IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1250 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

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Approved for Reporting	Yes	No

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KANHAIYALAL RAGJUNATHBHAI LODHA
Versus
TAHIRHUSSAIN GULAMAHMED SHEIKH & ANR.

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Appearance:
MR RAXIT J DHOLAKIA(3709) for the Appellant(s) No. 1
MR.KRUTIK A PARIKH(7268) for the Defendant(s) No. 2
RULE SERVED for the Defendant(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 24/12/2025

ORAL JUDGMENT

1) Feeling aggrieved and dissatisfied with the judgments and award dated 07.02.2020 passed by learned 3rd Motor Accident Claims Tribunal (Auxi), Deesa, District - Banaskantha (which shall hereinafter be referred to as "**the Tribunal**" for short), in Motor Accident Claim Petition No.3142 of 2009, the appellant – original claimant preferred 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. R. J. Dholakia, learned Advocate for the appellant – original Claimant and Mr. K. A. Parikh, learned Advocate for respondent – Insurance Company.

3) It is the case of the appellant that on 12.02.2006 the applicant was headed towards Deesa on his motorcycle, at that time a Jeep coming at an excessive amount of speed got dashed with the motorcycle which the applicant was driving due to which the applicant fell on the road and sustained serious injuries. Therefore, the appellant has filed MAC Petition seeking compensation, wherein, the learned Tribunal after appreciating the evidence partly allowed the claim petition.

4) Learned Advocate for the appellant has submitted that the learned Tribunal has failed to award just and proper compensation and failed to appreciate the evidence produced on record. Thought he Disability Certificate produced at Exhibit 19 the learned Tribunal has gravely erred in holding that the appellant has not proved the case. It was the duty of the Tribunal to award just compensation. The claimant has taken treatment and produced MLC on record. One more glaring aspect of appeal is that the learned Tribunal has awarded meagre compensation of Rs.5,000/- and further considering self negligence of the claimant deducted 50% amount and awarded only Rs.2,500/- which is nothing but mockery of justice. Hence, he has requested to allow the present appeal.

5) Having heard the learned Advocate and going through the record it appears that the appellant was going on his bike on correct side with moderate speed at that time the Jeep was coming from opposite direction and in wrong side and dashed with the motorcycle due to which the appellant fell down and sustained multiple injuries and fracture and underwent operation and remained as indoor patient in the Hospital. At the time of accident the appellant was aged 35 years and was doing agriculture work and labour work. The appellant has produced Disability Certificate at Exhibit 19 and Injury Certificate at Exhibit 18 however the learned Tribunal was of the view that the appellant has failed to prove his case as the appellant has not produced medical test reports, prescriptions, x-ray films/ reports in order to prove injuries sustained in the accident. Further, the Doctor who has issued the Disability Certificate at Exhibit 19 and Injury Certificate at Exhibit 18 are different and are not examined. Further, the disability is not mutually consented by the parties. The Tribunal has wrongly considered the panchnnama and attributed 50% negligence to the appellant because there was head on collusion and head light of the motorcycle of the appellant is completely broken. The Disability Certificate at Exhibit 19 issued by the Government Hospital wherein 20% disability is mentioned and if we consider 10% disability body as a whole even though it would fall under Section 142 of the MV Act which is permanent and partial disability and in that event also once the involvement of the vehicle in the accident is proved and

coverage of insurance policy on the date of accident is not disputed based on no fault liability under Section 140 of the MV Act as interim compensation the appellant was entitled to minimum Rs.25,000/- and said basic aspect and principle of law is ignored by the learned Tribunal. The learned Tribunal has failed to consider the claim petition in true letter and spirit and failed to consider the object of benevolent legislation. It is the duty of the Tribunal to award just and proper compensation and if in case of necessity the learned Tribunal can initiate summary inquiry to award just compensation, however, the learned Tribunal failed to keep in mind the aforesaid aspect. Therefore, considering the nature of work and injury sustained by the claimant which is stated in Disability Certificate at Exhibit 19 issued by the Doctor of Government Hospital, this Court is of the considered view that the appellant is entitled for a lump-sum amount of Rs.1,00,000/- towards all heads.

6) In view of above, the appellant is entitled to receive additional amount of **Rs.97,500/-** with proportionate costs and interest as awarded by the learned Tribunal.

7) Hence, present appeal is **allowed**. The judgment and award dated 07.02.2020 passed by learned 3rd Motor Accident Claims Tribunal (Auxi), Deesa, District – Banaskantha, in MAC Petition No.3142 of 2009 is quashed and set aside. The respondent Nos.1 and 2 shall jointly and severally deposit the said additional amount of

Rs.97,500/- 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.

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

9) Award to be drawn accordingly.

(HASMUKH D. SUTHAR,J)

ANKIT JANSARI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ANKIT YOGESHBHAI JANSARI(HCW0109), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 02/01/2026 13:23:31