HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Misc. Appeal No. 2740/2017

1. Nathmal @ Natthu Ram S/o Shri Bhagirath Ram,
2. Smt. Naini W/o Shri Nathmal @ Natthu Ram, Both By Caste Jat, Resident Of Tadawas, Tehsil Khinvsar, District Nagaur.

----Appellants

Versus

1. Hukma Ram Tada S/o Heera Ram Tada, By Caste Jat, Resident Of Tadavas, Tehsil Khinvsar, At Present Resident Of Aathuna Baas, Khinvsar, District Nagaur. Regd. Owner And Driver Of Car No. Rj 21 Ca 8335
2. Ifco Tokyo General Insurance Company Ltd., Registered Office 4,5 Floor, Ifco Tower, Plot No. 3, Sector 29, Gurgaon Haryana-122 001 Through Its Branch Manager. Insurance Company Of Car No. Rj 21 Ca 8335

----Respondents

For Appellant(s)	:	Mr. KR Choudhary
For Respondent(s)	:	Mr. Jagdish Vyas-Insurance Company

HON'BLE DR. JUSTICE NUPUR BHATI

Order

12/02/2025

1. The present civil misc. appeal has been preferred by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988 (‘MV Act’) assailing the judgment and award dated 07.07.2017 passed by learned Judge, Motor Accident Claims Tribunal, Nagaur, (‘learned Tribunal’) in Claim Case No.40/2016 (computer no.57/2016), whereby the learned Tribunal partly allowed the claim petition filed by the claimants and awarded compensation of Rs.3,19,500/-, in favour of claimants along with interest @ 7.5% p.a. while fastening the liability upon the respondents jointly and severally.

2. Brief facts of the case are that on 26.12.2015 at about 01:30 pm, Ranjeet (deceased) was coming from Khinvsar to Tadavas by bus and when he reached near Tadavas village, a Swift Car bearing Registration

No.RJ-21-CA-8335, driven in a rash and negligent manner by the respondent No.1, hit Ranjeet and as a result whereof, he died during his treatment. His parents, being the claimants, filed a claim petition before the learned Tribunal. Notices were issued and respondents Nos.1 and 2, filed reply to the claim petition while denying the averments made in the claim petition. On the basis of the pleadings, the learned Tribunal framed four issues. Oral as well as documentary evidences were produced by the claimants in support of their claim petition and on the other hand no evidence was produced by the respondents and after hearing both the parties, the learned Tribunal partly allowed the claim petition of the claimants and held the respondents liable to pay the quantum of compensation in favour of the claimants and thus, being dissatisfied of the quantum, the appellants have preferred the instant misc. appeal.

3. Since there is no dispute as to the facts of the case the learned counsel appearing on behalf of the appellants/claimants has restricted his submissions only to the quantum of the compensation awarded by the learned tribunal, as the learned tribunal has erred in awarding such meager compensation on account of the death of the deceased child.

4. *Per contra*, learned counsel for the respondent-Insurance Company opposes and submits that the award passed by the learned Tribunal is just and calls for no interference by this Court.

5. I have heard and considered the submissions advanced at Bar and have gone through the material available on record.

6. This Court finds that the learned Tribunal has awarded the amount of Rs.3,19,500/- as quantum of compensation to the appellants/claimants. However, this court finds that the Hon’ble Supreme Court in the case of **Kishan Gopal and Ors. Vs. Lala and**

Ors. : [(2014) 1 SCC 244], where the age of the deceased child was 10 years has taken the notional income of the deceased child as Rs. 30,000/- p.a. looking to the facts and circumstances. Further, the Hon'ble Supreme Court in the case of **Kurvan Ansari and Ors. Vs. Shyam Kishore Murmu and Ors. : [(2022) 1 SCC 317]**, where the age of the deceased child was 7 years, has taken notional income of the deceased child as Rs. 25,000/- p.a. and after applying Multiplier of 15 granted total 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. Furthermore, the Hon'ble Supreme Court 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/- p.a. including future prospect 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.

7. Thus, looking to the age of the deceased child (i.e., 8 years) and peculiar facts and circumstances of the present case and in the light of the above cited judgments, this court deems it appropriate to take the notional income of the deceased child as Rs.25,000/- p.a. Also, the applicable multiplier would be of 15 in the light of the judgment of the Hon'ble Supreme Court in the case of **Divya vs. The National Insurance Co. Ltd. and Ors. :[2022 INSC 1108]**. Further, looking into the facts of the instant case where there are two claimants including mother and father of the deceased, this court deems it just to award Rs.1,15,000/- towards conventional heads.

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

Particulars	Awarded by Tribunal	Awarded/modified by the Court
Loss of dependancy (i.e. Rs.25000/- x 15) **[A]**	Rs.3,19,500/- (Lump-sum) **[C]**	Rs.3,75,000/-
Conventional Heads **[B]**		Rs.1,15,000/-
Total **[A]** + **[B]**		Rs.4,90,000/- **[D]**
Enhanced Amount **[D]**-**[C]**		**Rs.1,70,500/-**

9. Thus, the instant appeal preferred by the appellants/claimants is partly allowed. The impugned award passed by the learned tribunal is modified accordingly.

10. Therefore, the appellants/claimants are held entitled to get enhanced compensation of **Rs.1,70,500/-** along with interest @ 7.5% (same as awarded by the learned tribunal) from the filing of the claim petition in the same manner as directed by the learned tribunal. The amount of compensation, if any disbursed to the appellants/claimants, shall be adjusted accordingly. No order as to costs.

(DR. NUPUR BHATI),J

Surabhi/162-