(2026) 01 GUJ CK 1454

In the Gujarat High Court

Case No : R/First Appeal No. 1848 Of 2025

Indrasinh Pathubha Jadeja & Ors — APPELLANT

Vs

Dushyantsinh Aniruddhsinh Jadeja & Anr — RESPONDENT

Date of Decision : 27-01-2026

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 01 GUJ CK 1454

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Jainam M Shah, Manan B Pandy

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

1. Though served, none appears for respondent No.1.

Admit. With the consent of learned advocate appearing for appellantss and respondent No.2, appeal is taken up for final hearing.

[1.0] Present First Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "MV Act") is filed by the appellants – original claimants challenging the impugned judgment and award dated 03.04.2025 by the learned Motor Accident Claims Tribunal (Auxi.), at Gondal (for short "learned Tribunal") in Motor Accident Claim Petition No.26 of 2019, whereby the learned Tribunal was pleased to award compensation of Rs.19,46,400/- to the appellants – original claimants.

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

[2.1] On the fateful day of accident i.e. on 21.01.2019, the deceased Shivbhadrasinh Indrasinh Jadeja (hereinafter referred to as "deceased") was coming from Shishang to Kalavad alongwith his friend that is original opponent No.1 in Car No.GJ-10-CN-5074 which was being driven by opponent No.1 in full speed and in rash and negligent manner and due to excessive speed, as an animal came across the offending car, the driver of offending car lost control over the car and car overturned thereby causing accident due to which the deceased sustained serious injuries and died and therefore, the appellants herein – original claimants filed MACP No.26/2019 seeking compensation of Rs.30,00,000/-.

[2.2] After considering the evidence produced and adduced, the learned Tribunal held the driver of offending Car solely negligent for the accident and was pleased to award Rs.19,46,400/- to the original claimants. However, the appellants – original claimants being aggrieved with the quantum of compensation have filed the present First Appeal seeking enhancement of compensation.

[3.0] Learned advocate Mr. Jainam Shah appearing for the appellants – original claimants has submitted that the learned Tribunal has committed an error in not considering the income of deceased at Rs.14,500/- though there was sufficient evidence produced on the record which was sufficient to prove that the deceased was holding degree of Bachelor of Computer Applications and used to earn Rs.10,000/- per month by selling ocimum soap in Kalavad and salary slip of the deceased is produced at Exh.41 and deceased was also doing part time job as a Computer Operator at Novell Data Processing and used to earn Rs.4500/- per month and therefore, the learned Tribunal ought to have considered monthly income of the deceased at Rs.14,500/-. He has further submitted that the learned Tribunal ought to have considered the future prospects at 50% instead of 40% as the deceased was in permanent job and under the conventional head, 10% rise per annum is not given. Hence, he has requested to allow the present appeal.

[4.0] Learned advocate Mr. Manan Pandya appearing for the respondent No.2 – insurance company has opposed the appeal and submitted that in absence of any evidence qua income of the deceased, the learend Tribunal has appropriately considered the monthly income of the deceased at Rs.12,000/- and as the deceased was in permanent job, 40% addition towards future prospects is appropriately made in view of decision of Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680. He has further submitted that so far as consortium is concerned, learned Tribunal has considered 10% rise for considering the compensation under the head of filial consortium and the learned Tribunal has appropriately held that sister of the deceased is not entitled to compensation towards consortium and only parents of the deceased are entitled for the compensation under the head of filial consortium and hence, impugned judgment and award does not call for any interference by this Court. Therefore, he has requested to dismiss the present appeal.

[5.0] In the present appeal, negligence and liability is not challenged and present appeal only challenges the quantum of compensation awarded by the learned Tribunal and hence, present appeal is considered in narrow compass to that extent only.

[6.0] Having heard learned advocate for the appellants – original claimants and learned advocate for the insurance company and perusing the record, it appears that in order to prove the income of the deceased, the appellants – original claimants have produced the affidavit of appellant No.1 at Exh.38 as well as affidavit of one Chetansinh Pratapsinh Zala at Exh.40 from which it transpire that the deceased was aged 24 years and doing job of retail selling of ocimum soap and earning Rs.10,000/- per month and salary slip of the deceased is produced at Exh.41. The witness namely Chetansinh Zala (Exh.40) has stated in his affidavit that the deceased was working in his firm as Computer Manager as the deceased was holding degree of Bachelor of Computer Applications and that he was paying monthly salary of Rs.10,000/- to the deceased. The said evidence is duly proved and agreed as considered and accepted however, so far as another income of Rs.4500/- from part time job is concerned, no evidence is produced on record to show that the deceased was doing part time job in Novell Data Processing Centre and used to earn Rs.4500/- per month. In absence of any evidence in that regard, learned Tribunal has not considered the oral version. Even, to prove the said facts, no any witness or no any documentary evidence is produced on record. However, the learned Tribunal has taken into consideration the fact that the deceased was serving in the firm of Chetansinh Zala as Computer Manager and also serving as a computer operator in Novell Data Processing Centre and was also helping his father in agricultural activity and hence, considered monthly income of the deceased at Rs.12,000/-. This Court is of considered view that once the Tribunal has accepted that the deceased was doing part time job in Novell Data Processing Centre, there was no reason to refuse to accept the said version or income qua part time job. The learned Tribunal has also accepted the fact that the deceased was helping his father in agricultural activity and there is no direct effect or loss in agricultural income of the father of the deceased due to demise of the deceased hwoever, once evidence qua part time job is accepted, considering the educational qualification and background of the deceased, this Court is of considered view that the monthly income of the deceased ought to have been considered at Rs.14,500/- and to that extent the learned Tribunal has committed an error. The deceased at the time of accident was aged 24 years and therefore, in view of decision of Hon’ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680, Rs.5800/- (40% of Rs.14,500/-) towards future prospect is required to be added which would comes to Rs.20,300/-.

[6.1] As the deceased at the time of accident was admittedly aged about 24 years and unmarried, 1/2 (Rs.10,150/-) is required to be deducted towards dependency and personal expenses and therefore, monthly loss of dependency would come to Rs.10,150/- and yearly loss of dependency would come to Rs.1,21,800/-. Further, as the deceased was aged 24 years, in view of decision of the Hon’ble Supreme Court in the case of Smt. Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. reported in 2009 ACJ 1298, multiplier of 18 would apply as rightly applied by the learned Tribunal. Applying the multiplier of 18, future loss of dependency would come to Rs.21,92,400/- (Rs.1,21,800 x 18).

[6.2] Further, the learned Tribunal by relying on the judgment of Pranay Sethi (Supra) has awarded Rs.18,000/- each under the two conventional heads of loss of estate and funeral expenses which does not call for any interference.

[6.3] 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 Jana Bai Wd/o Dinkarrao Ghorpade & Ors. vs. M/s ICICI Lambord Insurance Company Ltd. reported in 2022 LiveLaw (SC) 666, the learned Tribunal has observed that the sister of the deceased is not entitled to compensation under the head of loss of consortium (filial consortium) and therefore, the appellants are entitled to Rs.96,800/- (Rs.48,400 x 2) towards loss of consortium.

[7.0] Thus, now the original claimants are entitled to the compensation as under:

Heads

Amount awarded by the Tribunal

Reassessed by this Court

Future loss of dependency

Rs.18,14,400/-

Rs.21,92,400/-

including additional amount of Rs.3,78,000/-

Loss of Estate

Rs.18,000/-

Rs.18,000/-

NIL

Funeral Expenses

Rs.18,000/-

Rs.18,000/-

NIL

Loss of Consortium

Rs.96,000/-

Rs.96,800/-

(Rs.48,400 x 2)

Total...

Rs.19,46,400/-

Rs.23,25,200/-

including additional amount of Rs.3,78,800/-

Thus, total compensation of Rs.19,46,400/- as awarded by the learned Tribunal is on lower side, for the reasons recorded hereinabove, and therefore, same is required to be reassessed at Rs.23,25,200/- and hence, the appellants – original claimants are entitled to get additional (enhanced) amount of Rs.3,78,200/- (Rs.23,25,200 – Rs.19,46,400) towards compensation.

[8.0] In wake of aforesaid conspectus, present First Appeal is partly allowed. Impugned judgment and award dated 03.04.2025 by the learned Motor Accident Claims Tribunal (Auxi.), at Gondal in Motor Accident Claim Petition No.26 of 2019 is modified and respondent No.2 – Insurance Company is directed to deposit reassessed amount of compensation of Rs.23,25,200/- 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. Rest of the impugned judgment and award remains unaltered.

[8.1] After the aforesaid amount of reassessed compensation is deposited by the insurance company, learned Tribunal is directed to disburse the entire amount as per the apportionment made by the learned Tribunal, with accrued interest thereon, if any, to the original claimants, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure.

[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.

Pending civil application, if any, also stands disposed of.

