IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1739 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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KANTIBHAI SHANKARBHAI SOLANKI
Versus
JIYAULHAQ MOHAMMADRAFIQ QURESHI & ORS.

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Appearance:
MR KRUNAL R PRAJAPATI(10066) for the Appellant(s) No. 1
MR ANANTANAND J SINGH(10046) for the Appellant(s) No. 1
RULE SERVED for the Defendant(s) No. 1,2,3

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

Date : 24/12/2025
ORAL JUDGMENT

[1.0] Present First Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "MV Act") is filed by the appellant – original claimant challenging the impugned judgment and award dated 18.03.2021 passed by the learned Motor Accident Claims Tribunal (Auxi.), Anand (for short "learned Tribunal") in Motor Accident Claim Petition No.309 of 2016, whereby the learned Tribunal was pleased to award compensation of Rs.1,81,048/- to the appellant – original claimant to be paid by respondent Nos.1 and 2 herein – original respondent Nos.1 and 2 and exonerated original opponent No.3.

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

[2.1] On 12.06.2016, the appellant – original claimant was returning towards his home from village Hamidpura by travelling as

a pillion rider on the Motorcycle No.GJ-23-J-9011 and when he reached near the place of accident, at that time, opponent No.1 came driving his Maruti Van No.GJ-6-BD-5680 rashly, negligently and at an excessive speed and dashed his Maruti Van with the motorcycle of the applicant because of which the appellant – original claimant sustained injuries. Therefore, the original claimant filed MACP No.309/2016 seeking compensation.

[2.2] After considering the evidence produced and adduced, the learned Tribunal held the driver of Maruti Van solely negligent for the accident and while exonerating the original opponent No.3, awarded Rs.1,81,048/- to be paid by the original opponent Nos.1 and 2. The appellant – original claimant has filed the present First Appeal seeking enhancement of the compensation.

[3.0] Though served, none appear for respondents Nos.1, 2 and 3. Heard learned advocate appearing for the appellant.

[4.0] Learned advocate appearing for the appellant – original claimant has has submitted that the learned Tribunal has not considered the minimum wages and considered income of only Rs.3500/- per month though he was doing agriculture and animal husbandry work and even future prospective income is also not considered. Further, he has submitted that the learned Tribunal ought to have awarded minimum Rs.15,000/- towards pain, shock and suffering while meager amount of only Rs.3000/- has been awarded and actual loss of income is not properly considered. Hence, he has requested to allow the present appeal and enhance the compensation.

[5.0] Having heard learned advocate for the appellant – original claimant and perusing the record, it appears that so far as negligence is concerned, the learned Tribunal has held driver of Maruti Van to be solely negligent for the accident relying on the decisions of the Hon'ble Supreme Court in the case of **Bimla Devi vs. H.R.S.T.C.** reported in **AIR 2009 SC 2819** and **Parmeshwari Devi vs. Amir Chand** reported in **(2011) 11 SCC 635**. Present appeal is filed on the limited issue of compensation and is considered in a narrow compass.

[5.1] Perusing the impugned judgment and award and record, it appears that the learned Tribunal has considered affidavit (Exh.28) tendered by the appellant – original claimant wherein he has stated that he is doing agriculture work and animal husbandry work from which he is earning Rs.5000/- per month however, the learned Tribunal has assessed income of the appellant as Rs.3500/- per month. This Court is of considered view that the learned Tribunal ought to have considered minimum wages prevailing at the relevant time i.e. year 2016 in absence of any evidence but herein the appellant – original claimant has clearly stated in his evidence that he was earning Rs.5000/- by doing aforesaid work though learned Tribunal has not considered the same. Hence, the learned Tribunal ought to have considered the minimum wages of Rs.5000/- per month. To that extent, the learned Tribunal has committed an error. Therefore, considering monthly income of the claimant as Rs.5000/- and adding Rs.1250/- (25%) towards future prospects in view of decision of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Shethi** reported in **(2017) 16 SCC 680,** as appellant – claimant was aged 50 years at the time of accident, the appellant – claimant is entitled to get Rs.6250/-.

[5.2] Further, the learned Tribunal has assessed permanent disability at 25% of body as a whole which is duly consented by learned advocate appearing for the insurance company before the learned Tribunal by way of filing purshis (Exh.37) and even considering injury certificate (Exh.34), the disability as whole is appropriately considered at 25%. It has come on record undisputed that the age of the claimant at the time of accident was 50 years and therefore, 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 13 as considered by the learned Tribunal would apply. Considering the monthly income of the claimant at Rs.6250/-, the appellant – original claimant would be entitled to **Rs.2,43,672/- [Rs.1562/- (Rs.6250 x 25%) x 12 x 13]** towards future loss of income. Hence, towards **future loss of income**, the claimant is entitled to amount of compensation of **Rs.2,43,672/-**.

[5.3] Further, the claimant remained under treatment for a period of two months and hence, he is entitled to Rs.6250 x 2 months = **Rs.12,500/-** under the head of **actual loss of income** which is required to be enhanced. The compensation under the head of **medical expenses of Rs.29,548/-** does not call for any interference. Further, the learned Tribunal has awarded an amount of Rs.3,000/- under the head of pain, shock and suffering however, considering the disability and nature of injury sustained by the appellant – claimant, amount of Rs.15,000/- ought to have been awarded by the learned Tribunal under the head of pain, shock and suffering. Further, under the head of **special diet, attendance and transportation,** an amount of **Rs.5,000/-** is appropriately awarded and does not require any interference.

[6.0] Thus, now the original claimant is entitled to the compensation as under:

Heads	**Amount awarded by the Tribunal**	**Reassessed by this Court**
Future loss of income	Rs.1,36,500/-	**Rs.2,43,672/-** **including addl. amount of Rs.1,07,172/-**
Actual loss of income	Rs.7,000/-	**Rs.12,500/-** **including addl. amount of Rs.5500/-**
Pain, shock and suffering	Rs.3,000/-	**Rs.15,000/-** **including addl. amount of Rs.12,000/-**
Medical expenses	Rs.29,548/-	Rs.29,548/- **NIL**
Special diet, attendance and transportation	Rs.5,000/-	Rs.5,000/- **NIL**
Total...	Rs.1,81,048/-	**Rs.3,05,720/-** **including additional amount of Rs.1,24,672/-**

Thus, total compensation of **Rs.1,81,048/- as awarded by the learned Tribunal** is on lower side, for the reasons recorded hereinabove, and therefore, same is required to be enhanced to the aforesaid extent i.e. **Rs.3,05,720/-** and hence, the appellant – original claimant is entitled to get **additional amount of Rs.1,24,672/- (Rs.3,05,720 – Rs.1,81,048)** towards compensation and therefore, the impugned judgment and award passed by the learned Tribunal is modified to the aforesaid extent.

[7.0] In wake of aforesaid conspectus, present **First Appeal is partly allowed**. The respondent Nos.1 and 2 are directed to deposit reassessed amount of compensation of **Rs.3,05,720/-** 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. The Impugned judgment and award dated 18.03.2021 passed by the learned Motor Accident Claims Tribunal (Auxi.), Anand in Motor Accident Claim Petition No.309 of 2016 is modified to the aforesaid extent and rest of the impugned judgment and award remains unaltered.

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

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

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

Sd/-
(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 05/01/2026 10:35:34