(2026) 01 GUJ CK 1448

In the Gujarat High Court

Case No : R/First Appeal No. 4272 Of 2025

Arvindbhai Somabhai Rohit & Ors APPELLANT

Vs

Kanabhai Hirabhai Pagi & Ors RESPONDENT

Date of Decision : 23-01-2026

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 01 GUJ CK 1448

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Mohsin M Hakim, GC Mazmudar, HG Mazmudar

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

1. Feeling aggrieved by and dissatisfied with the judgment and award dated 13.09.2023 passed by learned Motor Accident Claims Tribunal (Aux.), Vadodara, (hereinafter referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.684/2018, the appellants –original claimants preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).

2. Heard Mr. Mohsin Hakim learned Advocate for the appellants – original Claimants and Mr. H.G. Mazmudar, learned counsel for respondent No.3. Though served, none appears for rest of the respondents.

3. It is the case of the claimants that on 09.10.2018, while the deceased Gaurangkumar Arvindbhai Rohit was going on Motorcycle towards his company for attending his duty in night shift and when he reached near the place of accident, at that time, one Luxury Bus bearing No.GJ-06-AX-7699 came in full speed and in rash and negligent manner and dashed the motorcycle from behind. As a result, the deceased got serious injuries and succumbed to it during treatment in the hospital. Therefore, the claim petition was filed by the legal heir

of the deceased to get compensation of Rs.21,00,000/- from the opponents. After appreciating the evidence produced on record, the learned Tribunal awarded compensation of Rs.15,89,000/- along with cost and interest @ 9 % p.a.

4. The appeal is filed on limited ground of quantum and no further issue qua liability or contributory negligence is challenged. Therefore, learned counsel for the claimant has mainly argued that, the Tribunal has erred in considering monthly income of the deceased as Rs.10,000/- as he was Diploma in Mechanical Engineer and serving in Seffler India Ltd. and earning Rs.15,000/- p.m. Further, he has relied on decision of Hon'ble Supreme Court of India in case of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 (16) SCC 680, and contended that the Tribunal has erred in awarding compensation under the conventional heads as Rs.77,000/- and as per the said judgment, the Tribunal ought to have enhanced the same. Hence, he has prayed to allow the appeal as prayed for.

5. Learned counsel for the respondent No.3- Insurance Company has opposed the present appeal and submitted that, the Tribunal has rightly awarded compensation and adequate compensation is awarded under the head of loss of consortium. Therefore, requested to dismiss the appeal.

6. Having considered the submissions made by learned counsel for the parties, it appears that the appeal is filed only on the aspect of quantum and liability is not challenged. The Insurance Company has not filed any cross-objection. Hence, this appeal is required to be decided on the aspect of quantum only. Alleged incident is not not in dispute. Involvement of the vehicle is also not in dispute. In order to prove the claim, evidence has been produced on record like deposition of claimant No.1 at Exh:12 and deposition of witness Amarjitsingh Benipal at Exh:23. FIR at Exh:14, Panchnama of scene of incident at Exh:16, Copy of appointment letter at Exh:24 and copy of certificate issued by GTU at Exh:20. Pursuant to the evidence produced on record, it appears that as per the case of the claimants, deceased was 20 years and was serving as a trainee in FAG Company under the contract of Team Lease Skills University since December, 2017 and was earning Rs.10531/- and thereafter, the deceased was working as a trainee in FAG company under the contract of Care Works Foundation since 01.10.2018 and was getting salary of Rs.13,500/- p.m. Over and above the same, he was also doing part time work and thus getting total salary of Rs.15,000/-. Deceased had received salary of Rs.15,075/- in August, 2018 and entry regarding salary had been made in the bank passbook.

7. Considering the aforesaid facts and evidence produced on record, this Court is of considered view that there was no reason to discard such documentary evidence produced on record. Not only that, the Tribunal came to the conclusion that amount of salary has been deposited in the bank account which clearly reflected from Pass-Book. Though, the Tribunal has believed that the deceased was diploma engineer and having bright career, considered his notional income as Rs.10,000/- p.m. Once the Tribunal has accepted the documentary evidence

as well as the fact that the deceased was engineer and bright future, there was no reason to reduce the income at Rs.10,000/-. Therefore, the income is required to be reassessed as Rs.15,000/-.

8. Further, the Tribunal has rightly considered future prospective income of the deceased as 40 %. As the deceased was unmarried, 1/2 deduction as personal expenditure and living of the deceased and multiplier of 18 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] are just and proper.

9. Therefore, calculating the income of the deceased as Rs.15,000/- and future prospect of 40% = Rs.6,000/- which comes to Rs.21,000/- and 1/2nd amount is required to be deducted as personal expenditure and living of the deceased which comes to Rs.10,500/- and the net amount comes to Rs.10,500/-. In view of above, the amount under the head of loss of future dependency is required to be reassessed as Rs.10,500/- x 12 months x 18 multiplier = Rs.22,68,000/-. Therefore, the appellants are entitled to get additional amount of Rs.7,56,000/- under the head of future loss of dependency.

10. Further, the Tribunal by relying on the judgment of Pranay Sethi (supra) has awarded total Rs.77,000/- under the conventional heads. However, this Court is of the view that amount is required to be awarded as Rs.18,150/- towards loss of estate and Rs.18,150/- towards funeral expenses.

11. Further, in view of ratio laid down by the Hon'ble Supreme Court in the case of Magma General Insurance Co. Ltd., Vs. Nanu Ram, reported in (2018) 18 SCC 130 and Janabai Wd/o Dinkarrao Ghorpade & Ors., Vs M/s ICICI Lambord Insurance Company Ltd., reported in 2022 LiveLaw (SC) 666 , the amount towards loss of consortium is reassessed as Rs.96,800/- for two dependents (Rs.48,400/- for each dependent).

12. As discussed above, the appellants – original claimants are entitled to get compensation computed as under:-

Heads

Awarded by

the Tribunal

Reassessed by this Court

Future loss of dependency

15,12,000/-

Rs.22,68,000/-

Conventional heads

77,000/-

Rs.1,33,100/-

(Rs.18,150/- under loss of estate, Rs.18,150/- under

funeral expenses and Rs.96800/- for loss of consortium)

Total compensation

15,89,000/-

Rs.24,01,100/-

13. As Rs.15,89,000/- is already awarded by learned Tribunal, the appellants – original claimants are entitled to get additional amount of Rs.8,12,100/- (Rs.24,01,100 – Rs.15,89,000/-) with proportionate costs and interest as awarded by the learned Tribunal.

14. Hence, present appeal is partly allowed. The judgment and award dated 13.09.2023 passed by learned Motor Accident Claims Tribunal (Aux.), Vadodara, in Motor Accident Claim Petition No.684/2018 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. It is provided that respondent No.3 shall deposit such additional amount of Rs.8,12,100/- 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.

15. The Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly. Award to be drawn accordingly.

