

(2026) 02 GUJ CK 1613
In the Gujarat High Court
Case No : R/First Appeal No. 4471 Of 2024

Gujarat State Road Transport Corporation	APPELLANT
Vs	
Asmitaben Kishorbhai Chauhan & Ors	RESPONDENT

Date of Decision : 02-02-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2026) 02 GUJ CK 1613

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Sejal K Mandavia, Hemal Shah

Final Decision : Dismissed

Judgement

Hasmukh D. Suthar, J

1. Admit. Learned advocate Mr. Hemal Shah waives service of notice of Admission for and on behalf of the respondents. With the consent of learned advocates appearing for the respective parties, present appeal is taken up for final hearing today.

[1.0] Present First Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "MV Act") is filed by the appellant – Gujarat State Road Transport Corporation challenging the impugned judgment and award dated 30.03.2024 by the learned Motor Accident Claims Tribunal (Special), Rajkot (for short "learned Tribunal") in Motor Accident Claim Petition No.1537 of 2018, whereby the learned Tribunal was pleased to partly allow the claim petition by holding the appellant – GSRTC solely liable to pay compensation of Rs.23,10,000/-to the original claimants.

[2.0] The brief facts leading to filing of present appeal are as follows:

[2.1] On 12.10.2018, the deceased Kishorbhai Mohanbhai Chauhan was riding his motorcycle on his extreme side of the road and when he reached at the place

of accident, driver of S.T. Bus No.GJ-18-Z-1785 came driving his ST Bus with full speed in rash and negligent manner and hit the motorcycle of the deceased from behind thereby causing fatal injuries to the deceased due to which the deceased died. Therefore, the legal heirs and representatives of the deceased i.e. original claimants filed MACP No.1537/2018 seeking compensation of Rs.32 lakh.

[2.2] After considering the evidence produced and adduced, the learned Tribunal held the driver of ST Bus solely negligent for the accident and was pleased to award Rs.23,10,000/- to the original claimants. However, the GSRTC being aggrieved with 100% liability saddled on the GSRTC as well as on the ground of exorbitant compensation being awarded to the claimants, present First Appeal is filed by the appellant – GSRTC.

[3.0] Learned advocate Ms. Sejal Mandavia appearing for the appellant – GSRTC has submitted that the learned Tribunal has committed an error in not considering contributory negligence on the part of the deceased motorcyclist as he was riding the motorcycle with full speed rashly and negligently. She has further argued that despite there being no any evidence with regard to income of the deceased, learned Tribunal has awarded exorbitant amount of compensation. Hence, she has requested to allow the present appeal.

[4.0] Learned advocate Mr. Hemal Shah appearing for the respondents – original claimants has opposed the present appeal by submitting that the learned Tribunal has not committed any error in holding the driver of ST Bus to be solely negligent for the accident. Even, the driver of ST Bus against whom charge-sheet is filed, is not examined to rebut the presumption and therefore, learned Tribunal has rightly appreciated the evidence namely complaint, panchnama. Hence, he has requested to dismiss the first appeal.

[5.0] Having heard learned advocate for the appellant – GSRTC and learned advocate for the original claimants and perusing the record, it appears that the learned Tribunal has considered the evidence produced and adduced by both the parties including the affidavit of claimant No.1 (Exh.15), complaint (Exh.18), panchnama of scene of accident (Exh.19) and perusing the same, it appears that the alleged accident took place while deceased was riding his motorcycle on the correct side of the road and ST Bus dashed on the back side of the motorcycle. Charge-sheet is filed against the driver of ST Bus. The driver of the ST Bus was eye-witness and can be said to be best witness however, he has not been examined to rebut the presumption that the ST driver was solely negligent and therefore, in view of the decisions of the Hon'ble Supreme Court in the case of Bimla Devi vs. H.R.S.T.C. reported in AIR 2009 SC 2819 and Parmeshwari Devi vs. Amir Chand reported in (2011) 11 SCC 635, wherein it is held that negligence is required to be proved in claim petition under section 166 of the MV Act only on the touchstone of the preponderance of probability and not beyond doubt, the learned Tribunal has not committed any error in coming to the conclusion that the driver of ST Bus was solely negligent for the accident.

[6.0] Perusing the record, it appears that the accident took place in the year 2018 and the deceased was skilled person engaged in masonry work and was earning Rs.20,000/- per month however, considering minimum wages prevailing at the time of accident, in absence of any evidence with regard to income of deceased, learned Tribunal has considered monthly income of Rs.10,000/- of the deceased to award just and proper compensation which does not call for any interference by this Court in view of decision of Hon'ble Supreme Court in the case of Govind Yadav v. New India Insurance Company Ltd. [(2011)10 SCC 683] and Chandra @ Chanda @ Chandram vs. Mukesh Kumar Yadav reported in (2022)1 SCC 198 and thus, the annual income of the deceased is assessed at Rs.1,20,000/- at the time of accident. Further, the learned Tribunal relying on the decision of Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680 has also considered addition of 40% towards future prospects of the deceased and accordingly, arrived at Rs.1,68,000/- towards future yearly loss of income. As the deceased was having six family members, in view of the decision of Hon'ble Supreme Court in the case of Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. reported in 2009 ACJ 1298, the learned Tribunal has rightly deducted 1/4th amount i.e. Rs.42,000/- from Rs.1,68,000/- and therefore, applying the multiplier of 16 as the deceased was in the age group of 31 to 35 years, the learned Tribunal has rightly awarded Rs.20,16,000/- (Rs.1,26,000 x 16) towards future loss of dependency. Even, the compensation under the head of loss of consortium, in view of the decisions 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 Lombard Insurance Company Ltd., reported in 2022 LiveLaw (SC) 666 is also appropriately awarded. Even, under other heads also, just and proper compensation is awarded which does not call for any interference.

[7.0] In wake of aforesaid conspectus, present First Appeal stands dismissed. The appellant herein – Gujarat State Road Transport Corporation is directed to deposit the compensation of Rs.23,10,000/-, as awarded by the learned Tribunal, alongwith accrued interest at the rate of 9% per annum, with the learned Tribunal within a period of FOUR WEEKS from the date of receipt of the present judgment, if not deposited.

[8.0] Thereafter, the learned Tribunal is directed to disburse the entire amount alongwith the accrued interest thereon, if any, in favor of the original claimants, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure, strictly as per the apportionment made by the learned Tribunal.

[9.0] While making the payment, the Tribunal shall deduct the courts fees, if not paid.

[10.0] Record and proceedings, if any, be sent back to the concerned Tribunal, forthwith.

It is made clear that, in view of dismissal of First Appeal, stay granted vide order dated 24.12.2024 passed by the coordinate Bench, stands vacated forthwith.