(2026) 01 GUJ CK 1411

In the Gujarat High Court

Case No : R/First Appeal No. 4217 Of 2025

Ajaykumar Chandubhai Parmar & Anr — APPELLANT

Vs

Pradipkumar Shaileshbhai Patel & Anr — RESPONDENT

Date of Decision : 08-01-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 01 GUJ CK 1411

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Pooja H Hotchandani, HS Munshaw

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

1) Feeling aggrieved and dissatisfied with the judgments and award dated 08.04.2025 passed by learned Motor Accident Claims Tribunal (Auxi.), Kheda at kapadwanj (which shall hereinafter be referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.62 of 2023, the appellants – original claimants have preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (which shall hereinafter be referred to as "the Act" for short).

2) Heard Ms. P. H. Hotchandani learned Advocate for the appellants – original Claimants and Mr. H. S. Munshaw, learned Advocate for respondent – ST Corporation. Perused the original record and proceedings.

3) It is the case of the appellants that on 31.05.2023, the daughter of applicant nos.1 and 2, namely Tanvi Ajaykumar parmar, (who shall hereinafter be referred to as "deceased") was travelling on the motorcycle bearing Reg. No.GJ-07-CQ-6307, which was being driven at slow speed by the rider of the motorcycle, when they reached Kapadwanj – Dakor road, the driver of ST Bus bearing Reg. No.GJ-18-Z-8249, which was owned by opponent no.2 came driving the bus on the wrong side of the road at high speed, in rash and negligent manner and

collided with the motorcycle of the deceased from the front side. As a result of which the deceased sustained grievous injuries and died on the spot. A complaint was lodged being I-C.R.No.11204028230211 of 2023, with Kapadwanj Police Station. Therefore, the appellants have filed MAC Petition seeking compensation, wherein, the learned Tribunal after appreciating the evidence produced on record has partly allowed the claim petition.

4) The appeal is filed on limited ground that the learned Tribunal has committed error in assessing quantum by not considering the income of the deceased who was 2 years old at the time of accident as per the rate of minimum wages of the year 2023 and committed error by considering notional income as Rs.36,000/- per annum.

The learned Tribunal has considered notional income as she was 02 years old and even otherwise as per the ratio laid down by the Hon’ble Apex Court in the case of Kajal Vs. Jagdish Chand, reported in (2020) 4 SCC 413 and Baby Sakshi Greola Vs. Manzoor Ahmed Simon and Anr, reported in 2024 SCC OnLine SC 3692, and Hitesh Nagjibhai Patel Vs Bababhai Nagjibhai Rabari & Anr., Neutral Citation – 2025 INSC 1070, as per which the Hon’ble Supreme Court come to the conclusion and clarified that when the Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. Considering the aforesaid fact in the case on hand the learned Tribunal has considered the notional income of the deceased child at Rs.36,000/- per annum. In view of above, as per the rate of minimum wages at the relevant point of time and considering the age of the deceased the income of the deceased is reassessed as Rs.11,700/- per month. Further, the learned Tribunal has considered future prospective income as 40% and as the deceased was minor ½ deduction as personal expenditure and living of the deceased were considered by the learned Tribunal as per the judgment of the Apex Court in the case of Sarla Verma (Smt) & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (6) SCC 121] and National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 ACJ 2700, which are just and proper. However, the learned Tribunal has also committed error in considering the multiplier of 15, hence, as per the Sarla Verma (supra), the multiplier of 18 is required to be considered. Therefore, calculating the income of the deceased as Rs.11,700/- and future prospect of 40% = Rs.4,680/- which comes to to Rs.16,380/- and ½ amount is required to be deducted as personal expenditure and living of the deceased which comes to Rs.8,190/- and the net amount comes to Rs.8,190/-. In view of above the amount under the head of future loss of income is required to be reassessed as Rs.8,190/- x 12 x 18 = Rs.17,69,040/-. Therefore, the appellant is entitled to get additional amount of Rs.13,91,040/- towards future loss of income.

5) Further, the learned Tribunal while relying on the judgment of Pranay Sethi (supra) has awarded total Rs.1,21,000/- under the three conventional heads,

however, this Court is of the view that amount is required to be reassessed as Rs.18,150/- towards loss of estate, Rs.18,150/- towards funeral expenses and Rs.96,800/-(Rs.48,400/- X 2) towards loss of consortium. Therefore, the amount under the three conventional heads is reassessed as Rs.1,33,100/-. Therefore, the appellants are entitled for additional amount of Rs.12,100/- under the three conventional heads.

6) As discussed above, the appellants are entitled to get compensation computed as under:

Heads

Awarded by

Tribunal

Reassessed by this Court

Future loss of income

Rs.3,78,000/-

Rs.17,69,040/-

including additional amount of Rs.13,91,040/-

Loss of consortium

Rs.88,000/-

Rs.96,800/-

including additional amount of Rs.8,800/-

Loss of Estate

Rs.16,500/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Funeral expenses

Rs.16,500/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Total compensation

Rs.4,99,000/-

Rs.19,02,140/-

including total additional amount of Rs.14,03,140/-

7) In view of above, as the Tribunal has awarded total compensation of Rs.4,99,000/-, however, as discussed above the appellants are entitled to get additional amount of Rs.14,03,140/- with proportionate costs and interest as awarded by the learned Tribunal.

8) Hence, present appeal is partly allowed. The judgment and award dated 08.04.2025 passed by learned Motor Accident Claims Tribunal (Auxi.), Kheda at kapadwanj, in MAC Petition No.62 of 2023 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. The respondent No.2 – ST Corporation shall deposit said additional amount of Rs.14,03,140/- along with interest as awarded by the Tribunal, before the Tribunal within a period of four weeks from the date of receipt of this order. Record and proceedings be remitted back to the concerned Tribunal forthwith.

9) The learned Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly.

10) Award to be drawn accordingly.