

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 4727 of 2023**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Approved for Reporting	Yes	No

BAKABHAI FATESINH SOLANKI
Versus
SHABBIR NATHUBHAI SHAIKH & ORS.

Appearance:

MR.HIREN M MODI(3732) for the Appellant(s) No. 1
MR TANMAY B KARIA(6833) for the Defendant(s) No. 2
MS KIRTI S PATHAK(9966) for the Defendant(s) No. 4
RULE SERVED for the Defendant(s) No. 1,3

CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 30/01/2026
ORAL JUDGMENT**

1 This appeal has been preferred by the appellant against the judgment and award dated 20.04.2023 passed by the Motor Accident Claims Tribunal (Auxi.) Kheda in Motor Accident Claim Petition No.108 of 2022.

2. Heard learned advocates for the respective parties.

3. The brief facts of the present appeal are that on 20.04.2017, the appellant was travelling in a rickshaw bearing Registration No.GJ-07-VW-8579, owned by respondent No.3. When the rickshaw reached Kapadwanj-Antarsumba Road near Jaloya Patiya, respondent No.1, driving a truck bearing Registration No.GJ-05-AU-6111, owned by respondent No.2, at an excessive speed and in a rash and negligent manner, dashed against the rickshaw, causing it to overturn. It is submitted that

due to the said collision, the appellant sustained serious injuries and suffered permanent disability. Consequently, the appellant filed a petition before the Motor Accident Claims Tribunal (Aux.), Kheda at Kapadwanj, claiming compensation of Rs.7,00,000/- from the present respondents.

4. Learned advocate for the appellant submitted that the learned Tribunal committed an error in not considering the future prospective income of the appellant. It was contended that the appellant was aged 49 years and, therefore, as per the settled law laid down by the Hon'ble Supreme Court and this Hon'ble High Court, an addition of 25% towards future prospects ought to have been made while computing the income and compensation under the head of loss of dependency. It was further submitted that the learned Tribunal erred in awarding actual loss only to the extent of Rs.10,000/-, whereas the same ought to have been assessed for a period of 12 months. The learned advocate also submitted that the learned Tribunal committed an error in awarding only Rs.5,000/- under the head of pain, shock, and suffering, despite the appellant having sustained serious fracture injuries and having undergone prolonged indoor as well as outdoor treatment. According to the appellant, an amount of Rs.1,00,000/- ought to have been awarded under the said head. It was further submitted that the learned Tribunal erred in awarding only Rs.5,000/- towards special diet, transportation, and attendant charges, whereas an amount of Rs.50,000/- ought to have been granted. Lastly, it was contended that the learned Tribunal committed an error in not awarding any amount towards loss of amenities. It was

submitted that due to the injuries, the appellant would not be able to lead a normal life and would have to face daily frustration and loss of enjoyment of life; therefore, an amount of Rs.1,00,000/- ought to have been awarded under the said head. Therefore, the present appeal may be allowed.

5. On the other hand, the learned advocate appearing for the respondents has strongly opposed the appeal and submitted that the learned Tribunal has rightly awarded just and proper compensation in view of the evidence available on record. Therefore, this Court should not interfere with the award passed by the learned Tribunal. It is further submitted that the learned Tribunal has passed the impugned judgment and award after taking into consideration the entire material on record and, hence, no interference is called for at the hands of this Court and the present appeal deserves to be dismissed.

6. Having heard the learned advocates for the respective parties and perused the record, it appears that the issues of liability and negligence are not in dispute; hence, the appeal is required to be decided within a narrow compass. While rendering the judgment, the learned Tribunal has held the driver of the rickshaw to be 20% negligent, whereas the driver of the truck was held to be 80% negligent, which finding has not been challenged by either of the parties.

7. So far as the quantum is concerned, in the absence of any documentary evidence, the learned Tribunal considered the monthly income of the claimant at Rs.5,000/-, as the claimant

was working as a mason. However, as the accident occurred in the year 2017, this Court is of the considered view that, having regard to the prevailing minimum wages at the relevant time, the monthly income ought to have been taken at Rs.8,400/-. Upon considering the monthly income at Rs.8,400/-, the annual income would come to Rs.1,00,800/- ($\text{Rs.8,400} \times 12$). Therefore, to the aforesaid extent, the learned Tribunal has committed an error.

8. As the learned Tribunal has not taken into consideration future prospects and the claimant has sustained 64% permanent disability, which is not disputed between the parties, in view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi, reported in (2017) 16 SCC 680***, an addition of 25% is required to be made towards future prospects, as the claimant was doing as a mason work. After adding 25% towards future prospects, the annual income would come to Rs.1,26,000/-. Considering the age of the claimant to be 49 years at the time of the accident, as per the decision of the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121***, a multiplier of 13 is required to be applied. Accordingly, the total loss of income would come to Rs.16,38,000/- ($\text{Rs.1,26,000} \times 13$).

9. As the learned Tribunal has assessed the functional disability to the extent of 64% of the body as a whole, the loss of future earning capacity would come to Rs.10,48,320/- ($\text{Rs.16,38,000} \times 64\%$).

10. Under the head of medical expenses, the learned Tribunal has awarded Rs.2,77,003/-, which appears to be just and proper. However, considering the nature of injuries sustained by the claimant, the amount awarded under the head of pain, shock and suffering is required to be enhanced from Rs.5,000/- to Rs.50,000/-. The amount awarded towards special diet, transportation and attendant charges is also required to be enhanced from Rs.5,000/- to Rs.20,000/-. The Tribunal has awarded two months' income towards actual loss of income, which, after reassessment at Rs.8,400/- per month, would come to Rs.16,800/-.

11. After recalculating the compensation under the various heads, the claimant shall be entitled to the following:

Sr. No.	Nature of heads	Amount
1	Future loss of income	Rs.10,48,320/-
2	Medical Expenses	Rs.2,77,003/-
3	Special diet, Attendant and Transportation	Rs.20,000/-
4	Actual loss of income	Rs.16,800/-
5	Pain shock and suffering	Rs.50,000/-
	Total	Rs.14,12,123/-

12. For the reasons recorded above, the present appeal is partly allowed. The impugned judgment and award passed by the learned Tribunal is modified and the compensation is enhanced from Rs.7,96,203/- to Rs.14,12,123/-. The claimant shall, therefore, be entitled to an additional compensation of

Rs.6,15,920/- with interest at the rate awarded by the Tribunal, to be deposited 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.

ALI

(HASMUKH D. SUTHAR,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ISTAYAK ALI(HC01093), PRIVATE SECRETARY, at High Court of Gujarat on 02/02/2026 11:32:15