(2026) 01 GUJ CK 1455

In the Gujarat High Court

Case No : R/First Appeal No. 2290 Of 2022

Ravjibhai Rupsinh Thakor Deleted As Expired & Ors APPELLANT

Vs

Usmanbhai Abdulbhai Vora & Ors RESPONDENT

Date of Decision : 27-01-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 01 GUJ CK 1455

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Hiren M Modi, Yogi K Gadhia

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 10.10.2017 by the learned Motor Accident Claims Tribunal (Auxi.), at Bharuch (for short "learned Tribunal") in Motor Accident Claim Petition No.620 of 2011, whereby the learned Tribunal was pleased to award compensation of Rs.7,65,000/- to the appellants – original claimants.

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

[2.1] On the fateful day of accident i.e. on 03.07.2011, the deceased Nileshbhai Ravjibhai Thakor (hereinafter referred to as "deceased") was riding on the Motorcycle bearing registration No.GJ-5-DJ-4691 as a pillion rider and on reaching the place of accident, Truck No.GJ-6-W-9089 came in full speed and in rash and negligent manner and hit the motorcycle on which the deceased was riding as a pillion rider and due to the impact deceased fell from the motorcycle and his head was crushed under the front wheel of the truck as a result of which the deceased died. In this regard, FIR being I-CR No.28/2011 came to be registered with Amod Police Station and therefore, the appellants herein – original claimants filed MACP No.620/2011 seeking compensation of Rs.25,00,000/-.

[2.2] After considering the evidence produced and adduced, the learned Tribunal held the driver of offending Truck solely negligent for the accident and was pleased to award Rs.7,65,000/- to the original claimants. However, being aggrieved with the quantum of compensation, the appellants herein – original claimants have filed the present First Appeal seeking enhancement of compensation.

[3.0] Though served, none appeared for respondent Nos.1, 2 and 5.

[4.0] Learned advocate Mr. Hiren Modi appearing for the appellants – original claimants has submitted that the learned Tribunal has committed an error in assessing the income of the deceased at Rs.3000/- per month though the deceased was doing supervisory work and in this regard even evidence was produced before the learned Tribunal however, the learned Tribunal has ignored the fact that the deceased was earning Rs.11,000/-. He has further submitted that the learned Tribunal has committed an error in not considering the future prospective income of the deceased and learned Tribunal has also committed an error in considering multiplier of 15 though the deceased was in the age group of 26 to 30. He has further submitted that the learned has committed an error by not allocating any amount towards filial consortium. Hence, he has requested to allow the present appeal.

[5.0] Learned advocate Mr. Yogi Gadhia appearing for the respondent No.3 – insurance company has opposed the present appeal and submitted that the learned Tribunal has not committed any error in absence of any proof of income and even the learned Tribunal has awarded Rs.1,00,000/- each towards the heads of love and affection and loss to estate which covers the global compensation and therefore, no specific head is awarded but ultimately the total compensation covers and serves the purpose of the benevolent legislation of the MV Act and hence, no interference is required. Therefore, he has requested to dismiss the present appeal.

[6.0] In the present appeal, negligence and liability is not challenged and present appeal only challenges the quantum of compensation awarded by the learned Tribunal and hence, present appeal is considered in narrow compass to that extent only.

[7.0] Having heard learned advocate for the appellants – original claimant and learned advocate for the insurance company and perusing the record, it appears that the claimants have filed affidavit of original claimant No.3 (Exh.32) wherein it is stated that the deceased was serving as a supervisor in the factory namely Kajal Fabrics and used to earn Rs.11,000/- per month. The learned Tribunal has taken into consideration the registration of firm certificate, income tax return of the firm and audit report of the firm and therefore, there is no reason to disbelieve the income of Rs.11,000/- per month of the deceased at the time of accident. Though the aforesaid evidence is produced on record, learned Tribunal has assessed the notional income of the deceased at Rs.3000/- only. It is needless to say that the said averments were made on oath before the learned Tribunal which remained unchallenged by the insurance company. Therefore, there was no justification or any reason for the learned Tribunal to consider atleast the minimum wages prevailing in the year 2011 as the accident took place in the year 2011, which was Rs.4580/- though the learned Tribunal has considered monthly income of the deceased at Rs.3000/-. But, the evidence produced on record proves that the deceased was working as a supervisor and to award just and fair compensation to the claimants, monthly income of the deceased is required to be assessed at Rs.6000/-. The deceased at the time of accident was aged 27 years and 9 months and therefore, in view of decision of Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680, Rs.2400/- (40% of Rs.6000/-) towards future prospect is required to be added which would come to Rs.8,400/-.

[7.1] As the deceased at the time of accident was in the age group of 26 to 30 years, learned Tribunal has committed an error in considering multiplier of '15' though in paragraph 15 of the impugned judgment, the learned Tribunal has stated that mutliplier of '14' is to be applied however, 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 '17' would apply. The deceased was bachelor at the time of accident and therefore, considering the fact that the deceased was a bachelor, 1/2 (Rs.4,200/-) is required to be deducted towards dependency and personal expenses and therefore, monthly loss of dependency would come to Rs.4,200/-and yearly loss of dependency would come to Rs.50,400/-. Further, as discussed above, applying the multiplier of 17, the appellants – original claimants are entitled to Rs.8,56,800/- (Rs.50,400 x 17).

[7.2] Further, the learned Tribunal has awarded compensation of Rs.1,00,000/- towards love and affection which in the considered opinion of this Court and in view of the decision of the Hon'ble Supreme Court in the case of Pranay Sethi (Supra), is erroneous and is required to be set aside. However, in view of decision of the Hon'ble Supreme Court in the case of Pranay Sethi (Supra) appellants are entitled to Rs.18,150/- towards loss of estate and Rs.18,150/- towards funeral expenses.

[7.3] Further, the deceased was having two dependents i.e. his parents and appellant No.3 – original claimant No.3 is elder brother of deceased who cannot be considered as dependant on the deceased and therefore, in view of ratio laid down 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 Jana Bai Wd/o Dinkarrao Ghorpade & Ors. vs. M/s ICICI Lambord Insurance Company Ltd. reported in 2022 LiveLaw (SC) 666, the learned Tribunal has committed an error in not awarding compensation under the head of filial consortium to the appellants – original claimants however, in view of above judgments the appellants are entitled for Rs.48,400/- each towards the loss of consortium. Therefore, the amount towards filial consortium is assessed as Rs.96,800/- (i.e. Rs.48,400/- X 2).

[8.0] Thus, now the original claimants are entitled to the compensation as under:

Heads

Amount awarded by the Tribunal

Reassessed by this Court

Future loss of dependency

Rs.5,40,000/-

Rs.8,56,800/-

including additional amount of

Rs.3,16,880/-

Love and

affection

Rs.1,00,000/-

NIL

Loss of Estate

Rs.1,00,000/-

Rs.18,150/-

Funeral Expenses

Rs.25,000/-

Rs.18,150/-

Loss of

Consortium

NIL

Rs.96,800/-

(Rs48,400 x 2)

Total...

Rs.7,65,000/-

Rs.9,89,900/-

Thus, total compensation of Rs.7,65,000/- as awarded by the learned Tribunal is on lower side, for the reasons recorded hereinabove, and therefore, same is reassessed at Rs.9,89,900/-and compensation awarded by the learned Tribunal is enhanced by Rs.2,24,900/- (Rs.9,89,900 – Rs.7,65,000) therefore, the impugned judgment and award passed by the learned Tribunal is modified to the aforesaid extent.

[9.0] In wake of aforesaid conspectus, present First Appeal is partly allowed. The impugned judgment and award dated 10.10.2017 passed by the learned Motor Accident Claims Tribunal (Auxi.), at Bharuch in Motor Accident Claim Petition No.620 of 2011 is modified and respondent No.3 – Insurance Company is directed to deposit reassessed amount of compensation of Rs.9,89,900/- alongwith accrued interest at the rate of 9% 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.

[9.1] After the aforesaid amount of reassessed compensation is deposited by the insurance company, learned Tribunal is directed to disburse the entire amount with accrued interest thereon, if any, to the original claimants, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure.

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

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

Pending civil application, if any, also stands disposed of.

