly computed by the Tribunal at Rs. 53,367."



(emphasis supplied)

6.4 The reliance placed by respondents on **Indira Srivastava (supra)** rather advances the appellants' case, as the said judgment itself recognizes that income is not confined to the take-home salary and includes other employment-related benefits and perks. Relevant paragraph is reproduced herein below:

"9. The term "income" has different connotations for different purposes. A court of law, having regard to the change in societal conditions must consider the question not only having regard to pay-packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family. Loss caused to the family on a death of a near and dear one can hardly be compensated on monetary terms."

6.5 Accordingly, learned Tribunal ought to have assessed the monthly income of the deceased at ₹6,800/- instead of ₹4,800/-. Further, as per the law subsequently crystallized by the Hon'ble Supreme Court in **Sarla Verma v. DTC, (2009) 6 SCC 121**, the appropriate multiplier for a deceased aged 43 years is 14. Therefore, the compensation awarded under the head of loss of dependency requires reassessment by applying a multiplier of 14.

6.6 So far as deduction towards personal and living expenses is concerned, a perusal of the record reveals that at the time of the accident, the deceased was survived by four dependents, namely, his wife, two minor daughters and his aged father. In such circumstances, as laid down in **Sarla Verma (supra)**, the appropriate deduction towards personal and living expenses would be one-fourth of the income. Moreover, in view of the law laid down by the Hon'ble Supreme Court in **National Insurance Co.**



Ltd. v. Pranay Sethi, (2017) 16 SCC 680, an addition towards future prospects is also required to be made. Since the deceased was aged 43 years at the time of the accident and was earning a fixed salary, an addition of 25% towards future prospects deserves to be granted.

Consequently, the compensation payable under the head of loss of dependency is liable to be recomputed by taking the monthly income of the deceased as ₹6,800/-, adding 25% towards future prospects, deducting one-fourth towards personal and living expenses and applying a multiplier of 14. Upon applying the aforesaid parameters, the loss of dependency/loss of income is assessed at ₹10,71,000/-.

7. So far as compensation under the remaining heads is concerned, this Court finds merit in the contention of the appellants. A perusal of the mechanical inspection report (Exhibit-9) reveals that the motorcycle of the deceased had sustained damage to several parts, including the indicators, handle and petrol tank. In the opinion of this Court, the amount of ₹3,000/- awarded by the learned Tribunal towards damage to the vehicle is inadequate. Having regard to the nature of damage reflected in Exhibit-9, a sum of ₹8,000/- would constitute just compensation under the said head.

7.1 Similarly, the deceased remained hospitalized from 20.12.2005 to 29.12.2005 and ultimately succumbed to his injuries. Considering the duration of hospitalization and the unrebutted evidence regarding the expenses incurred on treatment, this Court is of the view that a sum of ₹40,000/- would



constitute just and reasonable compensation towards medical and hospitalization expenses.

7.2 This Court further notices that the compensation awarded under conventional heads requires reconsideration in light of the principles subsequently crystallized by the Hon'ble Supreme Court in **Pranay Sethi (supra)** and the subsequent enhancement directed therein. Accordingly, this Court deems it appropriate to award ₹19,965/- towards funeral expenses, ₹1,59,720/- towards loss of consortium and ₹19,965/- towards loss of estate.

8. In so far as the rate of interest awarded by learned Tribunal is concerned, this Court is of the view that the same warrants enhancement. The learned Tribunal has awarded interest at the rate of 6% per annum, which, in the facts and circumstances of the present case, is on the lower side. Having regard to the settled principles governing award of interest in motor accident compensation cases and the decisions of the Hon'ble Supreme Court on the subject, this Court deems it appropriate to enhance the rate of interest from 6% per annum to 9% per annum. The view taken by this Court stands fortified by the pronouncements of the Hon'ble Supreme Court relating to the grant of interest on compensation awarded under the Motor Vehicles Act.

8.1 In **Kaushnuma Begum v. New India Assurance Co. Ltd.; (2001) 2 SCC 9**, Hon'ble Supreme Court addressed the determination of interest rates under Section 171 of the Motor Vehicles Act. While courts previously awarded 12% simple interest, the Court reduced the standard rate to 9% per annum from the date of the claim to reflect prevailing economic shifts and



lower bank fixed deposit rates set by the Reserve Bank of India.

Relevant paragraph is quoted below:

"24. Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that "in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf". Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9% on fixed deposits for one year. We, therefore, direct that the compensation amount fixed hereinbefore shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants. The amount of Rs 50,000 paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date."

(emphasis supplied)

8.2 In ***Oriental Insurance Co. Ltd. v. Niru; 2025 SCC OnLine SC 1431***, Supreme Court upheld a 9% interest rate on motor accident compensation, tracing the historical evolution of interest awards from 12% in the 1980s to 9% in the 1990s and lower rates following post-2000 economic shifts. Relevant paragraph is reproduced herein below:

"8. Further contention taken is the higher rate of interest of 9%, in challenge of which several precedents were placed before us. From the decisions perused what emanates is that in the 1980's, Courts were awarding 12% interest which stood reduced to 9% in the 1990's. With the advent of the 21st century and the economic recession world over, the interest rates fell considerably. But even now the rates offered by National Banks for long term deposits are 7% or more. Considering the over-all circumstances especially the





long delay caused, we are of the opinion that 9% interest rate granted by the Tribunal is perfectly in order especially noticing the accident having occurred in the year 1995.”

9. In light of the foregoing discussion and the judicial pronouncements referred to hereinabove, this Court deems it appropriate to reassess the compensation payable to the claimants in the following terms:

S.No	REASSESSMENT OF COMPENSATION	AMOUNT (in Rupees)
1.	Annual Income	Rs.6,800 × 12 = Rs.81,600/-
2.	Future Prospects (25% of Income)	Rs.81,600 × 25% = Rs.20,400/-
3.	Multiplier	14 (Rs.81,600 + Rs.20,400) × 14 = Rs.14,28,000/-
4.	Deduction	1/4 Rs.14,28,000 × 1/4 = Rs.3,57,000/-
5.	Loss of Income	Rs.14,28,000 – Rs.3,57,000 = Rs.10,71,000/-
6.	Consortium	Rs.53,240 × 3= Rs.1,59,720/-
7.	Loss of Estate and Funeral Expenses	Rs.19,965 × 2= Rs.39,930/-
8.	Damage to vehicle	Rs.8000/-
9.	Hospitalization Charges	Rs.40,000/-
10.	Total Compensation	Rs.10,71,000 + Rs.1,59,720 + Rs.39,930 + Rs.8000 + Rs.40,000 = Rs.13,18,650/-
11.	Compensation awarded by Tribunal	Rs.6,15,500/-
12.	Enhanced Amount	Rs.13,18,650 – Rs.6,15,500 = Rs.7,03,150/- along with interest @9% per annum from date of filing of claim petition.



10. In view of the foregoing, this appeal is **partly allowed**.

Accordingly, the impugned award dated 29.01.2007 is modified and the compensation payable to the claimants is enhanced from ₹6,15,500/- to ₹13,18,650/-. Consequently, the claimants shall be entitled to an enhanced amount of ₹7,03,150/-.

11. Accordingly, the enhanced amount of Rs.7,03,150/- shall carry interest @ 9% per annum from the date of filing of the claim petition. Any amount already deposited/paid pursuant to the impugned award shall be adjusted against the enhanced award.

12. Pending applications, if any, stand disposed of.

(SANJEET PUROHIT),J

194/Yagya Solanki