

(2026) 02 GUJ CK 1648
In the Gujarat High Court
Case No : R/First Appeal No. 2915 Of 2022

Mishraben Champakbhai Lodha & Ors	APPELLANT
Vs	
Premanayado Kalkunayado Siklor & Ors	RESPONDENT

Date of Decision : 17-02-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 02 GUJ CK 1648

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Raxit J Dholakia, Arunkumar R Dave, Chinmayi M Trivedi, Dimple A Thaker, Sharmishta A Dave

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

[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 28.06.2019 by the learned Motor Accident Claims Tribunal (Auxi.), at Deesa, District Banaskantha (for short "learned Tribunal") in Motor Accident Claim Petition No.2919 of 2009, whereby the learned Tribunal was pleased to partly allow the claim petition and awarded compensation of Rs.8,22,000/-.

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

[2.1] On 27.11.2005, the deceased Champakbhai (hereinafter referred to as "deceased") was travelling in Jeep No.GJ-2K-10 and at the place of accident, two vehicles namely Honda Accord No.HR-18-A-3424 and Maruti Car No.GJ-8D-9217 came with excessive speed in rash and negligent manner and both the vehicles dashed with the Jeep which was stationary and thereby the accident occurred due to which the deceased sustained serious fatal injuries and died on the next day. Therefore, the appellants herein – original claimants – legal heirs and

representatives of the deceased filed MACP No.2919/2009 seeking compensation of Rs.10 lakh.

[2.2] After considering the evidence produced and adduced, the learned Tribunal held the drivers of both the vehicles i.e. Honda Accord and Maruti Car equally liable for the accident and ordered original opponent Nos.1 to 4 to jointly and severally pay compensation of Rs.8,22,000/- to the original claimants. However, the appellants herein – original claimants being aggrieved with inadequate amount of compensation have filed the present appeal seeking enhancement of compensation.

[3.0] Heard learned advocate Mr. Raxit Dholakia for the appellants, learned advocate Ms. Dimple Thaker for respondent No.2 and learned advocate Ms. Sharmishta Dave for respondent No.4.

[4.0] Since the appeal is filed on limited ground of inadequate compensation awarded under the conventional heads and as involvement of vehicles, factum of accident and death of deceased, negligence, liability and coverage of insurance is not in dispute, present appeal is decided in narrow compass and is taken up for final disposal with the consent of learned advocates appearing for respective parties.

[5.0] The main contention of the learned advocate for the appellants is that though there are seven dependents of the deceased, the learned Tribunal has awarded only Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards loss of estate and funeral expenses which is not as per the law settled 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 Lombard Insurance Company Ltd. reported in 2022 LiveLaw (SC) 666.

[6.0] As the law in this regard is well settled by the Hon'ble Supreme Court, no further discussion in this regard is called for and the amount of compensation awarded under the conventional heads is required to be reassessed and there being seven dependents of the deceased, the original claimants are entitled to Rs.3,38,800/- (Rs.48,400 x 7) towards loss of consortium and Rs.18,150/- each under the heads of loss of estate and funeral expenses in view of decision of Hon'ble Supreme Court in the case of Nanu Ram (Supra) and Janabai Wd/o. Dinkarrao Ghorpade & Ors. (Supra).

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

Heads

Awarded by Tribunal

Reassessed by this Court

Future loss of dependency

Rs.7,52,640/-

Rs.7,52,640/-

Loss of Consortium

Rs.40,000/-

Rs.3,38,800/-

including additional amount of Rs.2,98,800/-

Loss of Estate

Rs.15,000/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Funeral Expenses

Rs.15,000/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Total

Rs.8,22,640/-

Rs.11,27,740/-

Compensation

Rounded off to

including additional

Rs.8,22,000/-

amount of Rs.3,05,740/-

Thus, final total compensation of Rs.8,22,000/- as awarded by the learned Tribunal is on lower side, for the reasons recorded hereinabove, and therefore, same is required to be enhanced to the aforesaid extent i.e. Rs.11,27,740/-. Hence, appellants – original claimants are entitled to get additional enhanced compensation of Rs.3,05,740/- (Rs.11,27,740 – Rs.8,22,000). Therefore, the impugned judgment and award passed by the learned Tribunal is modified to the aforesaid extent.

[8.0] In wake of aforesaid conspectus, present First Appeal is partly allowed. The impugned judgment and award dated 28.06.2019 by the learned Motor Accident Claims Tribunal (Auxi.), at Deesa, District Banaskantha in Motor Accident Claim Petition No.2919 of 2009 is modified and it is held that the appellants – original

claimants are entitled to reassessed compensation of Rs.11,27,740/- to be paid by the respondent Nos.2 and 4 – insurance companies alongwith accrued interest at the rate of 7.5% 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 enhanced compensation is deposited by the insurance companies, learned Tribunal is directed to disburse the entire amount (as awarded by the learned Tribunal) alongwith the enhanced amount of compensation as well as earlier deposited amount, if any, with accrued interest thereon, if any, to the original claimants, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure.

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

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