**(2026) 02 GUJ CK 1611**

**In the Gujarat High Court**

**Case No :** R/First Appeal No. 3318 Of 2025

Smitaben Naginbhai Patel & Anr APPELLANT

Vs

Caravan Project Logistics & Anr RESPONDENT

**Date of Decision :** 02-02-2026

**Acts Referred:**
Motor Vehicles Act, 1988 — Section 173

**Citation :** (2026) 02 GUJ CK 1611

**Hon'ble Judges :** Hasmukh D. Suthar, J

**Bench :** Single Bench

**Advocate :** Nishit A Bhalodi, Rituraj M Meena

**Final Decision :** Partly Allowed

## Judgement

Hasmukh D. Suthar, J

1) Feeling aggrieved and dissatisfied with the judgment and award dated 09.08.2024 passed by learned Motor Accident Claims Tribunal (Auxi.), Kheda at Nadiad (which shall hereinafter be referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.957 of 2021, the appellants – original claimants have preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988 (which shall hereinafter be referred to as "the Act" for short).

2) Heard Mr. N. A. Bhalodi, learned Advocate for the appellants – original Claimants and Mr. R. M. Meena, learned Advocate for respondent – Insurance Company. Perused the original record and proceedings.

3) It is the case of the appellants that on 21.04.2021, deceased Naginbhai dahyabhai Patel (who shall hereinafter be referred to as “deceased”) was riding his scooty from Pansora to Bhalej road, at that time one Truck bearing Reg. No.RJ-27-GD-4677, came from wrong side in rash and negligent manner and dashed with the scooty and resultantly, the deceased fell down and sustained serious bodily injuries and succumbed on the spot. Therefore, the appellants had filed MAC Petition seeking compensation, wherein, the learned Tribunal after

appreciating the evidence produced on record has partly allowed the claim petition.

4) Learned Advocate for the appellants has submitted that the learned Tribunal has committed error in considering the income of the deceased as Rs.7,000/- per month on notional basis and as he was a security guard his income be considered as Rs.15,000/- per month. He has further submitted that the Tribunal also erred in not awarding consortium to each of the appellants. Hence, he has requested to allow the present appeal.

5) Learned Advocate for the respondent no.2 – Insurance Company has opposed the present appeal on the ground that in absence of any evidence of income of the deceased the learned Tribunal has rightly assessed the income and properly awarded compensation to the appellants. Hence, he has requested to dismiss the present appeal.

6) The appeal is filed on limited ground that the learned Tribunal has not considered minimum wages of prevalent time and also not considered consortium to each appellants due to which loss is suffered by the appellants, hence, the appeal is required to be decided in narrow compass. As per the law laid down by the Hon’ble Supreme Court in the case of Govind Yadav Vs. National Insurance Co. Ltd., reported in 2012(1) TAC 1 (SC), that if no proof of income is produced on the record then Tribunal has to consider prevalent minimum wages in absence of evidence of monthly income of the deceased. In the present case the accident occurred on 21.04.2021 and during that time the deceased was working as Security Guard, whereas, the Tribunal has assessed the income of the deceased as Rs.7,000/- per month which is required to be enhanced as per the rate of minimum wages and hence, the income of the deceased is reassessed as Rs.9,000/- per month. Further, as the deceased was aged 70 years at the time of accident the learned Tribunal has not committed any error by not considering future prospective income. Further, the deceased left behind two dependants 1/3 deduction towards personal and living expenses of the deceased and multiplier of 05 were considered by the learned Tribunal as per the judgment of the Apex Court in the case of Sarla Verma (Smt) & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (6) SCC 121] which are just and proper.

7) Therefore, recalculating the income of the deceased as Rs.9,000/-and 1/3 amount is required to be deducted towards personal living expenses of the deceased which comes to Rs.3,000/- and the net amount comes to Rs.6,000/-. In view of above the amount under the head of future loss of dependency is required to be reassessed as Rs.6,000/- x 12 x 05 = Rs.3,60,000/-. Therefore, the appellants are entitled to get additional amount of Rs.79,980/-under the head of future loss of dependency.

8) Further, the learned Tribunal by relying on the judgment of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 ACJ 2700, has awarded total Rs.77,000/- under the three conventional heads, however, this Court is of the

 

view that amount is required to be reassessed as Rs.18,150/- towards loss of estate, Rs.18,150/- towards funeral expenses. Therefore, the appellants – original claimants are entitled for additional amount of Rs.3,300/-(i.e. Rs.18,150/- - Rs.16,500/- = Rs.1,650/- towards loss of estate and Rs.18,150/- - Rs.16,500/- = Rs.1,650/- towards funeral expenses).

9) Further, 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 Janabai Wd/o Dinkarrao Ghorpade & Ors., Vs M/s ICICI Lambord Insurance Company Ltd., reported in 2022 LiveLaw (SC) 666, the learned Tribunal has committed error in awarding only Rs.44,000/- towards loss of consortium, however, in view of above judgments the appellants – original claimants being legal heirs of the deceased they are entitled for Rs.48,400/- each towards the head of loss of consortium. Therefore, the amount towards loss of consortium is reassessed as Rs.96,800/- (i.e. Rs.48,400/- X 2). Therefore, the appellants are entitled for additional amount of Rs.52,800/- under the head of loss of consortium.

10) As discussed above, the appellants – original claimants are entitled to get compensation computed as under:

Heads

Awarded by Tribunal

Reassessed by this Court

Loss of future dependency

Rs.2,80,020/-

Rs.3,60,000/-

including additional amount of Rs.79,980/-

Loss of estate

Rs.16,500/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Funeral expenses

Rs.16,500/-

Rs.18,150/-

including additional amount of Rs.1,650/-

Loss of consortium

Rs.44,000/-

 

Rs.96,800/-

including additional amount of Rs.52,800/- (Rs.48,400/- X 2)

Total compensation

Rs.3,57,020/-

Rs.4,93,100/-

including total additional amount of Rs.1,36,080/-

11) In view of above, as the Tribunal has awarded total compensation of Rs.3,57,020/-, however, as discussed above the appellants are entitled to get additional amount of Rs.1,36,080/- (Rs.4,93,100/- - Rs.3,57,020/-) with proportionate costs and interest as awarded by the learned Tribunal.

12) Hence, present appeal is partly allowed. The judgment and award dated 09.08.2024 passed by learned Motor Accident Claims Tribunal (Aux.), Kheda at Nadiad, in MAC Petition No.957 of 2021 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. The respondent no.2 - Insurance Company shall deposit the said additional amount of Rs.1,36,080/- along with interest as awarded by the Tribunal, before the Tribunal within a period of four weeks from the date of receipt of this order. Record and proceedings be remitted back to the concerned Tribunal forthwith.

13) The learned Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly.

14) Award to be drawn accordingly.