(2026) 01 GUJ CK 1414

In the Gujarat High Court

Case No : R/First Appeal No. 4219 Of 2025

Chandubhai Saburbhai 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 1414

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Pooja H Hotchandani, HS Munshaw

Final Decision : Allowed

Judgement

Hasmukh D. Suthar, J

1) Feeling aggrieved and dissatisfied with the judgment 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.61 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 son of applicant nos.1 and 2, namely Vishalkumar Chandubhai Parmar, (who shall hereinafter be referred to as “deceased”) was riding his 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 erred in assuming income of the deceased as Rs.8,000/- per month while looking to the occupation the Tribunal ought to have consider at least Rs.20,000/- per month. Further, the Tribunal has not awarded sufficient amount under three conventional heads.

5) As challenge is given only qua income and three conventional heads hence the appeal is required to be decided in narrow compass. As per the law laid down by the Hon'ble Supreme Court in the case of Govind Yadav Vs. National Insurance Co. Ltd., reported in 2012(1) TAC 1 (SC), that if no proof of income is produced on the record then Tribunal has to consider prevalent minimum wages in absence of ample evidence of monthly income of the deceased. In the present case the accident occurred on 31.05.2023 and during that time the deceased was doing labour work and the Tribunal has assessed the income of the deceased as Rs.8,000/- per month which is required to be assessed as per the rate of minimum wages of unskilled labour in the year 2023 and hence, the income of the deceased is reassessed as Rs.11,700/- per month. Moreover, perusing the impugned judgment it appears that the learned Tribunal has also committed error while considering deduction of 1/3rd, but as the deceased was bachelor ½ deduction towards personal expenditure and living of the deceased is required to be considered. Though no cross objection or appeal is filed, there is no bar to consider the same in light of decision of the Hon'ble Supreme Court in the case of Ravindrakumar Sharma vs. State of Assam reported in (1999) 7 SCC 435 and in the case of Saurav Jain and Another vs. A.B.P. Design and Another reported in (2022)18 SCC 633, wherein, the Hon'ble Supreme Court held that a party can raise arguments against the findings without having to file cross-objection, in the appeal. Further, as per the Aadhaar Card of the deceased at Exhibit 34, the learned Tribunal has considered 18 years of age at the time of accident and no the basis of which further considered future prospective income as 40% 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] which are just and proper.

6) Therefore, recalculating the income of the deceased as Rs.11,700/- and future prospect of 40% = Rs.4,680/- which comes to Rs.16,380/- and 1/2 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 dependency is required to be reassessed as Rs.8,190/- x 12 x 18 = Rs.17,69,040/-. Therefore, the appellants

are entitled to get additional amount of Rs.1,56,168/- towards future loss of dependency.

7) Further, the learned Tribunal by relying on the judgment of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 ACJ 2700, has awarded total Rs.77,000/-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. Therefore, the appellants – original claimants are entitled for additional amount of Rs.3,300/- (i.e. Rs.18,150/- - Rs.16,500/- = Rs.1,650/- towards loss of estate and Rs.18,150/- - Rs.16,500/- = Rs.1,650/- towards funeral expenses).

8) 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 learned Tribunal has committed error in awarding only Rs.44,000/- towards loss of consortium, however, in view of above judgments the appellants – original claimants being parents of the deceased they are entitled for Rs.48,400/- each towards the filial consortium. Therefore, the amount towards loss of consortium is reassessed as Rs.96,800/- (i.e. Rs.48,400/-X 2). Therefore, the appellants are entitled for additional amount of Rs.52,800/- towards loss of consortium.

9) As discussed above, the appellants – original claimants are entitled to get compensation computed as under:

Heads

Awarded by Tribunal

Reassessed by this Court

Future loss of dependency

Rs.16,12,872/-

Rs.17,69,040/-

including additional amount of Rs.1,56,168/-

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/-

Loss of consortium

Rs.44,000/-

Rs.96,800/-

including additional amount of Rs.52,800/- (Rs.48,400/- X 2)

Total compensation

Rs.16,89,872/-

Rs.19,02,140/-

including total additional amount of Rs.2,12,268/-

10) In view of above, as the Tribunal has awarded total compensation of Rs.16,89,872/-, however, as discussed above the appellants are entitled to get additional amount of Rs.2,12,268/- (Rs.19,02,140/- - Rs.16,89,872/-) with proportionate costs and interest as awarded by the learned Tribunal.

11) Hence, present appeal is allowed. The judgment and award dated 08.04.2025 passed by learned Motor Accident Claims Tribunal (Aux.), Kheda at Kapadwanj, in MAC Petition No.61 of 2023 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. The respondent no.2 – ST Corporation shall deposit the said additional amount of Rs.2,12,268/- 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.

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

13) Award to be drawn accordingly.

