IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2613 of 2025

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VARSHABEN BABUBHAI NAKRANI & ORS.

Versus

JAYPALSINH YUVRAJSINH GOHIL & ORS.

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Appearance:
MR NISHIT A BHALODI(9597) for the Appellant(s) No. 1,2,3,4
MR CHIRAYU A MEHTA(3256) for the Defendant(s) No. 3
NOTICE SERVED for the Defendant(s) No. 1,2

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

Date : 18/12/2025
ORAL ORDER

[1.0] Feeling aggrieved and dissatisfied with the impugned judgment and award dated 09.12.2024 passed by the learned Motor Accident Claims Tribunal (Main), Bhavnagar (which shall hereinafter be referred to as "the Tribunal" for short) in Motor Accident Claim Petition No.234 of 2021, the appellants herein – original claimants have filed present First Appeal under Section 173 of the Motor Vehicles Act, 1881 (for short “MV Act”).

[2.0] Though served, respondent Nos.1 and 2 have chosen not to appear before this Court.

[3.0] Heard learned Advocate Mr. Nishit Bhalodi for the appellants – original claimants and learned Advocate Mr. Chirayu Mehta for respondent No.3 – insurance company of the offending vehicle. Perused the original record and proceedings.

[4.0] It is the case of the appellants that on 06.08.2021, while the deceased Babubhai Ganeshbhai Nakrani was going to his field at Umrala by plying Activa Scooter No.GJ-04-CK-4822 alongwith pillion

rider Rameshbhai Kherala at moderate speed, at about 2.30 p.m., driver of Mini Luxury Bus No.GK-11-TT-5510 came from the back side with full speed in rash and negligent manner and hit the Activa scooter of the deceased pursuant to which the deceased died and pillion rider also sustained serious injuries. Therefore, the appellants being legal heirs of the deceased had filed MAC Petition seeking compensation of Rs.22,00,000/- wherein the learned Tribunal after appreciating the evidence produced on record was pleased to partly allow the claim petition and awarded Rs.8,80,000/-. Being aggrieved with the compensation on lower side, the present appellants – original claimants have filed the present appeal for enhancement of compensation.

[5.0] Learned Advocate Mr. Nishit Bhalodi appearing for the original claimants has submitted that the learned Tribunal has committed an error by considering the annual income of the deceased as Rs.1,50,000/- and the learned Tribunal has not appreciated the fact that the deceased was income tax payer and his income tax returns though placed on record of the learned Tribunal at Exhs.73, 75 and 77, same have not been considered by the learned Tribunal. He has further submitted that income tax return is a statutory document and income of the deceased ought to have been considered as per the ITRs. In support of his submissions, he has relied on the decisions of the Hon'ble Supreme in the case of **Malarvizhi & Ors vs. United India Insurance Company Limited & Anr**. reported in **2020 ACJ SC 526** and **United India Insurance Co. Ltd. vs. Indiro Devi reported in 2018 ACJ 2051**. Hence, he has requested to allow the present First Appeal.

[6.0] *Per contra*, learned advocate Mr. Chirayu Mehta for the

respondent – insurance company of offending vehicle has opposed the present appeal by submitting that the learned Tribunal has not committed any error in considering the income of the deceased at Rs.1,50,000/- as claimant No.1 in her cross-examination has admitted that after the demise of the deceased, agricultural lands were being cultivated by the claimants and therefore, considering the decision of Hon'ble Supreme Court in the case of **New India Insurance Co. Ltd. vs. Yogesh Devi** reported in **2012 ACJ 702,** the learned Tribunal has assessed the yearly income of the deceased at Rs.1,50,000/-, which is just and proper. He has therefore, submitted that no interference by this Court is called for and has requested to dismiss the appeal.

[7.0] Having heard the learned Advocates for the respective parties and considering the fact that present appeal is concerning limited issue of quantum of compensation, present appeal is considered in narrow compass.

[8.0] Perusing the record as well as the impugned judgment and award, it appears that the learned Tribunal has relied on the evidence of claimant No.1 who has stated in her evidence that her deceased husband was aged about 62 years at the time of accident and after his demise the agricultural lands are being cultivated by the claimants however, while calculating quantum the learned Tribunal has committed error in considering yearly agriculture income of Rs.1,50,000/- notional though there were income tax returns produced at Exhs.73, 75 and 77, which are statutory documents and evidence and therefore, in view of the decision of Hon'ble Supreme Court in the case of ***Malarvizhi & Ors. (Supra)***, income tax returns ought to have been considered by the learned

Tribunal for awarding just compensation. It appears from the record that, the claimant No.1 i.e. wife of the deceased has tendered her evidence and in her cross-examination she has admitted that after the demise of the deceased, claimants have been farming in the agricultural land and they are cultivating the land. When estate belongs to the deceased and legal representatives of the deceased then as per the settled principle of law the Tribunal has to consider supervisory loss while awarding the compensation considering supervisory skill and managerial skill to manage the property on the part of the deceased. Further, computation of income from agriculture activity always depends on rain, atmosphere and season and such activity is carried on by labourer also. Hence, in view of decision of Hon'ble Supreme Court in the case of **New India Insurance Co. Ltd. vs. Charlie** reported in **2005 ACJ 1131 (SC)**, the learned Tribunal has to consider only supervisory loss. The learned Tribunal has straightaway considered notional income of Rs.1,50,000/- per annum. Even after the death of the deceased, the agricultural land bequeathed or remained with legal representatives or claimants and hence income remains continued, however, the claimants are also entitled for supervisory or managerial loss qua said agricultural lands. Considering the income tax returns for the years 2018-19 (Exh.73), 2019-20 (Exh.75) and 2020-21 (Exh.77), yearly income of the deceased for said Assessment Years was Rs.3,64,884/-, Rs.1,26,192/- and Rs.1,33,214/- respectively and therefore, mean yearly income of the deceased would come to Rs.2,08,097/- and therefore, to that extent, the learned Tribunal has committed an error. Hence, in considered opinion of this Court, the yearly income of the deceased ought to have been considered as Rs.2,05,000/-. Hence, the learned Tribunal has committed error in considering notional income in view of

object of the Motor Vehicles Act which is a beneficial and welfare legislation to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position and therefore, the compensation under the Act shall be awarded so as to provide stability and continuity in peoples' lives in the future. Hence, keeping in mind the aforesaid facts and in view of the case of ***K Ramya v National Insurance Co. Ltd.,*** *reported in* ***2022 SCC OnLine SC 1338; S Vishnu Ganga v Oriental Insurance Company Limited,*** *reported in* ***2025 SCC OnLine SC 182 and Shivaleela and Ors., Vs The Divisional Manager, United India Insurance Co. Ltd., & Ors.,*** *reported in* ***2025 INSC 357,*** yearly income of the deceased in considered opinion of this Court is reassessed as Rs.2,05,000/-.

[8.1] As the deceased was having two dependents i.e. his wife and mother, Rs.68,333/- (1/3rd) is rightly deducted towards personal expenses and therefore, **yearly loss of dependency** would come to **Rs.1,36,667/-** and as the deceased was admittedly aged around 62 years, as per the decision of the Hon'ble Apex Court in the case of **Sarla Verma (Smt) & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **(2009)6 SCC 121** and **National Insurance Company Ltd. Vs. Pranay Sethi** reported in **2017 ACJ 2700**, learned Tribunal has considered multiplier of 7 which in the considered opinion of this Court is just and proper and does not call for any interference. In view of above, the amount under the head of future loss of dependency is required to be reassessed as **Rs.1,36,667/- x 7 = Rs.9,56,669/-**.

[8.2] Further, the learned Tribunal by relying on the judgment of

Hon'ble Supreme Court in the case of ***Pranay Sethi*** has awarded Rs.18,000/- each under the two conventional heads of loss of estate and funeral expenditures which in considered opinion of this Court is just and proper. Further, the compensation of Rs.1,44,000/- under the head of consortium is also just and proper which does not call for any interference by this Court.

[9.0] As discussed above, the appellants – original claimants are entitled to get compensation computed as under:

Heads	**Amount awarded by the Tribunal**	**Reassessed by this Court**
Future loss of dependancy	Rs.7,00,000/-	**Rs.9,56,669/-** including additional amount of **Rs.2,56,669/-**
Loss of Estate	Rs.18,000/-	**Rs.18,000/-** **NIL**
Funeral Expenses	Rs.18,000/-	**Rs.18,000/-** **NIL**
Loss of Consortium	1,44,000/-	**Rs.1,44,000/-** **NIL**
Total Compensation	Rs.8,80,000/-	**Rs.11,36,669/-** including additional amount of **Rs.2,56,669/-**

Thus, total compensation of **Rs.8,80,000/- 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.11,36,669/-** and hence, the appellants – original claimants are entitled to get **enhanced (additional) amount of Rs.2,56,669/-** towards compensation and therefore, the

impugned judgment and award passed by the learned Tribunal is modified to the aforesaid extent.

[10.0] In wake of aforesaid conspectus, present **First Appeal is allowed**. The respondent No.3 – Iffco Tokio General Insurance Company Limited is directed to deposit enhanced amount of compensation of **Rs.2,56,669/- (Rs.11,36,669 – Rs.8,80,000)** 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 09.12.2024 passed by the learned Motor Accident Claims Tribunal (Main), Bhavnagar in Motor Accident Claim Petition No.234 of 2021 is modified to the aforesaid extent and rest of the impugned judgment and award remains unaltered.

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

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

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

(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 18/12/2025 17:53:39