(2025) 12 GUJ CK 1911

In the Gujarat High Court

Case No : R/First Appeal No. 2702 Of 2023

Rachna Manan Kapadia & Ors — APPELLANT

Vs

Rahul Satishbhai Choksi & Ors — RESPONDENT

Date of Decision : 16-12-2025

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2025) 12 GUJ CK 1911

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Disha N Nanavaty, Rathin P Raval

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

1) By way of present First Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "MV Act"), the appellants – original claimants have assailed the impugned judgment and award dated 31.03.2023 in Motor Accident Claim Petition No. 330 of 2016 passed by the learned Motor Accident Claims Tribunal (Aux.), at Surat (hereinafter referred to as "learned Tribunal"), whereby the learned Tribunal was pleased to partly allow the claim petition filed by the appellants – original claimants and by way of present appeal, claimants have sought enhancement of compensation.

2) The brief facts of the case of the appellants are that on 13.02.2016, the deceased, Mananbhai, along with his friend, was traveling as a passenger in a car bearing registration No. GJ-05-JK-5750, owned by Opponent No.2, insured with Opponent No.3 and driven by Opponent No.1. While passing through the accident spot, a Truck, driven negligently changed lanes and collided with the car, causing it to overturn. The deceased sustained severe injuries and ultimately died. The legal heirs and representatives of the deceased filed MACP No.330/2016 seeking compensation of ☐ 1,00,00,000/-however, the learned Tribunal awarded

compensation of ☐ 50,24,600/- and the original claimants have assailed the impugned judgment and award for enhancement of compensation however, the learned Tribunal did not consider future prospects of the deceased and as the offending vehicle was owned by Opponent No.2 and insured with Opponent No.3, Opponent Nos.1, 2, and 3 were held jointly and severally liable to pay the compensation to the original claimants.

3) Heard learned Advocate Ms. Disha N. Nanavaty for the appellants and learned Advocate Mr. Rathin P. Raval appearing for opponent No. 3 – the Insurance Company. Opponent Nos. 1 and 2, though duly served, have remained absent.

4) The learned advocate for the appellants submitted that the learned Tribunal erred in awarding a meager amount of compensation and failed to consider the orders and documentary evidence on record. It was contended that the learned Tribunal committed an error in not taking into account the Income Tax Returns filed for the years 2013-14, 2014-15, and 2015-16, produced on record at Exhibits 39, 40, and 41, respectively. The learned Tribunal assessed the yearly income of the deceased as ☐ 2,94,500/- which is not in accordance with the Income Tax Returns. Further, it was submitted that the learned Tribunal ignored other relevant documents, including audit reports produced at Exhibits 47 to 49, along with other material evidence on record. Further she submitted that the deposition of the Chartered Accountant, produced at Exhibit 18, proves the total income of the deceased, though the learned Tribunal has assessed it on the lower side. The income of the deceased from all sources was ☐ 5,92,127/- and for the year 2015-16, the annual income was ☐ 4,66,751/-. She also submitted that the learned Tribunal failed to consider compensation under other heads, such as loss of consortium, as no compensation was awarded to the respective claimants. Hence, she requested that the present appeal be allowed and the compensation be enhanced.

5) The learned advocate for the Opponent – Insurance Company has opposed the present appeal primarily on the ground that the alleged accident occurred on 13.02.2016 and it is stated in the pleadings that the deceased was a Director in the "Shrim Group of Company" and also had income from a finance business all of which was duly considered at the time of filing the Income Tax Returns. The appellants relied on the return filed for the year 2015-16, which was obviously subsequent to the date of the accident. Consequently, such subsequent income is required to be disregarded. Even if it is considered that the Income Tax Returns were relied upon, the learned Tribunal has rightly taken into account the income declared in the relevant returns and assessed the annual income of the deceased. The initial income was ☐ 1,85,972/- and ☐ 2,62,804/- for the year 2014-15 whereas the higher income shown in the return for 2015-16 was filed after the demise of the deceased. Therefore, the learned Tribunal has not committed any error in awarding just compensation. Hence, it was submitted that the appeal be dismissed.

6) Having heard the learned advocates for the respective parties and upon

perusal of the record, it appears that the learned Tribunal, after appreciating the evidence produced on record, held Opponent No.1 solely negligent in causing the accident. As the issue of liability is not in dispute and only the quantum of compensation is challenged in the present appeal, this Court has proceeded to consider only the aspect of quantum of compensation.

7) In order to substantiate the claim, Claimant No.1 appeared before the learned Tribunal and tendered her evidence at Exhibit 21. In her deposition, she stated that the deceased was working as a Director in the "Shrim Group of Company" and that his annual income was ☐ 2,25,000/-. So far as the income from the finance business is concerned, she stated that the said business stood in the name of her husband and her father-in-law. Further, in her cross-examination, she admitted that the last Income Tax Return for the year 2015-16 was filed after the death of her husband and that the income declared therein as ☐ 4,19,172/- is almost double the annual income shown for the years 2013-14 and 2014-15.

8) The learned Tribunal has taken into consideration the fact that the applicants examined Mr. Pranesh Rajeshkumar Agrawal vide Exhibit 38 and produced the Income Tax Returns of the deceased at Exhibits 39 to 41, along with the books of accounts on the basis of which the said returns were filed online. It is settled that for the purpose of awarding compensation, strict proof is not required and the Court is required to assess the income on the basis of the preponderance of probabilities.

9) So far as the argument of learned advocate Mr. Raval that concerned subsequent Income Tax Returns are required to be discarded is concerned, it is worth to mention that the Hon'ble Supreme Court in the case of Nidhi Bhargava v. National Insurance Co. Ltd. reported in 2025 SCC onLine 872 has held in para 12 as under:

"12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1 st of April, 2007 and ending 31st March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, in our considered view, cannot be legally sustained.

13. ... In K Ramya v. National Insurance Co. Ltd., 2022 SCC OnLine SC 1338, after taking note of, inter alia, Ningamma v. United India Insurance Co. Ltd., (2009) 13 SCC 710, the Court held that the '…Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking.

Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. …'

Relying on the said decision, further in the case of Sayar Ram vs. Ram Kara SLP (Civil) No. 24501/2025, Hon'ble Supreme Court has held in para 12 as under:

"12. What flows from Nidhi Bhargava (supra) is that the Income Tax Returns filed after the accident/death can also be taken into consideration for calculation of income to award compensation. However, having due regard for the Tribunal's well-placed doubts, in so far as returns filed for the relevant year, we take a different approach. In the instant case, it cannot be simply assumed that there is no profit accruing from the business of the deceased at the time of the accident. To adopt such a presumption would be contrary to the settled principles guiding the assessment of compensation. Rather, the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits are seldom static and often exhibit a progressive growth trajectory. The exercise thus calls for a fair and reasonable assessment, grounded in available evidence, of the financial benefits that the deceased would have justifiably earned but for the untimely accident. In our considered view, in order to award just and fair compensation, the annual income of the deceased is re-assessed at Rs.3,50,000/- per annum."

In view of above, the learned Tribunal ought to have taken into consideration the fact that the applicants examined Mr. Pranesh Rajeshkumar Agrawal vide Exhibit 38 and produced the Income Tax Returns of the deceased at Exhibits 39 to 41, along with the books of accounts on the basis of which the said returns were filed online. It is settled that for the purpose of awarding compensation, strict proof is not required and the Court is required to assess the income on the basis of the preponderance of probabilities.

10) The learned Tribunal has also considered the income and audit reports of "Dhyey Finance" produced at Exhibits 47 and 48. Further took into account the average taxable income for the aforesaid three years and even after considering the relevant factors, including managerial loss in relation to the HUF firm, the learned Tribunal ought to have assessed the annual income of the deceased and therefore, same is reassessed at ☐ 3,50,000/- for the purpose of awarding just compensation.

11) Further, in view of the decision of the Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680, 40% future prospective income is required to be added. If such future rise of 40% is considered, the additional amount would come to ☐ 1,40,000/- per month and thereby enhancing the yearly income from ☐ 3,50,000/- to ☐ 4,90,000/- (☐ 35,000 + ☐ 1,40,000). Further, it is an admitted position that the deceased was married and having four dependents at the time of accident and

therefore, deducting 1/4th amount i.e. ☐ 1,22,500/- (1/4th of ☐ 4,90,000/-) towards personal expenses, total yearly loss of income would come to ☐ 3,67,500/-. As the deceased was aged 33 years at the time of accident, 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 16 would apply and hence, applying multiplier of 16, future loss of dependency would come to ☐ 58,80,000/- (☐ 3,67,500 x 16). Further, the learned Tribunal has awarded ☐ 44,000/- under the head of loss of consortium however, as per the decision of the Hon'ble Supreme Court in the case of Pranay Shethi (Supra), the appellants – original claimants are entitled to ☐ 1,93,600/- (☐ 48,400 x 4) under the head of loss of consortium, as there were four dependants of the deceased. Further, so far as the compensation under the head of loss of estate and funeral expenses, the learned Tribunal has awarded ☐ 16,600/-each however, as per the settled principle of law, the learned Tribunal ought to have awarded ☐ 18,150/- each under the said heads. Rest of the impugned judgment and award is not required to be interfered with. At this stage, it is appropriate to refer to the decision of the Hon'ble Supreme Court in the case of Shivaleela v Divisional Manager, United India Insurance Co. Ltd. reported in 2025 INSC 357 wherein it has been held that MV Act is a beneficial legislation that seeks to provide compensation as per contemporaneous position of an individual which is essentially looking forward. The compensation under the MV Act is concerned with providing stability and continuity in peoples' lives in the future. Hence, now the appellants – original claimants are entitled to the compensation as under:

Heads

Amount awarded by the

Tribunal

Reassessed by this Court

Future loss of dependency

☐ 49,47,600/-

☐ 58,80,000/-

Loss of Estate

☐ 16,600/-

☐ 18,150/-

Funeral Expenses

☐ 16,600/-

☐ 18,150/-

Filial/ Parental Consortium

☐ 44,000/-

☐ 1,93,600/-

Total..

☐ 50,24,600/-

☐ 61,09,900/-

Total...

☐ 50,24,600/-

☐ 10,85,300/-

Enhanced amount of

compensation

Thus, total compensation of ☐ 50,24,600/- 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. ☐ 61,09,900/- and hence, the appellants – original claimants are entitled to get additional amount of ☐ 10,85,300/- (☐ 61,09,900 – ☐ 50,24,600) towards compensation and therefore, the impugned judgment and award passed by the learned Tribunal is modified to the aforesaid extent.

12) In wake of aforesaid conspectus, present First Appeal is partly allowed. The respondent No.3 – The New India Assurance Co. Ltd. is directed to deposit enhanced amount of compensation of ☐ 10,85,300/- 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. The Impugned judgment and award dated 31.03.2023 passed by the learned Motor Accident Claims Tribunal (Auxi.), Surat in Motor Accident Claim Petition No.330 of 2016 is modified to the aforesaid extent and rest of the impugned judgment and award remains unaltered.

13) After the aforesaid amount of enhanced compensation is deposited by the insurance company, learned Tribunal is directed to disburse the entire amount 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.

14) While making the payment, the Tribunal shall deduct the courts fees, if not paid.

15) Record and proceedings, if any, be sent back to the concerned Tribunal forthwith.

