HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 2758/2017
URN: CMA / 4181U / 2017

1. Ramesh Chand Sharma S/o Damodar Prasad Sharma, aged 42 years,
2. Menka Sharma W/o Ramesh Chandra Sharma, aged 34 Years,
Both R/o A-26, Rajeev Nagar, Sector 3, Vidhyadhar Nagar, Jaipur.

----Claimants/Appellants

Versus

1. Rakesh Sharma S/o Prahlad Krishna Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Driver Car No. RJ-14-CD-24260
2. Sagarmal Sharma S/o D.L. Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Owner Car No. RJ-14-CD-2426)
3. United India Insurance Company Limited, Division Office At Ambabadi Jaipur Having Regional Office At Vishal Chambers, Tonk Road, Jaipur Through Its Regional Manager (Insurance Company Car No. RJ-14-CD-2426 Policy No. 140303/31/11/01/00025811, Valid From 02.03.2012 To 01.03.2013)

----Non-claimants/Respondents

Connected With

S.B. Civil Miscellaneous Appeal No. 2778/2017
URN: CMA / 4201U / 2017

1. Prachi D/o Rakesh Sharma, aged 9 years Minor Through Her Grandfather And Guardian Prahlad Krishna Sharma
2. Prahlad Krishna Sharma S/o Bhagwan Sahay Sharma, aged 69 years,
Both R/o House No. 1/459, Vidyadhar Nagar, Jaipur.

----Claimants/Appellants

Versus

1. Rakesh Sharma S/o Prahlad Krishna Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Driver Car No. RJ-14-CD-2426)
2. Sagarmal Sharma S/o D.L. Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Owner Car No. RJ-14-

CD-2426)

3. United India Insurance Company Limited, Division Office At Ambabari Jaipur Having Its Regional Office At Vishal Chambers Tonk Road, Jaipur Through His Regional Manager (Insurance Company Car No. RJ-14-CD-2426 Policy No. 140303/31/11/01/00025811, Valid From 02.03.2012 To 01.03.2013))

----Non-claimants/Respondents

S.B. Civil Miscellaneous Appeal No. 2779/2017

URN: CMA / 4202U / 2017

Prachi D/o Rakesh Sharma, aged 9 years Minor Through Her Grandfather And Guardian Prahlad Krishna Sharma S/o Bhagwan Sahay Sharma, Aged 69 Years, R/o House No. 1/459, Vidyadhar Nagar, Jaipur.

----Claimant/Appellant

Versus

1. Rakesh Sharma So Prahlad Krishna Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur. (Driver Car No. RJ-14-CD-2426)
2. Sagarmal Sharma S/o D.L. Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Owner Car No. RJ-14-CD-2426)
3. United India Insurance Company Limited, Division Office At Ambabari Jaipur Having Its Regional Office At Vishal Chambers, Tonk Road, Jaipur Through Its Regional Manager (Insurance Company Car No. RJ-14-CD-2426, Policy No. 140303/31/11/01/00025811, Valid From 02.03.2012 To 01.03.2013)

----Non-claimants/Respondents

S.B. Civil Miscellaneous Appeal No. 2822/2017

URN: CMA / 4265U / 2017

1. Prahlad Krishna Sharma S/o Bhagwan Sahay Sharma, aged 69 years,
2. Prachi D/o Rakesh Sharma, aged 9 years Minor Through Her Grandfather And Guardian Prahlad Krishna Sharma.

Both R/o House No. 1/459, Vidyadhar Nagar, Jaipur.

----Claimants/Appellants

Versus

1. Rakesh Sharma S/o Prahlad Krishna Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Driver Car No. RJ-14-CD-2426)
2. Sagarmal Sharma S/o D.L. Sharma, R/o House No. 1/459 Vidyadhar Nagar, Jaipur (Owner Car No. RJ-14-CD-24260
3. United India Insurance Company Limited, Division Office At Ambabari Jaipur Having Its Regional Office At Vishal Chambers, Tonk Road, Jaipur Through Its Regional Manager (Insurance Company Car No. RJ-14-CD-2426, Policy No. 140303/31/11/01/00025811, Valid From 02.03.2012 To 01.03.2013)

----Non-claimants/Respondents

S.B. Civil Miscellaneous Appeal No. 2823/2017

URN: CMA / 4266U / 2017

1. Prahlad Krishna Sharma S/o Bhagwan Sahay Sharma, aged 67 years
2. Prachi D/o Rakesh Sharma, aged 7 years Minor Through Her Grandfather And Guardian Prahlad Krishna Sharma, Both R/o House No. 1/459, Vidyadhar Nagar, Jaipur

----Claimants/Appellants

Versus

1. Rakesh Sharma S/o Prahlad Krishna Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Driver Car No. RJ-14-CD-2426)
2. Sagarmal Sharma S/o D.L. Sharma, R/o House No. 1/459, Vidyadhar Nagar, Jaipur (Owner Car No. RJ-14-CD-2426)
3. United India Insurance Company Limited, Division Office At Ambabari Jaipur Having Its Regional Office At Vishal Chambers, Tonk Road, Jaipur Through Its Regional Manager (Insurance Company Car No. RJ-14-CD-2426, Policy No. 140303/31/11/01/00025811, Valid From 02.03.2012 To 01.03.2013)

----Non-claimants/Respondents

4. Veeru Devi W/o Rambabu Sharma, aged 40 years, R/o B E 21, Double Story, Vidyadhar Nagar, Jaipur
5. Menka Devi W/o Ramesh Chand Sharma, aged 38 years, R/o B E 21, Double Story, Vidyadhar Nagar, Jaipur
6. Dinesh Sharma S/o Prahalad Krishna, aged 34 years, R/o House No. 1/459, Vidyadhar Nagar, Jaipur

----Proforma Respondents

For Appellants/ Claimants	:	Mr. Vinay Mathur, Adv.
For Respondent/ Insurance Company	:	Mr. Tripurari Sharma, Adv.

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

09/07/2026

1. Learned counsel-Mr. Tripurari Sharma puts in appearance and accepts notice on behalf of the Insurance Company in S.B. C.M.A. Nos.2822/2017 and 2823/2017.

2. The present appeals have been filed by the claimants-appellants against the common judgment and award dated 14.02.2017 passed by learned Motor Accident Claims Tribunal No.1, Jaipur Metropolitan, Jaipur (hereinafter referred to as learned 'Tribunal') in Claim Case Nos.505/2013, 506/2013, 507/2013, 508/2013 and 509/2013, whereby the claim petitions filed by the claimants-appellants have been partly allowed and in Claim Petition Nos.505/2013, 507/2013, 508/2013 and 509/2013, an award of Rs.1,84,500/-, Rs.89,500/-, Rs.1,54,500/-, Rs.1,54,500/- has been passed in favour of the claimants-appellants respectively, wherein, in Claim Petition No.506/2013,

an award of Rs.69,000/- been passed in the favour of claimants-appellants. As these appeals have been filed against the common judgment and award, the same are being heard and decided by the instant common judgment.

2. Learned counsel for the claimants-appellants submits that the learned Tribunal has granted compensation in accordance with the provisions of Section 163A of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act of 1988') whereas, the amended Section 164 of the Act of 1988 should have been applied while deciding the same, therefore, learned counsel on behalf of the claimants-appellants prays that the impugned judgment and award dated 14.02.2017 passed by the learned Tribunal be modified and compensation be enhanced in the light of amended provisions.

3. Learned counsel on behalf of the respondent-Insurance Company while vehemently opposing the contention of the claimants-appellants, argues that the learned Tribunal has rightly assessed the compensation in favour of the claimants-appellants and there is no valid ground to enhance the same.

4. Heard learned counsel for the parties and perused the record.

5. The facts of the present case pertains to the question of applicability of Section 163A which has been substituted by the Motor Vehicles Act (Amendment) Act, 2019 (32 of 2019) (hereinafter referred to as the 'Act of 2019') w.e.f. 01.09.2019. Section 164 has substituted Section 163A which was inserted by Act 54 of 1994 in the Act of 1988. Section 163A provide for a

predetermined formula for payment of compensation to victims of motor vehicular accident on the basis of age/income of the deceased or the person suffering permanent disability and provided that the owner of the motor vehicle involved in the accident or the authorised insurer is liable to pay compensation in the case of 'death' or 'grievous hurt' due to accident arising out of the use of the motor vehicle to the legal representatives of the deceased or victim, as the case may be. The amended Second Schedule which had come into effect from 22.05.2018, has also been omitted by the Act of 2019. At present, Section 164 of the Act of 1988, as amended, reads as under:

> "164. Payment of compensation in case of death of grevious hurt, etc. -- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of tow and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.
>
> (2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle or of the vehicle concerned or of any other person.
>
> (3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time

> being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section."

Therefore, prior to the amendment of 2019, compensation under the no-fault liability principle was governed by Section 163A of the Act of 1988. By virtue of the amendment of 2019, the said provision was substituted by Section 164 providing for payment of fixed statutory compensation, namely Rs.5,00,000/- in case of 'death' and Rs.2,50,000/- in case of 'grievous hurt'.

6. In the present case, the accident occurred on 13.01.2013 and the claim petitions filed by the claimants were decided vide the impugned judgment and award dated 14.02.2017 by the learned Tribunal. It is pertinent to note that the claim petitions were decided in accordance with the law applicable at that time, i.e., prior to the 2019 amendment that came into effect on 01.09.2019. Thus, the issue arises, whether the said claim petitions and its appeals should be decided in light of the amended provision of Section 164 of the Act of 1988.

7. The Coordinate Bench of this Court in the common order of **Ganesh Bairwa Vs. Ramphool Bairwa & Ors** (S.B Civil Misc. Appeal No. 2566/2018) and **Girraj Vs. Ramphool Bairwa & Ors.** (S.B Civil Misc. Appeal No. 2567/2018), decided on 12.05.2022, has held as follows:

> "14. The only other avenue open to award higher amount on claim under Section 163A in respect of fatal accident, would be to seek application of the 2018 amendment to the Second Schedule of the

> Act or the equivalent 2019 amendment to the Act, which provides for a flat compensation of Rs.5 lacs in case of death and Rs. 2.5 lacs in case of grievous hurt. As the Act of 1988, in the matter of Motor Vehicles Act, which has to be regarded as a beneficial legislation, it stands to reason that the amendment of 2018 to the Second Schedule and the subsequent 2019 amendment to the Act would have to be given effect in this claim where accord and satisfaction might not have been achieved after adjudication....
>
> ....18. Hence, in view of judgments of Manpreet Kaur (supra) and Suren Ch. Ray (supra), Urmila Halder (Supra) this Court is of the view that these appeals are continuation of the proceedings and the amended Section 164 has to be taken into consideration for deciding the same."

8. The Hon'ble Apex Court in the case of **New India Assurance Co. Ltd. Vs. Urmila Halder** (SLP (Civil) No. 6260 of 2019) decided on 08.02.2024 has held as follows:-

> "10. The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified,

> which rightly has been noted by the High Court and accordingly, the claim has been enhanced to ₹5,00,000/- (Rupees Five Lakhs)....”

9. In view of the judgments of **Ganesh Bairwa** (supra) and **Urmila Halder** (supra), this Court is of the opinion that the amendment brought by the Act of 2019 is beneficial in nature and relates to the quantum of compensation. Since, an appeal is a continuation of the original proceedings, the amended provision can be taken into consideration while deciding the present appeal.

10. From the perusal of the record, it is evident that Claim Petition Nos.505/2013, 507/2013, 508/2013 and 509/2013 were filed by the claimants-appellants for claiming compensation due to deaths of persons namely Smt. Durgenshu, Smt. Prem Devi, child Tapasya and child Manisha respectively and Claim Petition No.506/2013 was filed by the claimants-appellants for claiming compensation due to injuries caused to child Prachi. In Claim Petition Nos.505/2013, 507/2013, 508/2013 and 509/2013, an award of Rs.1,84,500/-, Rs.89,500/-, Rs.1,54,500/-, Rs.1,54,500/- has been passed in favour of the claimants-appellants respectively, wherein, in Claim Petition No.506/2013, an award of Rs.69,000/- has been passed by learned Tribunal in favour of the claimant on account of 7.5% permanent disability caused to the claimant.

11. Consequently, the impugned judgment and award dated 14.02.2017 passed by the learned Tribunal deserves to be modified as follows:-

S.B. C.M.A. Nos.	Claim Petition Nos.	Amount awarded by learned Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
2758/2017	509/2013	1,54,500/-	5,00,000/-
2778/2017	505/2013	1,84,500/-	5,00,000/-
2822/2017	508/2013	1,54,500/-	5,00,000/-
2823/2017	507/2013	89,500/-	5,00,000/-
2779/2017	506/2013	69,000/-	2,50,000/-

12. Accordingly, the present appeals are partly allowed, and the impugned award dated 14.02.2017 passed by learned Tribunal is enhanced to the extent that the claimants-appellants in S.B. C.M.A. Nos.2758/2017, 2778/2017, 2822/2017, 2823/2017 shall be entitled to compensation of Rs.5,00,000/- (Rupees Five Lakhs), whereas, the claimants-appellants in S.B. C.M.A. No.2779/2017 shall be entitled to compensation of Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand) in terms of amended Section 164 of the Act of 1988. The amount previously received by the claimants-appellants will be adjusted against the award amount and the claimants-appellants are entitled to receive the remaining amount. The claimants-appellants are entitled to receive an interest @ 8% per annum on the compensation amount enhanced by this order from the date of filing of the claim petition.

13. Accordingly, the present appeals filed by the claimants-appellants stand disposed of, in terms of the discussion made hereinabove.

14. Any other pending applications, also stand disposed of.

(ASHUTOSH KUMAR),J

AARZOO ARORA/108-112-S.