



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Miscellaneous Appeal No. 2560/2024

Laxman Kumawat S/o Ratanlal, Aged About 38 Years, R/o Somani Nagar, Opposite Bhaskar School, Behind I.o.c. Colony, Beawar (Raj.)

----Appellant

Versus

1. Madan Singh S/o Narayan Singh, R/o Seliberi, Kotda, P.s. Jawaja, District Beawar (Raj.) (Driver And Registered Owner Of Vehicle Motorcycle No. Rj-36-Sq-4065)
2. Manager, National Insurance Company Ltd., Beawar (Raj.) (Insurance Company Of Vehicle Motorcycle No. Rj-36-Sq-4065)

----Respondents

For Appellant(s) : Mr.Rahul Singh Meratwal
For Respondent(s) : Ms.Manju Jain (through VC)

**JUSTICE ANOOP KUMAR DHAND
Order**

04/02/2026

Reportable

1. By way of filing the instant appeal, a challenge has been led to the impugned judgment dated 15.02.2024 passed by the Motor Accident Claims Tribunal, Beawar (for short, "the Tribunal") in Claim Case No.254/2020 (277/2022) by which a compensation of Rs.2,87,625/- has been awarded to the claimant-appellant (for short, "the claimant").

2. Learned counsel appearing on behalf of the claimant submits that on the date of incident, i.e., on 27.08.2020, the claimant was riding on a motor bike bearing No.RJ36 SQ 4065, and all of a sudden, a vehicle, coming from the opposite side, collided with the claimant's vehicle wherein the claimant sustained multiple simple





and grievous injuries. Counsel submits that on account of the injuries, the leg of the claimant was operated and he has sustained 13% permanent disability. Counsel submits that the claimant was working as a Beldar and the same should be treated as a skilled labour, however, the Tribunal has treated the job of the claimant that of an unskilled labour. Counsel further submits that while awarding the amount of compensation, the minimum wages for 26 days have been assessed whereas a daily wager is supposed to work for 30 days, therefore, the income of the daily wager is required to be assessed for 30 days instead of 26 days.

3. Counsel for the claimant has placed reliance upon the judgment passed by this Court in the case of **Nandu Devi & Anr. Vs. Sohanlal & Ors.** while deciding **S.B. Civil Misc. Appeal No.769/2017** dated 23.02.2022.

4. *Per contra*, learned counsel appearing on behalf of the respondent-Insurance Company opposes the arguments raised by counsel appearing on behalf of the claimant and submits that a Beldar cannot be treated as a skilled labour, rather the job of the Beldar falls within the category of an unskilled labour and the Tribunal has not committed any error in passing the impugned award inasmuch as proper and suitable amount of compensation has been awarded to the claimant, under all the heads. Hence, interference of this Court is not warranted and the instant appeal is liable to be rejected.

5. Heard and considered the submissions made at the Bar and perused the material available on record.





6. The following two issues have been raised in the instant appeal:

(i) Whether the work of a daily wager working as 'Beldar' amounts to working of 'skilled' or 'unskilled' labour?

(ii) Whether the monthly income of a daily wager is required to be determined for 26 days or 30 days in a month?

7. This Court proceeds to deal with issue no. (i). There is a lot of difference between a skilled labour and an unskilled labour and worker with specialized skills or training is a skilled labours while a worker without specialized skills or training is known as an unskilled labours.

For ready reference the difference between a skilled and an unskilled labour is described as under:

Skilled labour	Unskilled labour
Skilled labour refers to workers who possess specialized knowledge, training or expertise in a particular field or occupation. They have acquired skills through formal education, apprenticeship or excessive experience, making them more productive and efficient.	Unskilled labour refers to workers who perform tasks that require little or no specialized knowledge, education or training. They typically engaged in manual work that does not require specific skills or expertise.

8. Several notifications have been issued by the Ministry and Department of Labour and Employment of the Central and the State Governments which describe the difference and classification between skilled, semi-skilled and unskilled labour. The classification of such labours is reproduced as under:-

Notification

New Delhi, the 19th January, 2017
MINISTRY OF LABOUR AND EMPLOYMENT NOTIFICATION
New Delhi,





the 19th January, 2017

S.O. 186(E).—

SCHEDULE

PART-I

Categories of employees	Basic Rates of Minimum Wages		
	Area-A	Area-B	Area-C
(1)	(2)	(3)	(4)
Unskilled	Rs.	Rs.	Rs.
Beldar , Calf boy, Cattleman, Cleaner(Motor shed, Tractor, Cattle Yard, M.T), Collecting loose fodder, Dairy coolie, Dairyman, Dismantling stocks, Dresser, Driver (Bullocks Mule).....	333.0	303.00	300.00
Semi-skilled/Unskilled Supervisory			
Assistant (Chowdhary), Attendant (Bull-calving lines, Chowkidar, Chaff cutter, Hostel, Dry Stock, Grain Crusher, Pump, Siekline, Stable, Yard Stock).....	364.00	335.00	307.00
Skilled			
Artificer (Class-II, III, IV) Blacksmith, Blacksmith (Class-II), Boilerman, Carpenter, Carpenter (Class-II) Carpenter-cum-Blacksmith, Chowdhary, Driver.....	395.	364.00	334.00
Highly Skilled			
Artificer Class I, Blacksmith Class I Carpenter Class I, Machine Hand class I, Mason Class I, Mechanic (Senior), and any other categories by whatever name called which are of highly skilled nature	438.00	407.00	364.00
Clerical			
Assistant (Farm), Assistant (Cashier), Computer/ Data Entry Operator, Clerk, Munshi, Register Keeper, Storekeeper, Time Keeper, Typist, and any other categories by whatever name called which are of clerical nature	395.00	364.00	334.00



**S.O. 187 (E).-**

PART-I xx xx xx xx

PART-II xx xx xx xx

PART- III**CLASSIFICATION OF WORKERS****1. UNSKILLED WORKERS**

1. Cleaner	2. Dresser/ Dressing Mazdoor	3. Helper
4. Loader	5. Mazdoor (Male/ Female)	6. Messenger (Male/ Female)
7. Tammer	8. Caretaker (Except in Cooper, Chromite and Graphite mines where it is semi-skilled)	9. Office peon/ Peon (except in Bauxite Mines)
10. Sweeper (Male/ Female)	11. Carrier	12. Number Taker
13. Trolley Triper	14. Water Carrier	15. Hole Cutter
16. Earth Cutter	17. Survey Khalasi	18. Khalasi not attending to machines
19. Carrier (Stone)	20. Cartman	21. Concrete (Hand Mixer)
22. Driver (Mule, Bullock, Camel, Donkey)	23. Lampman	24. Petrol man
25. Waterman	26. Beldar/Beldar (Canteen)	27. Coolie
28. Breaker (using manual appliances)	29. Cook-helper	30. Office Boy
31. Quarry Worker	32. Jelly Maker	33. Over burden Remover
34. Waste removing mazdoor	35. Unloader	36. Excavating Labour
37. Digger	38. Butcher	39. Attender
40. Compressor Attendant	41. Lorry Helper	42. Surface Loader
43. Wood Cutter	44. Surface Mukar	45. Under Ground Mukar

9. In the instant case, it is admitted case of the claimant that the injured was a 'Beldar'. As per the notifications issued by the Department of Labour, those workers who work as 'Beldar' fall within the category of unskilled labours. Hence, by any stretch of





imagination, the work of the injured as 'Beldar' cannot be treated as work of a skilled labour. The injured was an unskilled labour. Hence, the Tribunal has not committed any error in treating the injured Beldar as an unskilled labour and rightly determined his monthly income as an unskilled labour.

10. This Court finds no substance in the arguments of counsel for the claimant that the job of a Beldar falls within the category of a skilled labour. In the considered opinion of this Court, a skilled labour is a labour, who is having some technical qualification to discharge the job of a skilled labour. By no stretch of imagination, the job of Beldar can be treated as skilled labour as the injured does not possess any qualification, hence, under these circumstances, the Tribunal has not committed any error by treating the job of the claimant, i.e., Beldar, under the category of an unskilled labour.

11. Now, this Court proceeds to decide issue no. (ii). Looking to the fact that at the relevant time, when the accident occurred, i.e., in the month of August, 2020, the minimum daily wages of such like labour, i.e., unskilled labour was Rs.252/-, but while computing the lump sum amount of Rs.6,552/-, the minimum wages has been counted for 26 days only.

12. The '26-day rule' accounts for a six-day work week, common in many Indian industries, with one weekly paid rest day (typically Sunday). This results in approximately 26 working days per month, excluding the four weekly rest days. But the ground reality is altogether different. Not a single daily wager gets paid any





money for the rest day. They are supposed to work every day in order to get paid for each day.

13. The Tribunal has assessed the monthly income of the injured on the basis of 26 days working under the presumption that such labour remains on holiday in each week of every month. Hence, they work for 26 days in a month on the basis of the notification/circular issued by the Ministry & Department of Labour by the Central and State Governments.

14. In the considered opinion of this Court, daily wage earners, who often live in hand to mouth situation, face severe financial distress when they take unpaid weekly holidays or offs, as they do not receive guaranteed pay for those days on which they did not work. While labour laws often mandate that at least one weekly off must be given to such labours.

15. Daily wagers typically receive payment only for the days actually worked by them, meaning thereby a holiday usually results in a loss of income to them.

16. Labour laws in India mandate that workers get at least one day off per week, typically on Sunday or any day to recharge and gain strength. The Factories Act, 1948 and the Shops and Establishment Act regulate the working hours, ensuring that labours get adequate rest. For instance, the workers cannot be forced to work for more than 9 hours a day or 48 hours a week. Hence, no labour can be legally forced to work for seven consecutive days in a week.

17. But, unfortunately the labour are not paid for any holiday or leave taken by them. Hence, they have no option, except to work





regularly for seven days in every week to earn bread and butter for their family.

18. Hence, by any stretch of imagination, it cannot be presumed that every daily wager would remain on leave for one day in each week of every month. On the contrary, they have no leisure time to relax on Sundays or by taking one leave in each week of every month. They neither have any holidays nor they take leave even for a day in a week. Hence, the general presumption is that such daily wagers work on each day in every week and even they work for all the days in the entire month.

19. Thus, the calculation of wages of daily wagers for 26 days in a week is not justified. The notification/circular issued by the Ministry/ Department of Labour by the Central and State Government appears to be inappropriate and the same needs suitable and necessary corrections in this regard and the minimum wages of such labours ought to be counted for 30 days instead of 26 days in a month.

20. This Court in the case of **Nandu Devi** (supra), while relying upon the judgment passed by the Co-ordinate Bench of this Court in the case of **Jalaur Singh & Ors. Vs. Barkat Singh & Ors.** reported in **2012(2) MACT Raj. 692**, has held that the Tribunal ought to have considered the monthly income of the daily wager for 30 days instead of 26 days. Hence, while applying the same principles, the claimant is entitled to get the following amount of compensation:-





Monthly income (along-with 40% addition towards future prospectus)	Rs.252 X 30 = Rs.7,560/- Rs.7,560+ Rs.3024 =Rs.10,584/-
Annual income	Rs.10,584 X 12 = Rs.1,27,008/- p.a.
Multiplier to be applied	15 Rs.1,27,008 X 15 = Rs.19,05,120/-
Loss of income (owing to 13% disability)	Rs.5,44,320/- Rs.19,05,120 X 13/100 = Rs.2,47,665.6/-
Pain and Suffering	Rs.20,000/-
Cost of Special Care	Rs.10,000/-
Nutrition	Rs1,500/-
Hospitalization charges (for one day)	Rs.500/-
Medical Bills	Rs.41,000/-
Total compensation awardable	Rs.3,20,665.6/-
Less amount awarded by the Tribunal	Rs.2,87,625/-
Enhanced amount of compensation	Rs.33,040.60p

21. Accordingly, the instant appeal stands partly allowed. The award passed by the Tribunal stands modified to the extent that the claimant would be now entitled to get a further sum of Rs.33,040.60p by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

22. The respondents are directed to pay the above computed enhanced amount in the savings bank account of the claimant within a period of two months from today with interest @ 6% p.a. from the date of filing of the claim petition.

23. Let a copy of this order be sent to the Secretary, Ministry of Labour, Union of India, New Delhi and Secretary, Department of Labour, Government of Rajasthan, Jaipur for taking appropriate steps to modify their notification/ circular dealing with payment of



minimum wages to the daily wagers for 30 days instead of 26 days in a month, in the interest of such daily wagers.

(ANOOP KUMAR DHAND),J

Aayush Sharma/21

