IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 2430 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE L. S. PIRZADA

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Approved for Reporting	Yes	No

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GAJRABEN NENAJI THAKOR DELETED & ANR.
Versus
YOGESHKUMAR DAHYABHAI PATEL DELETED & ORS.

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Appearance:
NISHIT A BHALODI(9597) for the Appellant(s) No. 1,2
DELETED for the Defendant(s) No. 1
MR KV GADHIA(319) for the Defendant(s) No. 3
SERVED BY AFFIX. (R) for the Defendant(s) No. 2

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CORAM:**HONOURABLE MR.JUSTICE L. S. PIRZADA**

Date : 03/11/2026

ORAL JUDGMENT

1. The present First Appeal under Section 173 of the Motor Vehicles Act, 1988, is preferred by the appellants-original claimants, being aggrieved and dissatisfied with the judgment and award dated 08.11.2019 passed by the Motor Accident Claims Tribunal (Aux.), Anand, in MACP No. 634 of 2013.

2. Since the factual aspects of the road accident involving the vehicle and the liability of the owner as well

as the insurer are not disputed by the insurance company, and considering that the facts have already been detailed in the record, I have avoided burdening this judgment with unnecessary narration, as there is no purpose in reiterating the same.

3. Heard learned advocate Mr. Nishit A. Bhalodi for the appellants-original claimants. He submitted that the present appeal has been filed on the ground that the learned Tribunal has committed an error in not properly calculating the amount of compensation and that the amount awarded is on the lower side. It was submitted that the learned Tribunal has not considered the minimum wages prevailing at the time of the accident. Further, in view of the judgment of the Hon'ble Apex Court in the case of **National Insurance Company Limited v. Pranay Sethi,** reported in **(2017) 16 SCC 680**, in general, the non-pecuniary damages of Rs.19,965/- each towards loss of estate and funeral expenses ought to have been awarded. It was further

submitted that the compensation towards loss of consortium, as considered by the Hon'ble Apex Court in United India Insurance Company Limited v. Satinder Kaur, reported in (2021) 11 SCC 780, has not been granted to each of the claimants. It was submitted that, insofar as deceased Kanuji Nenaji Thakor is concerned, he was driving the vehicle and the learned Tribunal attributed 15% negligence to the deceased, while holding the driver of the Vitkos Bus bearing registration No. GJ-04-X-9722 negligent to the extent of 85%. The said finding is not under challenge, and the present appeal has been preferred only on the aforesaid grounds.

4. On the other hand, learned advocate Mr. K. V. Gadhia for respondent No.3-insurance company submitted that the impugned judgment and award passed by the learned Tribunal is just and proper. The learned Tribunal has rightly considered the income and age of the deceased, the dependency and future prospects of income, and has also rightly awarded compensation

under the heads of loss of estate and funeral expenses. It was, therefore, submitted that the present appeal is devoid of merit.

5. It is required to be considered that the Motor Vehicles Act, 1988, is a beneficial piece of legislation, and the concept of just compensation is integral and central to the Act. Compensation is required to be awarded on the principles of fairness and reasonableness to the injured persons in road accidents or to the legal representatives of deceased persons.

6. Upon considering the submissions made by the rival parties and perusing the record and proceedings of the learned Tribunal, it appears that the learned Tribunal has assessed the income of the deceased at Rs.4,000/- per month. However, as the accident took place on 05.11.2011, the minimum wage prevailing at the relevant time was Rs.5,750/- per month. Therefore, this Court considers the income of the deceased to be Rs.5,750/- per

month. An addition of 40% towards future prospects is required to be made, as the age of the deceased at the time of the accident was 28 years. The multiplier of 17 adopted by the learned Tribunal is proper. Further, compensation of Rs.19,965/- each towards loss of estate and funeral expenses is required to be awarded, along with Rs.53,240/- towards loss of consortium. A deduction of 15% is required to be made towards the negligence attributed to the deceased.

7. Therefore, the total compensation payable to the claimants is calculated as under:

Heads of Compensation	**Awarded by the Tribunal**	**Reassessed by this Court**
Future Loss of Dependency	Rs.5,71,200/-	Rs.8,21,100
Loss of Estate	Nil	Rs.19,965/-
Funeral Expenses	Nil	Rs.19,965/-
Loss of Consortium	Nil	Rs.53,240/-
Total Compensation	**Rs.5,71,200/-**	**Rs.9,14,270/-**
Less: 15% towards negligence of the	Rs.85,680/-	Rs. 1,37,140/-

deceased		
Net Compensation	**Rs.4,85,520/-**	**Rs. 7,77,130/-**
Less: Compensation already awarded by the Tribunal	-	-Rs. 4,85,520/-
Additional Compensation	**-**	**Rs. 2,91,610/-**

8. Therefore, I hold that the claimants are entitled to enhanced compensation of Rs.2,91,610/- with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization

9. For the reasons recorded above, the following order is passed:

a. The present appeal is partly allowed.

b. The insurance company is directed to deposit the enhanced amount of Rs.2,91,610/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realization, within a period of six weeks from the date of receipt of this order. The remaining directions issued by the learned Tribunal shall remain

unchanged.

c. The learned Tribunal shall disburse the entire awarded amount, including the amount lying in fixed deposits and/or with the Tribunal, together with accrued interest, if any, to the claimants by account-payee cheque or through NEFT/RTGS, after proper verification and following the prescribed procedure..

d. While making the payment, the learned Tribunal shall deduct the court fees, if any, remaining unpaid in accordance with the applicable rules.

e. The record and proceedings shall be sent back to the concerned Tribunal forthwith, and the award shall be drawn accordingly.

(L. S. PIRZADA, J)

STANCY GOMES

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: STANCY GOMES(HC02364), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 03/11/2026 14:09:21