(2026) 02 GUJ CK 1639

In the Gujarat High Court

Case No : R/First Appeal No. 2353 Of 2024

Vinubhai Bhimsinh Zala & Anr — APPELLANT

Vs

Bhanu Singh Tikam Singh Rao & Anr — RESPONDENT

Date of Decision : 06-02-2026

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2026) 02 GUJ CK 1639

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Hiren M Modi, Manish J Patel, Nagesh C Sood

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

(1) Feeling aggrieved by and dissatisfied with the judgment and award dated 27.03.2024 passed by learned Motor Accident Claims Tribunal (Main), Kheda at Nadiad, (hereinafter referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.633/2023, the appellants –original claimants preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).

(2) Heard Mr. Hiren Modi, learned Advocate for the appellants – original Claimants, Mr. Manish J. Patel, learned counsel for respondent No.1 and Mr. Nagesh c. Sood, learned counsel for respondent No.2.

(3) It is the case of the claimants that on 23.08.2023, deceased was walking in the side of the road and when she reached at the place of accident, one Eicher Truck bearing No.GJ 01 JT 5008 came in rash and negligent manner and hit the deceased from behind. As a result, the deceased got serious injuries and succumbed to it. Therefore, the claim petition was filed by the legal heirs of the deceased to get compensation of Rs.20,00,000/- from the opponents. After appreciating the evidence produced on record, the Tribunal awarded

compensation of Rs.8,62,200/- along with cost and interest @ 7.5 % p.a.

(4) The appeal is filed on limited ground of quantum and no further issue qua liability or contributory negligence is challenged. Therefore, learned counsel for the claimant has mainly argued that, the Tribunal has erred in considering monthly income of the deceased as Rs.7500/-on notional basis as he was earning Rs.20,000/- p.m. Further, the Tribunal has also erred in not properly awarding compensation under other conventional heads and therefore, the same are required to be enhanced. Hence, he has prayed to allow the appeal as prayed for.

(5) Learned counsel for respondent Nos.1 and 2 have jointly opposed the present appeal and contended that the Tribunal has not committed any error in considering income of the deceased and adequate compensation is awarded to the claimants. Hence, no interference is required by this Court.

(6) Having considered the submissions made by learned counsel for the parties, it appears that the appeal is filed only on the aspect of quantum and liability is not challenged. The Insurance Company has not filed any cross-objection. Hence, this appeal is required to be decided on the aspect of quantum only. Alleged incident is not not in dispute. Involvement of the vehicle is also not in dispute. In order to prove the claim, the claimant has filed an Affidavit at Exh:12, FIR at Exh:21, Panchnama of scene of incident at Exh:22, Inquest Panchanama at Exh:23 and PM report at Exh:16. After appreciating the evidence produced on record, the Tribunal held the offending vehicle sole negligent relying on the decisions of the Bimla Devi Vs. HRTC reported in AIR 2009 SC 2819 and Parmeshwari Devi Vs. Amir Chand, reported in 2011 (11) SCC 635. Further, the age of the deceased was 52 years at the time of accident as per the Aadhar card produced at Exh:15/1.

(7) 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 in August, 2023 and during that time, as per the minimum wages, the income is required to be considered as Rs.11,750/-. Hence, the income of the deceased is reassessed as Rs.11,750/- per month. Further, the Tribunal has considered future prospective income of the deceased as 10 % and as the deceased was married and having husband and son, 1/3rd deduction as personal expenditure and living of the deceased and multiplier of 11 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.

(8) Therefore, calculating the income of the deceased as Rs.11,750/- and future prospect of 10% = Rs.1,175/- which comes to Rs.12,925/- and 1/3 amount is required to be deducted as personal expenditure and living of the deceased which comes to Rs.4,308/-, rounded to Rs.4,300/- and the net amount comes to

Rs.8,625/-. In view of above, the amount under the head of loss of future dependency is required to be reassessed as Rs.8,625/- x 12 months x 11 multiplier = Rs.11,38,500/-. Therefore, the appellants are entitled to get additional amount of Rs.4,12,500/- under the head of future loss of dependency.

(9) Further, the Tribunal by relying on the judgment of National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 (16) SCC 680 has awarded total Rs.33,000/- under the two conventional heads, however, this Court is of the view that amount is required to be reassessed as Rs.18,150/- towards loss of estate and Rs.18,150/-towards funeral expenses. Therefore, the appellants – original claimants are entitled for additional amount of Rs.3300/- (i.e. Rs.18,150/- - Rs.16,500/- = Rs.1650/- towards loss of estate and Rs.18,150/- - Rs.16,500/- = Rs.1650/- towards funeral expenses).

(10) 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 amount towards loss of consortium is reassessed as Rs.96,800/- for two claimants).

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

Heads

Awarded by the

Tribunal

Reassessed by

this Court

Future loss of dependency

7,26,000/-

11,38,500/-

Loss of Estate

16,500/-

18,150/-

Funeral expenses

16,500/-

18,150/-

Loss of consortium

88,000/-

96,800/-

Medical expenses

15,200/-

15,200/-

Total compensation

8,62,200/-

12,86,800/-

(12) As Rs.8,62,200/- is already awarded by learned Tribunal, the appellants – original claimant is entitled to get additional amount of Rs.4,24,600/- (Rs.12,86,800/- - Rs.8,62,200/-) with proportionate costs and interest as awarded by the learned Tribunal.

(13) Hence, present appeal is partly allowed. The judgment and award dated 27.03.2024 passed by learned Motor Accident Claims Tribunal (Main), Kheda at Nadiad, in Motor Accident Claim Petition No.633/2023stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. It is provided that respondent No.2 shall deposit such additional amount of Rs.4,24,600/- 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.

(14) The Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly. Award to be drawn accordingly.