

(2025) 11 GUJ CK 1946
In the Gujarat High Court
Case No : R/First Appeal No. 1112 Of 2025

Reliance General Insurance Co. Ltd

APPELLANT

Vs

Giraben Vashrambhai Jogarana & Ors

RESPONDENT

Date of Decision : 06-11-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 173

Citation : (2025) 11 GUJ CK 1946

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Rathin P Raval, Anand R Patel, Masumi V Nanavaty, Vibhuti Nanavati

Final Decision : Dismissed

Judgement

Hasmukh D. Suthar, J

1) Feeling aggrieved by and dissatisfied with the judgment and award dated 06.09.2024 passed by learned Motor Accident Claims Tribunal (Main.), Surendranagar, in Motor Accident Claim Petition No.22 of 2019, the appellant – Insurance Company has preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).

2) Heard Mr.Rathin P. Raval, learned counsel for the appellant-Insurance Company, Mr.Anand R. Patel, learned counsel for respondent Nos.1 to 4 and Mr.Vibhuti Nanavaty, learned counsel for respondent No.10. Though served, no one appears for other respondents.

3) Considering the facts of the case and with consent of learned counsel for the respective parties, present appeal is taken up for its final disposal.

4) The facts emerge from the record of the appeal are that, on 15.01.2019, deceased was travelling in EECO car and when he was reached near the spot of the accident, driver of insured Esteem car who came in rash and negligent manner jumped divider and dashed with the EECO car of the deceased. As a

result, the deceased received fatal injuries and succumbed to death. Therefore, the legal heirs of the deceased filed Motor Accident Claim Petition before the learned Tribunal under Section 166 of the Act claiming compensation of Rs.40,00,000/-, wherein learned Tribunal after considering the submissions canvassed by learned advocate for the claimants and material produced on record, awarded compensation of Rs.37,80,200/- along with interest @ 9 % P.A. Being dissatisfied with the said compensation, the appellant has filed present appeal for quashment of the award and reduction of the amount awarded by the learned Tribunal.

5) Learned counsel for the appellant contended that the learned Tribunal has awarded very exorbitant amount of compensation without considering any evidence produced on record and committed error in considering multiplier as well as income of the deceased; that as the deceased was government servant, salary slip was produced at Exh-62, wherein it was clearly mentioned that monthly salary of the deceased was Rs.31,734/- and deduction amount is shown Rs.200/-towards professional tax. No deduction of any income tax is there, which ought to have been deducted. It is also submitted that though the deceased was aged about 54 years old and age of retirement is 58 years, maximum 4 multiplier can be applied. Therefore, learned Tribunal has committed an error in calculating the income of the deceased and therefore, he requested to interfere with the amount of compensation awarded by the learned Tribunal.

6) Learned counsel for respondent No.10 – Insurance Company has submitted that, they are formal party and is already exonerated by the tribunal, and therefore, this Court may pass appropriate order.

7) As the learned Tribunal came to the conclusion that sole negligent is on the part of the EECO car being Registration No.GJ-03-DG-6317 and therefore, opponent No.6-Driver of Esteem car is already exonerated.

8) Having heard learned counsel for the respective parties and perusing the material placed on record, it appears that the appellant has preferred appeal mainly on the ground that income of the deceased was not properly considered. Deceased was government servant and serving as a Peon in Sir J. High School at Lakhtar. Salary certificate was also produced at Exh:62. Witness Manish Parmar was examined and he has produced the details of salary of December, 2018 and also pay difference statements from 13.02.2019 to 31.07.2024 at Exhs:100 to 112. Perusing the said evidence, learned Tribunal came to the conclusion that the income of the deceased was Rs.31,374/- p.m and deduction was Rs.200/-towards professional tax. As an accident took place on 15.01.2019, last drawn salary has been considered. Considering all such evidence, income of the deceased was assessed at Rs.31,374/- p.m. As deceased was in permanent job and fall under the criteria between 50 – 60 years as per the law laid down in the case of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 (16) SCC 680, 15 % award is required to be awarded towards future prospects. Considering the same, total income of the deceased was assessed at

Rs.36,264/-. As there are five dependents of the deceased, deduction of 1/4 was required to be deducted as per the settled law. Hence, after deducting 1/4th amount of personal and living expenses, monthly family dependency loss was considered as Rs.27,198/- by the learned Tribunal.

9) Following the ratio laid down by the Hon'ble Apex Court in case of Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (6) SCC 121], the Id. Tribunal considering the age of the deceased being 54 years, has rightly applied multiplier 11 and therefore, his annual income came to Rs.3,26,376/-. Considering ratio laid down in case of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 (16) SCC 680, learned tribunal has awarded Rs.15,000/- under loss of estate, Rs.40,000/- under the head of loss of love and expectation of life and Rs.15,000/- under the head of funeral expenses. The daughter and sons of the deceased are even otherwise entitled to get Rs.40,000/- each towards loss of parental consortium as per the decision of the Apex Court, Rs.1,20,000/- has been rightly awarded by the Id. tribunal.

10) In view of the above, this Court is of the considered opinion that the learned Tribunal has not committed any error in awarding compensation to the claimants. Moreover, the appellant-Insurance Company did not challenge the evidence produced by the claimants regarding the income of the deceased. Therefore, no question arises with respect to the assessment of the take-home salary, and the additional ground based on facts raised for the first time in this appeal is without any specific defence. Accordingly, on such flimsy grounds, this Court is not inclined to interfere with the amount of compensation awarded by the learned Tribunal.

11) Generally, parties are expected to present their entire case, including all claims and defenses, before the learned Tribunal or Trial Court, so as to avoid being barred from raising such issues at a later stage. Since no question of law has been raised by the appellant, a question of fact cannot be raised for the first time before the Appellate Court.

12) So far another argument canvassed by the learned counsel for the appellant is concerned that the deceased was 54 years old at the time of the accident and only 4 years of service remained, and therefore, a multiplier of 4 ought to have been applied by the learned Tribunal. It is required to be noted that the Constitution Bench of the Hon'ble Apex Court has affirmed the principles laid down in Sarla Verma (Smt.) & Ors. (supra), maintaining a standard addition for future prospects and enforcing the use of a uniform multiplier. The said principles have also been reaffirmed by the Hon'ble Supreme Court in the case of N. Jayashree v. Cholanmandalam MS General Insurance Co. Ltd., [(2022) 14 SCC 712], and Maya Devi v. Oriental Insurance Co. Ltd., [AIR 2025 (SC) 1612]. The Hon'ble Supreme Court explicitly set aside the decision of the High Court which had applied a split multiplier, reiterating that the standard multiplier method must be followed unless specific and extraordinary reasons are recorded. In the present case, to ensure uniformity in awarding just and reasonable

compensation, as per the law laid down in *Maya Devi* (supra), the Court should not calculate compensation by applying a split multiplier without cogent and specific reasons. Instead, the compensation should be determined by applying a consistent multiplier approach as outlined in *Sarla Verma* (supra). Hence, the arguments advanced by the learned counsel for the appellant are not acceptable.

13) For the foregoing reasons and observations, present appeal fails and is hereby dismissed. Record and proceedings be sent back to the concerned learned Tribunal.