

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3318 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

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Approved for Reporting	Yes	No

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SMITABEN NAGINBHAI PATEL & ANR.

Versus

CARAVAN PROJECT LOGISTICS & ANR.

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Appearance:

NISHIT A BHALODI(9597) for the Appellant(s) No. 1,2

MR RITURAJ M MEENA(3224) for the Defendant(s) No. 2

NOTICE THROUGH SPEED POST UNSERVED for the Defendant(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 02/02/2026****ORAL JUDGMENT**

- 1) Feeling aggrieved and dissatisfied with the judgment and award dated 09.08.2024 passed by learned Motor Accident Claims Tribunal (Auxi.), Kheda at Nadiad (which shall hereinafter be referred to as "**the Tribunal**" for short), in Motor Accident Claim Petition No.957 of 2021, the appellants – original claimants have 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 appellants – original Claimants and Mr. R. M. Meena, learned Advocate for respondent – Insurance Company. Perused the original record and proceedings.
- 3) It is the case of the appellants that on 21.04.2021, deceased Naginbhai dahyabhai Patel (who shall hereinafter be referred to as “**deceased**”) was riding his scooty from Pansora to Bhalej road, at that time one Truck bearing Reg. No.RJ-27-GD-4677, came from wrong side in rash and negligent manner and dashed with the scooty and resultantly, the deceased fell down and sustained serious bodily injuries and succumbed on the spot. Therefore, the appellants had filed MAC Petition seeking compensation, wherein, the learned Tribunal after appreciating the evidence produced on record has partly allowed the claim petition.
- 4) Learned Advocate for the appellants has submitted that the learned Tribunal has committed error in considering the income of the deceased as Rs.7,000/- per month on notional basis and as he was a security guard his income be considered as Rs.15,000/- per month. He has further submitted that the Tribunal also erred in not awarding consortium to each of the appellants. Hence, he has requested to allow the present appeal.
- 5) Learned Advocate for the respondent no.2 – Insurance Company has opposed the present appeal on the ground that in absence of

any evidence of income of the deceased the learned Tribunal has rightly assessed the income and properly awarded compensation to the appellants. Hence, he has requested to dismiss the present appeal.

- 6) The appeal is filed on limited ground that the learned Tribunal has not considered minimum wages of prevalent time and also not considered consortium to each appellants due to which loss is suffered by the appellants, hence, the appeal is required to be decided in narrow compass. 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 on 21.04.2021 and during that time the deceased was working as Security Guard, whereas, the Tribunal has assessed the income of the deceased as Rs.7,000/- per month which is required to be enhanced as per the rate of minimum wages and hence, the income of the deceased is reassessed as **Rs.9,000/- per month**. Further, as the deceased was aged 70 years at the time of accident the learned Tribunal has not committed any error by not considering future prospective income. Further, the deceased left behind two dependants 1/3 deduction towards personal and living expenses of the deceased and multiplier of 05 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.

- 7) Therefore, recalculating the income of the deceased as Rs.9,000/- and 1/3 amount is required to be deducted towards personal living expenses of the deceased which comes to Rs.3,000/- and the net amount comes to **Rs.6,000/-**. In view of above the amount under the head of future loss of dependency is required to be reassessed as $\text{Rs.6,000/-} \times 12 \times 05 = \text{Rs.3,60,000/-}$. Therefore, the appellants are entitled to get additional amount of **Rs.79,980/-** under the head of future loss of dependency.
- 8) Further, the learned Tribunal by relying on the judgment of ***National Insurance Company Ltd. Vs. Pranay Sethi, reported in 2017 ACJ 2700***, has awarded total Rs.77,000/- under the three conventional heads, however, this Court is of the view that amount is required to be reassessed as Rs.18,150/- towards loss of estate, Rs.18,150/- towards funeral expenses. Therefore, the appellants – original claimants are entitled for additional amount of **Rs.3,300/-** (i.e. $\text{Rs.18,150/-} - \text{Rs.16,500/-} = \text{Rs.1,650/-}$ towards loss of estate and $\text{Rs.18,150/-} - \text{Rs.16,500/-} = \text{Rs.1,650/-}$ towards funeral expenses).
- 9) 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 learned Tribunal has committed error in awarding only Rs.44,000/- towards loss of consortium, however, in view of above judgments the appellants – original claimants being legal heirs of the deceased they are entitled for Rs.48,400/- each towards the head of loss of consortium. Therefore, the amount towards loss of consortium is reassessed as Rs.96,800/- (i.e. Rs.48,400/- X 2). Therefore, the appellants are entitled for additional amount of **Rs.52,800/-** under the head of loss of consortium.

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

Heads	Awarded by Tribunal	Reassessed by this Court
Loss of future dependency	Rs.2,80,020/-	Rs.3,60,000/- including additional amount of Rs.79,980/-
Loss of estate	Rs.16,500/-	Rs.18,150/- including additional amount of Rs.1,650/-
Funeral expenses	Rs.16,500/-	Rs.18,150/- including additional amount of Rs.1,650/-
Loss of consortium	Rs.44,000/-	Rs.96,800/- including additional amount of Rs.52,800/- (Rs.48,400/- X 2)
Total compensation	Rs.3,57,020/-	Rs.4,93,100/- including total additional amount of Rs.1,36,080/-

- 11) In view of above, as the Tribunal has awarded total compensation of Rs.3,57,020/-, however, as discussed above the appellants are entitled to get additional amount of **Rs.1,36,080/-** (Rs.4,93,100/- - Rs.3,57,020/-) with proportionate costs and interest as awarded by the learned Tribunal.
- 12) Hence, present appeal is **partly allowed**. The judgment and award dated 09.08.2024 passed by learned Motor Accident Claims Tribunal (Aux.), Kheda at Nadiad, in MAC Petition No.957 of 2021 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.1,36,080/-** 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.
- 13) The learned Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly.
- 14) 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 02/02/2026 15:53:38