

---

**(2013) 12 GUJ CK 0147**  
**In the Gujarat High Court**  
**Case No : First Appeal No. 1665 of 2004**

Kirankumar Lalbhai Shah

APPELLANT

Vs

Manharbhai Somabhai Parmar and Others

RESPONDENT

---

**Date of Decision :** 18-12-2013

**Acts Referred:**

**Citation :** (2013) 12 GUJ CK 0147

**Hon'ble Judges :** M.D. Shah, J

**Bench :** Single Bench

**Advocate :** Sandip C. Shah, for the Appellant; Hina Desai, Advocate for the Defendant(s) No. 3, for the Respondent

**Final Decision :** Partly Allowed

---

## Judgement

M.D. Shah, J.—By this first appeal, the appellant herein-original claimant has challenged the judgment and award dated 06.09.2002 passed by the learned M.A.C.T.(Auxi.), Ahmedabad in M.A.C.P. No. 201 of 1993. Claim petition was filed by the claimant injured on account of accident which took place on 29.09.1993. It is the case of the claimant that claimant was aged about 29 years at the time of accident. He was going on his scooter and was coming from Bareja towards Ahmedabad at about 9.30 a.m. on 29.09.1993. It is further case of the claimant that offending vehicle which was driven in rash and negligent manner by original opponent No. 1 took sudden sharp turn and dashed with scooter driven by the claimant. It is further case of the claimant that due to accident, he received fracture injury on his left leg. After recording evidence, learned Tribunal by judgment dated 06.09.2002 partly allowed the claim petition and awarded compensation of Rs. 1,18,000/- in favour of the original claimant. Against the said award, original claimant has preferred this appeal for enhancement of compensation.

2. It is submitted by learned advocate for the appellant herein-claimant that Tribunal has not properly considered and appreciated the evidence on record. It is also submitted that Tribunal has not properly applied suitable multiplier. It is

also submitted that Tribunal has awarded less amount under the head of pain, shock and suffering. Therefore, it is requested to allow first appeal.

3. It is submitted by learned advocate for the respondent - insurance company that award passed by the Tribunal is just and proper and not required to be interfered by this Court and so it is requested to dismiss the appeal.

4. This Court has gone through the judgment and award dated 06.09.2002 passed by the learned Tribunal together with oral as well as documentary evidence on record.

5. It is not in dispute that in the accident, appellant - claimant received serious fracture injury. Doctor has assessed 27% disability of the claimant's body as a whole. Claimant remained in hospital for considerable time. Claimant also went under operation. Claimant was 29 years old at the time of accident. This Court has gone through the decision of Hon''ble Apex Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

6. Considering disability assessed by the Doctor and nature of injury and considering ratio laid down by the Hon''ble Supreme Court in the case of Sarla Verma (supra), in opinion of this Court, Tribunal has committed error in applying 15 multiplier instead of 18 and also committed error in awarding less amount under the head of pain, shock and suffering. Considering all this facts, in opinion of this Court, claimant is entitled to get Rs. 35,000/- as additional compensation by applying 18 multiplier and under the head of pain, shock and suffering. In view of above, the first appeal is partly allowed. The original claimant is entitled to get additional compensation of Rs. 35,000/- with interest @ 9% per annum on the additional compensation from the date of filing of the claim petition. Judgment and award dated 06.09.2002 passed by the learned M.A.C.T.(Auxi.), Ahmedabad in M.A.C.P. No. 201 of 1993 is modified to the aforesaid extent. The remaining part of the judgment and award would remain unaltered. Record and Proceedings, if any, be sent to the concerned Tribunal forthwith.