IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 3952 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

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Approved for Reporting	Yes	No
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MANISHABEN @ MOTIBEN VALLABHBHAI DEGAMA
Versus
DILIPBHAI SAVJIBHAI SOLANKI & ANR.

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Appearance:
NISHIT A BHALODI(9597) for the Appellant(s) No. 1
MS KIRTI S PATHAK(9966) 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 : 22/12/2025

ORAL JUDGMENT

1) Feeling aggrieved and dissatisfied with the judgment and award dated 10.01.2023 passed by learned Motor Accident Claims Tribunal (Auxi.), Gondal (which shall hereinafter be referred to as "**the Tribunal**" for short), in Motor Accident Claim Petition No.41 of 2016, the appellant – original claimant has 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 appellant – original Claimant and Ms. K. S. Pathak, learned Advocate for respondent – Insurance Company.

3) It is the case of the appellant that on 02.08.2015 the appellant – claimant had gone to Vilage Ishwariya from Jasdan for catering and cooking work in marriage function and while returning from there travelling in Rickshaw bearing Reg. No.GJ-3-W-5879 along with her catering and cooking goods. The driver of rickshaw was driving in rash and negligent manner and when they reached the accident spot the Rickshaw dashed with the wall of the bridge and hence the claimant fell down and went under the bridge due to which claimant sustained grievous fracture and other bodily injuries. Therefore, the appellant had filed MAC Petition seeking compensation, wherein, the learned Tribunal after appreciating the evidence produced on record has partly allowed the claim petition.

4) It is worthwhile to mention here that during the course of arguments the learned Advocate for the appellant has not pressed the ground of functional disability of the appellant. Therefore, the appeal is required to be decided in narrow compass on limited grounds that the learned Tribunal has not considered the prevailing rate of minimum wages and assessed income of only Rs.4,000/- per month. The learned Advocate for the appellant has further submitted that the Tribunal has committed error by not considering addition towards future prospectus and awarded meagre amount. He has further submitted that looking to the accidental injuries and disablement of the appellant the Tribunal ought to have considered Rs.1,00,000/- towards pain, shock and suffering. Hence, he has

requested to allow the present appeal.

5) Learned Advocate for the respondent – Insurance Company has opposed the present appeal on the ground that the learned Tribunal has rightly awarded the compensation and no interference of this Court is required to made with the impugned judgment. Hence, she has requested to dismiss the present appeal.

6) Having heard both the learned Advocates and going through the record it appears that 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 appellant. In the present case the accident occurred on 02.08.2015 and during that time the appellant was doing catering and cooking work and her income is required to be considered as per prevailing rate of of minimum wages, whereas, the Tribunal has assessed the income of the appellant as Rs.4,000/- per month which is required to be enhanced and hence, the income of the appellant is reassessed as **Rs.7,500/- per month**. Further, the learned Tribunal has considered 27% disability body as a whole which was consented by both the parties and even otherwise the learned Advocate for the appellant has not pressed the dispute of functional disability of the appellant and therefore this Court is not going to discuss the said ground. Further, the

learned Tribunal has considered 40 years age of the appellant at the time of accident and on the basis of her age has considered multiplier of 15 and also considered Rs.10,000/- towards transportation, special diet and attendants and Rs.2,40,900/- towards medical expenses, 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]*** and ***National Insurance Company Ltd. Vs. Pranay Sethi,*** *reported in* ***2017 ACJ 2700,*** which are just and proper. However, the learned Tribunal has erred in considering meagre amount towards pain, shock and suffering and actual loss of income.

7) Therefore, recalculating the income of the appellant as Rs.7,500/- and future prospect of 40% = Rs.3,000/- which comes to Rs.10,500/-. Now total income under the head of future loss of income is required to be considered as Rs.10,500/- x 12 x 27% x 15 / 100 = Rs.5,10,300/-. The Tribunal has awarded Rs.1,94,400/- towards future loss of income, however, this Court is of the view that the appellant is entitled to get **Rs.5,10,300/-** towards future loss of income. Similarly, the learned Tribunal has awarded Rs.8,000/- towards actual loss of income, however, this Court is of the view that appellant is entitled for **Rs.15,000/-** towards actual loss of income. Further, the learned Tribunal has awarded Rs.10,000/- under the head of pain, shock and suffering which is required to be

enhanced to **Rs.20,000/-**. So far other heads are concerned this Court is of the view that the learned Tribunal has rightly awarded the amount under remaining heads and the same are just and proper.

8) As discussed above, the appellant is entitled to get compensation computed as under:

Heads	Awarded by Tribunal	Reassessed by this Court
Future loss of income	Rs.1,94,400/-	**Rs.5,10,300/-** **including additional amount of Rs.3,15,900/-**
Pain, shock and sufferings	Rs.10,000/-	**Rs.20,000/-** **including additional amount of Rs.10,000/-**
Medical expenses	Rs.2,40,900/-	Rs.2,40,900/-
Actual loss of income	Rs.8,000/-	Rs.15,000/- **including additional amount of Rs.7,000/-**
Attendance charges, special diet and transportation	Rs.10,000/-	Rs.10,000/-
Total compensation	Rs.4,63,300/-	**Rs.7,96,200/-** **including total additional amount of Rs.3,32,900/-**

9) In view of above, as the Tribunal has awarded total compensation of Rs.4,63,300/-, however, as discussed above the appellant is entitled to get additional amount of **Rs.3,32,900/-** (Rs.7,96,200/- - Rs.4,63,300/-) with proportionate costs and interest as awarded by the learned Tribunal.

10) Hence, present appeal is **allowed**. The judgment and award dated 10.01.2023 passed by learned Motor Accident Claims Tribunal (Aux.), Gondal, in MAC Petition No.41 of 2016 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.3,32,900/-** 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.

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

12) 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 23/12/2025 18:29:21