

(2025) 12 GUJ CK 1780
In the Gujarat High Court
Case No : R/First Appeal No. 4339 Of 2022

Hareshbhai Bhupatbhai Vala & Anr

APPELLANT

Vs

Arjanbhai Devayatbhai Charaniya & Ors

RESPONDENT

Date of Decision : 01-12-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 171, 173

Citation : (2025) 12 GUJ CK 1780

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Bhavin B Thakar, Jigar D Dave, Hemal Shah

Final Decision : Dismissed

Judgement

Hasmukh D. Suthar, J

1) Feeling aggrieved and dissatisfied with the judgment and award dated 12.05.2021 passed by learned Motor Accident Claims Tribunal (Auxi.), Una (hereinafter referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.12 of 2016, filed under Section 163-A of the Motors Vehicles Act, the appellants – original opponents preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).

2) Heard Mr. J. D. Dave, learned Advocate for the appellants – original opponents and Mr. Hemal Shah, learned Advocate for respondents herein – original claimants.

3) It is the case of the original claimants that on 12.01.2013 at 07:00 hours on Kesariya – Diu road near Diamond Factory the deceased Jantibhai Arjanbhai Charaniya, was going on motorcycle bearing Reg. No.GJ-11-RR-7758 and reached at the accidental spot at that time driver of Tractor bearing Reg. No.GJ-11-AD-3231 was coming in full speed and in rash and negligent manner and dashed with the motorcycle. As such deceased sustained several injuries and succumbed to it. A complaint being I-C.R. no.11 of 2013 was registered with Una

Police Station. Therefore, the original claimants being legal heirs of the deceased had filed MAC Petition seeking compensation under Section 163-A of the Act. After appreciating the evidence produced on record the learned Tribunal was pleased to partly allowed the claim petition.

4) Learned Advocate for the appellants has submitted that the learned Tribunal has committed error while appreciating the evidence and merely based on presumptions has considered the income of the deceased whereas the age of the deceased is not proved. The learned Tribunal has committed error in interpreting the provision of Section 163-A of the Act and no material is produced on record. He has further submitted that the Criminal Court has acquitted the driver of offending vehicle as there was no negligence on his part. Hence, he has requested to allow the present appeal.

5) Learned Advocate for the respondents herein – original claimants has opposed the present appeal on the ground that the Tribunal has considered income of Rs.3,333/- per month only income of Rs.40,000/- per month in the petition under Section 163-A and negligence is not required to be proved and driver of offending vehicle is liable for causing the accident. Considering the evidence the learned Tribunal has properly awarded the compensation and hence requested to dismiss the present appeal in absence of any material.

6) Having heard both the learned Advocate and perusing the impugned judgment it appears that the claim petition was filed under Section 163-A of the Act. It is needless to say that in petition filed under Section 163-A the negligence should not be proved only involvement of the offending vehicle is required to be proved. Herein the involvement of Truck No.GJ-11-AD-3231 is proved as complaint was lodged against the driver of Truck and subsequently chargesheet was filed. Merely, acquittal of truck driver in criminal case is not a ground to dismiss the said petition. The judgments of the Criminal Courts are not binding to the Tribunal and in this regard the learned Tribunal has rightly relied on the case of Bai Nanda and others Vs. Shivabhai Shankerbhai Patel and others, reported in 1966 ACJ 290. As per settled law mere filing of criminal case may not necessarily proof of negligence in the claim petition but evidence produced before the Tribunal is required to be analyze by the Tribunal and consider by the Tribunal based on touchstone of preponderance of probability. The evidence on record is deposition of claimant no.1 at Exhibit 13, wherein, he has reiterated the contents of the petition and nothing come on record from his cross-examination. The compensation is granted under Section 163-A of the Act on structure formula and when the petition filed under Section 163-A of the Act the claimant is not required to prove rash and negligent driving of the offending vehicle as the cause of the accident and involvement of the vehicle is proved then claimant succeeds in the petition. As negligence is not required to be proved it is not open for the learned Advocate for the appellants to raise any defence qua negligent on the part of victim. Hence, arguments canvassed by the learned Advocate for the appellants are not acceptable and as discussed above judgment rendered in

Criminal Case No.999 of 2013, in favour of accused of offending vehicle such acquittal is not relevant to decide the claim as involvement of vehicle is proved. Hence, argument that driver of offending vehicle is acquitted in criminal trial is not sustainable.

7) Now coming back to the involvement of the vehicle is proved which is duly corroborated with documentary evidence like FIR, panchnama, PM Report. As per claim petition age of the deceased was 30 years and as per post-mortem report his age was 30 to 35 years and age group of 26-30 years was considered 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 as per second schedule of MV Act Rs.40,000/- notional income is considered and multiplier of 17, then loss of dependency comes to Rs.6,40,000/- per annum and after 1/3 deduction amount comes to Rs.4,26,667/- and Rs.2,000/- for funeral expenses and Rs.2,500/- for loss of estate were awarded by the learned Tribunal which are just and proper and the learned Tribunal has not committed any error in awarding total compensation of Rs. 4,31,167/-. It is needless to say that under Section 171 of the Act the Tribunal has discretion to award the rate of interest and hence no error is committed by the learned Tribunal.

8) In view of above, no interference is required as the learned Tribunal has not committed any error while passing the impugned judgment and award. Accordingly, present appeal is dismissed. Record and proceedings, if any, be remitted back to the concerned Tribunal.