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**(2010) 11 GUJ CK 0044**  
**In the Gujarat High Court**  
**Case No : First Appeal No. 331 of 1989**

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|---------------------------------------|----|------------|
| Rajeshwariben and Others              | Vs | APPELLANT  |
| Ramjilal Prabhatlal Gujjar and Others |    | RESPONDENT |

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**Date of Decision :** 16-11-2010

**Acts Referred:**

**Citation :** (2010) 11 GUJ CK 0044

**Hon'ble Judges :** K. S. Jhaveri, J

**Bench :** Single Bench

**Advocate :** Ramesh J. Trivedi, s 1 - 4, for the Appellant; Avani S. Mehta, for Defendants 4, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.S. Jhaveri, J.—None present on behalf of both the sides even in the third round. Now, since the appeal is of the year 1989, the same is decided on merits.

2. This appeal has been filed against the common judgment and award passed by the Motor Accident Claims Tribunal, Valsad at Navsari (for short, "the Tribunal") in M.A.C.P. Nos. 53/1984, 60/1984 & 68/1984 dated 01.11.1988, whereby, in M.A.C.P. No. 53/1984 the opponents, the respondents herein, were held liable to pay to the appellants, original claimants, a sum of Rs. 46,700/- with interest @ 12% p.a. from the date of application till its realization. In this appeal, we are concerned only with the order passed by the Tribunal qua M.A.C.P. No. 53/1984.

3. The facts in brief are that on 12.12.1983 at about 0930 hrs., while deceased Mahadeobhai was travelling along with three other persons in a Car bearing registration No. GRH 7369 on the Navsari - Narol road, it met with an accident with a truck bearing registration No. RRB 5565 belonging to respondent No. 3 and driven by respondent No. 2. In the said accident, Mahadeobhai expired. Therefore, his legal heirs filed M.A.C.P. No. 53/1984 before the Tribunal claiming compensation of Rs. 2,50,000/-. The Tribunal, after considering the evidence on

record, partly allowed the claim petition by passing the impugned award. Hence, this appeal.

4. Having gone through the records of the case, I find that no documentary evidence was produced by the original claimants to prove the income of the deceased. However, on the basis of the oral evidence of witness Anilbhai, the income of the deceased was assessed at Rs. 950/- per month. After considering the future rise in income, the dependency benefit was assessed by the Tribunal at Rs. 600/- per month. It is also required to be noted that no evidence with regard to the proof of age of the deceased was produced by the original claimants. Therefore, on the basis of the averment made in the claim petition and the estimated age as stated in the PM Report of the deceased, the Tribunal considered the age of the deceased to be 35 and accordingly, adopted the multiplier of 12. Looking to the facts of the case, the assessment made by the Tribunal is just and reasonable.

5. So far as the issue of negligence is concerned, the Tribunal has held the ratio of negligence between the driver of the Car and truck to be equal. The said finding was arrived at after considering the panchnama of the accident at Ex.40. In my opinion, the Tribunal has rightly held the ratio of negligence amongst the drivers of the two vehicles at 50% each.

6. Considering the facts and circumstances of the case, I find that the conclusion arrived at by the Tribunal is just and reasonable. I am in complete agreement with the reasonings given by and the findings arrived at by the Tribunal and hence, find no reasons to interfere with the same.

7. For the foregoing reasons, the appeal is dismissed. No costs.