(2025) 09 GUJ CK 1062

In the Gujarat High Court

Case No : R/First Appeal No. 74 Of 2015

Rameshchandra Gajiyal Urfe Gajanand Maru & Anr APPELLANT

Vs

Narendrakumar Babulal Jain & Anr RESPONDENT

Date of Decision : 22-09-2025

Acts Referred:

Citation : (2025) 09 GUJ CK 1062

Hon'ble Judges : J. L. Odedra, J

Bench : Single Bench

Advocate : Mtm Hakim, VC Thomas, Vijay H Nangesh

Final Decision : Allowed

Judgement

J. L. Odedra, J

1. The present Appeal arises out of the judgment and award dated 31st August, 2012 passed by the learned Motor Accident Claims Tribunal (Aux.), Dahod in MACP Old No.1240/2002, which came to be renumbered as MACP No.5268/2004.

2. By way of impugned judgment and award, the Tribunal was pleased to award a compensation to the tune of Rs.2,93,800/- together with the interest at the rate of 6% per annum from the date of filing of the claim petition till its actual realization to the original claimant no.2, who is the appellant no.2 herein. It appears that the original claimant no.2 is the mother of the victim of the vehicular accident. It seems that the Tribunal, in the impugned judgment and award, has not held the original claimant no.1, the father of the deceased - the victim of the vehicular accident, to be a dependent and therefore, to him no compensation has been awarded.

3. The accident in question, when examined, it transpires that one Mr. Shatish, the son of the original claimant nos.1 and 2, was traveling in a Jeep bearing registration no. MP-45-D-0063. The Jeep was alleged to be driven in rash and negligent manner. The Jeep, upon reaching to Ghatapir Dargah in the sim of

Kalitalai Village of Dahod Taluka, owing to high speed, its driver - original opponent no.1 lost control of the vehicle and resultantly, the Jeep suffered a mishap and turned turtle. As a result, the said Mr. Shatish along with other individuals, in the Jeep suffered injuries. The said Mr. Shatish, later on,succumbed to the said injuries and hence, the parents of the said deceased preferred a claim petition seeking a compensation to the tune of Rs.7,50,000/-.

4. Heard learned advocates for the parties.

5. Learned advocate Mr. MTM Hakim has submitted that the Tribunal has not awarded appropriate compensation. He has submitted that when the pleading of the claimant was for an income of Rs.3,000/- per month, as to on what basis the Tribunal has arrived at an income of Rs.2,700/-, a mere Rs.300 less than that pleaded in the claim petition, is not fathomable from the impugned judgment and award. He, therefore, urged that the income of the deceased may kindly be retained at Rs.3,000/-. He further submitted that the Tribunal has not awarded any future prospects and as per the decision in the case of National Insurance Co. Ltd vs Pranay Sethi reported at 2017 (16) SCC 680, the future prospects were liable to be awarded at the rate of 40%. He, thus, submitted that the future prospects, so calculated, would be to the tune of Rs.1,200/-. He thus submitted that the income should have been calculated at the rate of Rs.4,200/- per month. He submitted that the Tribunal has also erred while deducting the amount spent by the deceased towards personal expenditure. He submitted that in terms of the applicable case-laws, since the deceased was unmarried, a sum that he would spent on his own self would be 50% of the amount earned. He thus submitted that the amount of Rs.4,200/- ought to be reduced by 50%, thus arriving at Rs.2,100/-. It was submitted that accordingly, when a sum of Rs.2,100/- is multiplied by 12, the multiplicand would be Rs.25,200/-. He also submitted that the Tribunal has erred in choosing the multiplier of 13, that too, based on the age of the dependents. He has submitted that as per the settled law, the multiplier would have to be taken in terms of the age of the deceased and so calculated, the multiplier would be 18 in terms of the decision in the case of Sarla Verma & Ors vs Delhi Transport Corp.& Anr reported in 2009 (2) SCC (CRI) 1002. He has also submitted that there is no finding of the Tribunal insofar as the age of the deceased was concerned. He however submitted that in terms of the Post-Mortem Report, the age of the deceased would be 19 years and as such, neither in any of the depositions nor in any of the evidences on record of the Tribunal, any other age of the claimant had been suggested. He thus submitted that when the age of the deceased was of the 19 years, the applicable multiplier would be 18 in terms of the ratio in the case of Sarla Verma (supra). So calculated, according to him, the loss of the dependency would be to the tune of Rs.4,53,600/-. He next submitted that insofar as the conventional amounts are concerned, there too, the Tribunal has committed errors. It was submitted that there were no amounts awarded towards consortium. He submitted that irrespective of the finding of the Tribunal as to whether the father is considered a dependent or otherwise, he remains entitled for the compensation under the

head of the loss of consortium. Accordingly, he submitted that the consortium amount to the tune of Rs.96,800/- (both the parents, entitled to a sum of Rs.48,400/- respectively) is liable to be awarded. He further submitted that insofar as the sums liable to be awarded under the heads of Loss of Estate and that of Funeral Expenses are concerned, the Tribunal has respectively awarded a sum of Rs.5,000/- and Rs.8,000/-. He submitted that however, as per the applicable case-laws, a sum of Rs.18,150/- is liable to be awarded under each of the said heads. He also submitted that a sum total of the aforesaid amounts would aggregate to Rs.5,56,700/-.

6. The learned advocate Mr. M R Prajapati for Mr.Thomas appearing for the respondent no.2 - Insurance Company has submitted that as such he does not have any objection if instead of monthly income of Rs.2,700/- as calculated by the Tribunal, a sum of Rs.3,000/- is taken to be the monthly income of the deceased, Shatish. He further submitted that once, such an income is arrived at, all the other amounts as claimed by the claimant, more or less, are settled by the applicable case laws and as such he cannot have objection to the same. Accordingly, he has urged this Court to pass appropriate orders.

7. Having heard the learned advocates for respective parties, this Court proceeds to decide the present Appeal in terms appearing hereinafter.

8. The point of determination that arises before this Court in the present proceedings is whether the compensation as awarded by the Tribunal is just, fair and reasonable? If not, what would be the just, fair and reasonable compensation, liable to be awarded in the present facts and circumstances?

9. Indeed, as submitted by the learned advocate for the respondent no.2 - Insurance Company, what essentially falls to consideration of this Court is the notional income of the deceased. In the said respect, the Tribunal has assessed the notional income of the deceased to the tune of Rs.2,700/- per month. It may be noted that the pleadings in the original claim petition indicate that the deceased used to work as a cleaner and that he was earning Rs.3,000/- per month. The Tribunal, for reasons best known to it, has decreased the amount claimed by a sum of Rs.300/-, without ascribing reasons for decreasing the sum claimed, by an amount of Rs.300/-. However, when the Insurance Company itself does not have any objection to the monthly income of the deceased being treated at Rs.3,000/- instead of Rs.2,700/-, this Court is of the opinion that the notional income may be taken at Rs.3,000/- per month. Furthermore, in terms of the Pargraph-59.4 of Pranay Sethi (supra), 40% future prospects will have to be awarded i.e. added to the monthly income for the purpose of claculating the multiplicand. This is so as the deceased was a cleaner earning a fixed income by way of salary. The relevant paragraph of the judgment in the case of Pranay Sethi (supra) is reproduced herein below for the ease of reference:

"....

(iv)In case the deceased was self-employed or on a fixed salary, an addition of

40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

...."

10. Thus, the monthly income of the deceased for the purpose of the present proceedings, would be to the tune of Rs.4,200/- (I.e, Rs.3,000/- + 40% of Rs.3,000/-). From the said income, half of the income shall have to be deducted, as the deceased was a bachelor and as such, being a bachelor, he would only be able to contribute half of his income to the family. Thus, his income after such deduction, would be to the tune of Rs.2,100/-. Accordingly, the multiplicand in the present case would be Rs. 25,200/-(Rs.2,100 X 12).

11. It may be noted that the Tribunal appears to have not found a reason to assess the age of the deceased. It was apprised by the learned advocate, Mr. Hakim, that apart from the Post-Mortem Report, there were no other documentary evidence which indicated the age of the deceased. Now, on perusal of the Post-Mortem Report at Paragraph-7, it appears that the Doctor has assessed the age of the deceased as 19 years and accordingly, the multiplier liable to be employed in the present case would be 18. This is so in terms of the ratio in Sarla Verma (supra), wherein the Hon'ble Supreme Court has rationalized the applicability of the multiplier in MACP proceedings. The said paragraph reads as follows:

"We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

12. Thus, the loss of dependency would be 4,53,600/- (Rs. 25,200 X 18). Thereto, the amounts under the conventional heads, in respect of Loss of Estate and that under the head of Funeral Expenses shall have to be added. Accordingly, both for the Loss of Estate and that under Funeral Expenses, a sum of Rs.18,150/- each is liable to be awarded. Secondly, insofar as the Loss of Consortium is concerned, both the father and mother i.e,. the original claimants (the present appellant nos.1 and 2) would be entitled to the loss of consortium at the rate of Rs. 48,400/- each. Hence, the aggregate amount under the head of the consortium would be to the tune of Rs.96,800/-. Thus, the aggregate of the foregoing would be to the tune of Rs.5,86,700/-.

13. Therefore, the calculation of the compensation enhanced by this Court is as

follows:

Particulars

Amount awarded by the Tribunal (in Rs.)

Amount determined by this Court (in Rs.)

Actual Salary Income

2,700/- per month

3,000/- per month

Future Prospects

40% (1,200 +

3,000 =

4,200/-)

Deduction of amount spent by the deceased on

1,800/- per month (1/4th)

2,100/- per month (½ i.e., 4,200 less 50%

of 4,200/-)

Multiplicand

21,600/- per annum (1,800/- X 12)

25,200/- per annum (2,100

X 12)

Multiplier

13

18

Loss of dependency benefit

2,80,800/-

4,53,600/-

Loss of estate

5,000/-

18,150/-

Funeral expenses

8,000/-

18,150/-

Loss of consortium

96,800/-

Interest Rate

6%

9%

TOTAL

2,93,800/-

5,86,700/-

ENHANCEMENT

2,92,900/-

14. As such, the Tribunal has awarded a sum of Rs.2,93,800/-. Thus, the enhancement would be Rs.2,92,900/- (Rs.5,86,700/- less Rs.2,93,800/-)

15. This Court notices that the Tribunal was pleased to award interest at the rate of 6% per annum. It was submitted by the learned advocate for the appellant that the interest may kindly be enhanced to the rate of 9% per annum. However, the learned advocate for the Insurance Company has submitted that as such, the interest awarded by the Tribunal to the tune of 6% may kindly be maintained. However, this Court believes that considering the inflationary trends and the fact that the purchase power of the Rupee has been dwindled, so as to ensure that the purchase power of the compensation is maintained, in the larger interest of the justice, interest at the rate of 9% is liable to be awarded, so that the fairness is maintained while awarding compensation. Accordingly, the enhanced amount would carry the interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realization.

16. That the Insurance Company shall deposit the amount with the Tribunal within a period of eight weeks from the date of receipt of this Order. On receipt of the enhanced amount as aforesaid, the Tribunal shall disburse the entire amount without creating any further FDRs as the accident itself is of the year-2000, and therefore, creation of FDRs does not serve the interest of justice.

17. The appeal stands allowed to the aforesaid extent and is disposed of accordingly. The R&P be sent back to the Tribunal, forthwith.