



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

[S.B. Civil Misc. Appeal No. 1545/2015]

Maa Sai School, Through Manager Cum Principal, Maa Sai School, resident of 10-11, Anand Vihar Colony, Chittorgarh (Raj.).

----Appellant

Versus

1. Shanti Lal @ Pintu Modi son of Bhanwar Lalji, aged about 37 years, resident of House No.1, Mahaveer Colony, Chittorgarh, Tehsil & District Chittorgarh (Raj.).
2. Alka wife of Shanti Lal @ Pintu, aged 36 years, Resident of House No.1, mahavir Colony, Chittorgarh Tehsil & District Chittorgarh (Raj.).
3. Shreyans son of Shanti Lal @ Pintu Modi son of Bhanwar Lalji, aged 5 years, resident of House No.1 Mahaveer Colony, Chittorgarh, through natural guardian father Shanti Lal @ Pintu Modi son of Bhanwar Lalji, aged 37 years, resident of House No.1, Mahaveer Colony, Chittorgarh, Tehsil & District Chittorgarh (Raj.).
4. United India Insurance Company, through Branch Manager, United India Insurance Company Limited, Pratapnagar, Chittorgarh, Tehsil & District Chittorgarh (Raj.).
5. Dinesh Chandra son of Shri Prem Shankarji Dayama, resident of Babrana, Tehsil Kapasan, District Chittorgarh (Raj.).

----Respondents

Connected With

[S.B. Cross Objection (Civil) No. 27/2018]

1. Shanti Lal @ Pintu Modi S/o Bhanwar Lal,
2. Alka W/o Shanti Lal @ Pintu,
3. Shreyansh S/o Shanti Lal @ Pintu, Minor Through His Natural Guardian Father Shanti Lal @ Pintu Modi S/o Bhanwar Lal Modi. All Are By Caste Modi And R/o House No. 1, Mahaveer Colony, Tehsil And District - Chittorgarh.

----Appellants

Versus

1. Maa Sai School Through Managercum Principal, 10-11 Anand Vihar Colony, Chittorgarh. Owner
2. United India Insurance Co. Ltd. Through Its Branch Manager, Branch Office, Chittorgarh. Insurer



3. Dinesh Chandra S/o Prem Shankar Dayama, R/o Babrana,
Tehsil - Kapasan, District - Chittorgarh. Driver

----Respondents

For Appellant(s) : Mr. Nikhil Ajmera for
Mr. Sandeep Saruparia (for the owner
of the vehicle in question).
For Respondent(s) : Mr. Manish Pitaliya (for claimants in
cross-objection)
Mr. Jagdish Chandra Vyas (for
insurance company).

HON'BLE DR. JUSTICE NUPUR BHATI

Order

12/03/2025

1. The present Civil Misc. Appeal No.1545/2015 as well as Cross Objection (Civil) No.27/2018, have been filed challenging the impugned judgment and award dated 02.06.2015 passed by the learned Motor Accidents Claim Tribunal ['learned Tribunal'], Chittorgarh in Misc. Claim Case No.287/2009 whereby, the learned Tribunal has partly allowed the claim petition filed by the claimants/cross-objectors and awarded Rs.1,75,000/- along with interest @ 9% per annum while fastening the liability to pay the compensation upon the owner and the driver of the vehicle in question, jointly and severally.

2. Brief facts of the case are that on 28.10.2008 at around 1:30 PM, when one Sakshi was playing outside her house, a bus of Maa Sai School bearing registration No.RJ-09-P-2394 driven by one Dinesh in a rash and negligent manner, turned the wheel of the bus over Sakshi due to which she received grievous and fatal injuries and resultantly, she died. A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimants/cross-objectors seeking compensation on account of



death of Sakshi, which came to be partly allowed vide impugned judgment and award dated 02.06.2015 and thus, being aggrieved of the same, the appellant-Owner has preferred the present misc. appeal and the cross-objections has been filed by the claimants/cross-objectors seeking enhancement of the compensation.

{S.B. CIVIL MISC. APPEAL NO.1545/2015}:

3. Learned counsel for the appellant-owner submits that the learned Tribunal in the impugned judgment and award dated 02.06.2015 has held that the driver of the vehicle in question was not having valid Driving License to drive the said vehicle but was having the license to drive Light Motor Vehicles ['LMV'] only. He further submits that the Hon'ble Supreme Court in the case of **M/s Bajaj Alliance General Insurance Company Ltd. v. Rambha Devi & Ors.** [Civil Appeal No.841 of 2018] decided on 06.11.2024 has upheld the decision rendered in the case of **Mukund Dewangan v. Oriental Insurance Company Ltd."** [2017 14 SCC 663] and thus, the driver of the vehicle in question which is registered as goods vehicle, was not required to have transport vehicle license. Relevant part of the aforesaid judgment is reproduced hereunder:-

".... **131.** Our conclusions following the above discussion are as under:-

(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross Page 125 of 126 vehicle weight under 7,500 kg is permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2) (e) of the MV Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to



apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

(II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.

(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment."

4. Learned counsel for the respondent-Insurance Company is unable to refute the submissions made by learned counsel for the appellant-owner of the vehicle in question.

5. In view of the submissions made and taking into consideration the judgment passed by the Hon'ble Supreme Court in the case of *Rambha Devi (supra)* wherein the decision rendered in the case of *Mukund Dewangan (supra)* was upheld, the direction given by the learned Tribunal to the non-claimants Nos.2 and 3 i.e. owner and driver of the vehicle in question in the impugned award dated 02.06.2015 to the extent of paying the amount of compensation to the claimants jointly and severally while exonerating the insurance company to pay the said compensation, is hereby quashed and set aside.

6. All the non-applicants are held jointly and severally liable to pay the amount of compensation as awarded by the learned Tribunal to the claimants along with the interest (as awarded by the learned Tribunal), if not already paid/deposited.



7. Accordingly, the instant misc. appeal is partly allowed in the above terms. Stay application as well as all other pending applications, if any, also stand disposed of.

{S.B. CROSS OBJECTION (CIVIL) NO.27/2018}:

8. The only plea raised by the learned counsel representing the claimants/cross-objectors is that the compensation awarded by the learned Tribunal to the claimants is on the lower side. He also submits that the learned Tribunal has not granted any compensation under non-pecuniary heads viz. consortium to the sibling as well as funeral expenses.

9. On the other hand, learned counsel representing the respondent-Insurance Company vehemently opposes the submissions made by learned counsel for the claimants and submits that the award passed by the learned Tribunal does not suffers from any infirmity whatsoever so as to warrant any interference therein. He further submits that the amount under the head of consortium is awardable only to the parents of the deceased child and not to his/her siblings in presence of parents.

10. I have heard and considered the submission advanced by learned counsel for the parties at Bar and have carefully gone through the material placed on record.

11. As far as the contention of the counsel representing the Insurance Company that consortium is awardable only the parents of the deceased child and not to the siblings of the same is concerned, the said position of law in this regard has already been settled by this Court in the case of ***Shriram General Insurance Co. Ltd. v. Jethmal & Ors.*** passed in S.B. Civil Misc. Appeal



No.2811/2019 (with other connected matter) decided on 01.10.2024 wherein, this Court while taking into consideration the judgment passed by the Hon'ble Apex Court in the case of **Magma General Insurance Co. Ltd. v. Nanu Ramalias Chuhru Ram**, Civil Appeal No. 9581 of 2018 decided on 18.09.2018, awarded compensation towards the head of Consortium to the brother of the deceased as well while observing that:

"28. This Court also finds that, contrary to the pecuniary heads, where factors such as dependency are important to ascertain the loss, the consortium, being a non-pecuniary head is not to be considered in the light of dependency of a claimant upon the deceased inasmuch as even the siblings, as in the present case, would be deprived of the love, care, affection and company of the deceased, which can not be quantified. Therefore, this Court deems it appropriate to grant compensation towards the head of consortium to the brother of the deceased also."

12. This Court finds that the Hon'ble Supreme Court in "**Sadhna Tomar & Ors. v. Ashok Kushwaha & Ors.**" (Civil Appeal No.3763 of 2025) has awarded compensation under the head of consortium to the sister of the deceased as well in the presence of other claimants viz. wife, daughter, mother and father. Therefore, the contention raised by learned counsel representing the respondent-Insurance Company, does not stand to scrutiny.

13. This Court is also of the view that losing a child in an accident is an unfathomable tragedy for the parents as well as his/her siblings. The anguish and grief that accompany such a loss are profound and enduring leaving the parents and the siblings grappling with emotions that often defy description. In a case of death of a child, no amount of money can compensate the parents as well as siblings of the deceased child however, it is the duty of



the Court to award just compensation. The Hon'ble Supreme Court in the case of ***Kishan Gopal and Ors. v. Lala and Ors. : [(2014) 1 SCC 244]***, where the age of the deceased child was 10 years, took the notional income of the deceased child as Rs.30,000/- per annum looking to the facts and circumstances of the case. Further, the Hon'ble Supreme Court in the case of ***Kurvan Ansari and Ors. v. Shyam Kishore Murmu and Ors. : [(2022) 1 SCC 317]***, where the age of the deceased child was 7 years, took notional income of the deceased child as Rs.25,000/- per annum and after applying Multiplier of 15, granted total amount of Rs.3,75,000/- under the head of 'loss of dependency' and also an amount of Rs.40,000/- to each of the parents under the head of filial consortium and Rs.15,000/- under the head of funeral expenses. The Hon'ble Supreme Court, also in the case of ***Meena Devi Vs. Nunu Chand Mahto and Ors : [(2023) 1 SCC 204]***, where the age of the deceased child was 12 years, has taken the notional income as Rs.30,000/- per annum including future prospects and applied Multiplier of 15 to arrive at the compensation awardable under the head of 'loss of dependency' and awarded Rs. 50,000/- under the conventional heads.

14. Thus, looking to the above factual matrix of the case and the age of the deceased child i.e. 1.5 years and also in light of the above cited judgments, this Court deems it appropriate to take the notional income of the deceased child as Rs.15,000/- per annum and the multiplier of 15 in light of the judgment rendered by the Hon'ble Supreme Court in the case of ***Divya vs. The National Insurance Co. Ltd. and Ors. : [(2022) INSC 1108]***. Furthermore, looking into the facts of the instant case where there



are three claimants (the father, the mother and one sibling), this Court deems it just to award Rs.1,45,200/- towards Consortium. Furthermore, this Court also deems it just to award Rs.18,150/- towards the Funeral Expenses.

15. Thus, in view of discussion in the above paragraphs the compensation awardable to the claimants is as under:

Particulars	Awarded by the learned Tribunal	Awarded/modified by the Court
Loss of dependancy (i.e. Rs.15,000/- x 15) [A]	Rs.1,75,000/- [C] (after deduction of Rs.50,000/- awarded towards interim compensation under Section 140 of the Act of 1988.)	Rs.2,25,000/-
Conventional Heads (Consortium + Funeral Expenses) [B]		Rs.1,63,350/-
Total [A] + [B]		Rs.3,88,350/- [D]
Enhanced Amount [D]-[C]	Rs.2,13,350/-	

16. With the above observation and direction, the instant cross-objection preferred by the claimants is partly allowed. The impugned award dated 02.06.2015 passed by the learned tribunal is modified accordingly.

17. The claimants are held entitled to get enhanced compensation of **Rs.2,13,350/-** along with interest @ 9% (same as awarded by the learned tribunal) from the date of filing of the claim petition in accordance with the directions of the learned Tribunal as modified by this Court in **S.B. Civil Misc. Appeal No. 1545/2015**. The amount of compensation, if any, disbursed to the claimants, shall be adjusted accordingly. No order as to costs.



18. A copy of this order be placed in each file.

(DR. NUPUR BHATI),J

57-58-/Devesh/-

