

the amount without producing the certificate from the concerned Income- Tax Authority. The aforesaid view has been reiterated by this High Court in Review Application No.1 of 2020 in First Appeal From Order No.23 of 2001 (**Smt. Sudesna and others Vs. Hari Singh and another**) while disbursing the amount.

10. Fresh Award be drawn accordingly in the above petition by the tribunal as per the modification made herein. The Tribunals in the State shall follow the direction of this Court as herein aforementioned as far as disbursement is concerned, it should look into the condition of the litigant and the pendency of the matter and not blindly apply the judgment of A.V. Padma (supra). The same is to be applied looking to the facts of each case.

11. As far as issue of rate of interest is concerned, it should be 7.5% in view of the latest decision of the Apex Court in **National Insurance Co. Ltd. Vs. Mannat Johal and Others, 2019 (2) T.A.C. 705 (S.C.)** wherein the Apex Court has held as under :

*"13. The aforesaid features equally apply to the contentions urged on behalf of the claimants as regards the rate of interest. The Tribunal had awarded interest at the rate of 12% p.a. but the same had been too high a rate in comparison to what is ordinarily envisaged in these matters. The High Court, after making a substantial enhancement in the award amount, modified the interest component at a reasonable rate of 7.5% p.a. and we find no reason to allow the interest in this matter at any rate higher than that allowed by High Court."*

13. In view of the above, the appeal is **partly allowed**. Judgment and decree

passed by the Tribunal shall stand modified to the aforesaid extent. The respondent-Insurance Company shall deposit the amount along with additional amount within a period of 12 weeks from today with interest at the rate of 7.5% from the date of filing of the claim petition till the amount is deposited. The amount already deposited be deducted from the amount to be deposited.

14. Record be sent back to court below forthwith.

15. The amount be disbursed in the proportion which is ordered by the

16. We are thankful to learned counsels for the parties for ably assisted the Court.

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**(2022)02ILR A740**

**APPELLATE JURISDICTION  
CIVIL SIDE**

**DATED: ALLAHABAD 26.11.2021**

**BEFORE**

**THE HON'BLE SYED AFTAB HUSAIN RIZVI, J.**

First Appeal From Order No. 1716 of 2010

**Rishi Ram Sahu & Anr.                      ...Appellants**  
**Versus**  
**Mahendra Kumar Tripathi & Ors.                      ...Respondents**

**Counsel for the Appellants:**  
Sri S.D. Ojha

**Counsel for the Respondents:**  
Sri Shreesh Srivastava

**(A) Civil Law - Motor Vehicles Act, 1988 - Compensation Enhancement** - Daughter of appellants (claimants) - aged about 6 years - died in accident - filed claim petition before motor accident claim tribunal - an award of Rs.

1,07,000/- with 6% per annum interest awarded - aggrieved by award - filed appeal for enhancement of the compensation amount . (Para - 1,2,5)

**HELD:-**Award enhanced to Rs. 2,25,000/- with interest @ 7% per annum . Respondent to re-calculate the amount of compensation accordingly and deposit the difference within 12 weeks from today before the tribunal. Judgment and decree shall stand modified. (Para - 9,10,11)

**Appeal allowed.** (E-7)

**List of Cases cited:-**

1. Kheldas Vs Virendra Singh & ors., 2008 (3) TAC 875

2. New India Insurance Co. Vs Satendra & ors., 2007 (1) TAC page 11 SC

3. Manju Devi & anr. Vs Musafir Paswan, 2005 (1) TAC 609 (SC)

(Delivered by Hon'ble Syed Aftab Husain Rizvi, J.)

1. This first appeal from order has been filed by the appellants (claimants) being aggrieved by the judgment and order dated 8.4.2010 passed by the Motor Accident Claim Tribunal, Chitrakoot in Motor Accident Claim Petition No. 105/70/2008 Rishi Ram Sahu and another Vs. Mahendra Kumar Tripathi and others. By the impugned judgment and order an award of Rs. 1,07,000/- with 6% per annum interest has been awarded.

2. Claimants have preferred this appeal for enhancement of the compensation amount.

3. Learned counsel for the claimant submitted that the Hon'ble Apex Court in Rajendra Singh and others Vs. National Insurance Company 2020 ACJ 2211 has

awarded a compensation of Rs. 2,95,000/- for death of a child. Taking into consideration the view of the Hon'ble Supreme Court compensation awarded by the tribunal is insufficient and need to be enhanced according to proposition led by the Hon'ble Supreme Court.

4. Learned counsel for the respondent no. 3 insurance company submitted that in the facts of the present case, case of Manju Devi 2005 (1) TAC 609 SC will apply and the award may be enhanced accordingly.

5. The accident is of 22.11.2008 in which daughter of the appellants (claimants) aged 6 years has died. The impugned award is dated 8.4.2010. The tribunal has computed the amount of compensation relying on the case law Kheldas Vs. Virendra Singh and others 2008 (3) TAC 875 of Rajasthan High Court and has observed that in the aforesaid case law the Rajasthan High Court has held that for the death of a child upto 5 years of age, compensation of Rs. 1 lakh should be awarded. The learned tribunal has also referred judgment of Hon'ble Supreme Court in New Inida Insurance Company Vs. Satendra and others 2007 (1) TAC page 11 SC and has observed that deceased belongs to a ordinary family, the earning of his father is Rs. 50/- per day and has awarded Rs. 1 lakh amount plus Rs. 5000/- for loss of love and affection and Rs. 2000/- for funeral expenses and this way has awarded Rs. 1,07,000/- compensation with 6% per annum interest.

6. In para 5 of the memo of appeal it is mentioned that Hon'ble Apex Court in the case of Manju Devi and another Vs. Musafir Paswan, reported in 2005 (1) TAC 609 (SC) has enhanced the compensation from Rs. 90,000/- to Rs. 2,25,000/-, in the

case of death of a boy of aged about 13 years and the case of the appellant is identical and fully covered with the judgment of Hon'ble Apex Court and the appellants are also entitled for compensation of Rs. 2,25,000/-.

7. In Manju Devi Vs. Musafir Paswan (Supra) the Hon'ble Supreme Court has held that :

*"As set out in the Second Schedule to the Motor Vehicles Act, 1988, for a boy of 13 years of age, a multiplier of 15 would have to be applied. As per the Second Schedule, he being a non-earning person, a sum of Rs. 15,000.00 must be taken as the income. Thus, the compensation comes to Rs. 2,25,000.00."*

8. The case law Rajendra Singh Vs. National Insurance Company Ltd. and others (Supra) cited by the learned counsel for the appellants will not apply in the present case as in that case the date of the accident was 25.12.2012 and award was passed thereafter. The amount of compensation was assessed on the basis of notional income of 36,000/- per annum and applying a 50% deduction towards personal expenses with multiplier of 15 the compensation was calculated as Rs. 2,70,000/- and out of which 50% was deducted towards contributory negligence. A sum of Rs. 25,000/- was added towards funeral expenses leaving to a total award of Rs. 1,60,000/-. The Hon'ble Supreme Court has held that there was no contributory negligence of the deceased and deduction on account of contributory negligence was held to be unsustainable.

9. In the facts of the present case the judgment of Manju Devi (Supra) under all the heads is applicable. Award is required to be enhanced accordingly.

10. The award is enhanced to Rs. 2,25,000/- with interest @ 7% per annum.

11. The appeal is **allowed** accordingly. Respondent no. 3 will recalculate the amount of compensation accordingly and deposit the difference within 12 weeks from today before the tribunal. The judgment and decree shall stand modified to the aforesaid extent. The record, if in this Court, be sent forthwith to the tribunal with the copy of the judgment to enable the respondent no. 3-Insurance Company to deposit the difference.

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**(2022)02ILR A742**  
**APPELLATE JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 03.01.2022**

**BEFORE**

**THE HON'BLE DR. KAUSHAL JAYENDRA THAKER, J.**

First Appeal From Order No. 1972 of 2021

**M/s New India Assurance Comp. Ltd.**  
**...Appellant**

**Versus**

**Smt. Usha Taneja & Ors. ...Respondents**

**Counsel for the Appellant:**  
 Sri Arun Kumar Shukla, Sri Pankaj Bhatia

**Counsel for the Respondents:**

**(A) Civil Law - Motor Vehicles Act, 1988 - Section 140 - Liability to pay compensation in certain cases on the principle of no fault , Section 147 - Requirements of policies and limits of liability - negligence - principle of "res ipsa loquitur" - "the things speak for itself" - if the the order is not questioned as to whether the driver was having a driving licence or not and if it is proved that the driving licence was there in that**