IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 967 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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LHR OF DECD. BHAVESHBHAI DINESHBHAI FALDU, DINESHBHAI RAMJIBHAI FALDU (FATHER OF DECD.)

Versus

KISHORKUMAR DAMJIBHAI CHAVDA & ANR.

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Appearance:
MR. HEMAL SHAH(6960) for the Appellant(s) No. 1
M S PADALIYA(7406) for the Defendant(s) No. 1
MASUMI V NANAVATY(9321) for the Defendant(s) No. 2
MR VIBHUTI NANAVATI(513) for the Defendant(s) No. 2

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

Date : 06/01/2026

ORAL JUDGMENT

1) Feeling aggrieved by and dissatisfied with the judgment and award dated 31.12.2024 passed by learned Motor Accident Claims Tribunal at Rajkot, in Motor Accident Claim Petition No.1370 of 2016, the appellant – claimant has preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).

2) Heard Mr. Hemal Shah, learned counsel for the appellant, Mr.Padaliya, learned counsel for respondent No.1 and Mr. Vibhuti Nanavaty, learned counsel for respondent No.2.

3) It is the case of the claimants that on 09.09.2016, deceased

Bhaveshbhai was going on motorcycle by following traffic rules and in controlled manner, at that time, one Truck bearing No.GJ-03-T-4182, driven by respondent No.1 came from behind in rash and negligent manner and dashed with the motorcycle of the deceased, due to which, he succumbed to it. Therefore, the claimant who is father of the deceased filed a claim petition for getting compensation of Rs.75,00,000/-. After appreciating the evidence produced on record, the learned Tribunal was pleased to partly allowed the claim petition and awarded compensation of Rs.12,93,600/- along with interest at the rate of 9 % from the date of claim petition.

4) Learned counsel for the appellant has submitted that the Tribunal committed an error in not properly considering the income of the appellant in accordance with the settled position of law. Though sufficient evidence was produced on record, the Tribunal failed to consider the quantum aspect. The Tribunal did not exercise the jurisdiction vested in it and committed an error in assessing the income of the deceased at only Rs.8,000/- per month, despite the fact that he was earning between Rs.50,000/- to Rs.55,000/- per month. The deceased was working as a lecturer at Dholakia School and was also employed as a service adviser at Shree Siddhi Vinayak Honda Motors. Therefore, the Tribunal ought to have assessed the income of the deceased at Rs.50,000/- per month.

5) Mr. Shah, learned counsel for the appellant, relying upon the Degree Certificate issued by GTU at Exh.47, submitted that the deceased held degree in Automobile Engineering. The salary slips of the deceased for the period from April 2016 to August 2016 at Exh.36, the bank statement of Dholakia School at Exh.37, and other documentary evidence at Exhs.43 and 44 were also not considered by the Tribunal. Further, though the deceased had sustained 21% permanent disability of the body as a whole, the Tribunal committed an error in considering future prospective income at 40%.

6) He has also relied upon the decision of the Hon'ble Supreme Court in ***Narender Dev Poonia v. Hasan Mohd.*** **[2025 (0) JX (SC) 1619]** and requested that the monthly income of the deceased be considered at least at Rs.15,000/-. On these grounds, he has prayed for allowing the appeal as prayed for.

7) Mr. Vibhuti Nanavaty, learned counsel for respondent No.2, has opposed the present appeal and submitted that the Tribunal has properly considered and appreciated the evidence on record. The claim petition was filed by the appellant as a pauper, wherein it was clearly stated that the claimant had no sufficient means and owned property, including household articles, worth only Rs.2,500/-. These facts were disclosed on oath in an application filed before the Tribunal under Order 33, Rule 1 of the Code of Civil Procedure. He further submitted that the Tribunal has rightly appreciated the evidence and has not believed the documents produced by the appellant for valid reasons. The alleged engagement of the deceased with the school was not proved and does not inspire confidence. It was contended that the brother of the deceased was working in the said school and was also running a tuition class, and that undue advantage of such association with Dholakia School was sought to be taken with a view to claim exorbitant compensation. Even the status of the said institution itself is in dispute.

8) It is also submitted by learned counsel Mr. Nanavaty that witness No.33, Rohitbhai Fulbhai Rank, had no personal knowledge of the employment of the deceased, nor any documents such as an appointment letter of the deceased, income-tax returns of the school, or other relevant records were produced. The witness was also unaware of the school timings and duty hours of the deceased. It was further submitted that, though the school allegedly had 150 to 200 employees, no ESI or Provident Fund was deducted, and the witness failed to say that which subjects were taught by

the deceased in the school. He also failed to produce on record any salary slips or bulk posting intimation statement for the month of May also because at that time, generally vacation period is in the school. Therefore, in the absence of such material evidence, the Tribunal has properly appreciated the evidence on record and awarded compensation which is just and proper. It was further submitted that the deceased was a Diploma Engineer in Automobile Engineering and was working as a service adviser at Shree Siddhi Vinayak Honda Motors, earning a salary of Rs.3,500/- per month. Thus, in total, he was receiving an income of Rs.6,457/- per month. Provident Fund details, muster rolls, and other relevant documents were produced on record, and after considering the same, the Tribunal has rightly assigned cogent reasons for not believing the appellant's claim regarding higher income.

9) Having heard learned counsel for the respective parties and upon perusal of the material placed on record, it appears that the present appeal is filed on the ground of quantum of compensation. This Court is required to consider the submissions advanced by the learned counsel for the appellant on the basis of the evidence produced on record. It is an undisputed fact that the claim petition was filed by the appellant as a pauper, wherein he declared his property worth Rs.2,500/-. The evidence of the claimant was produced at Exh.25, and in order to prove the income of the deceased, two witnesses were examined at Exhs.33 and 41. The degree certificate of the deceased was produced at Exh.47, from which it appears that the deceased held a degree in Automobile Engineering. The involvement of the offending vehicle and the age of the deceased are not in dispute. As per the case of the claimant, the deceased was working as a lecturer at Dholakia School and also worked as a service adviser at Shree Siddhi Vinayak Honda Motors and thereby, earning Rs.15,000/- per month. Upon perusal of the evidence on record, it appears that the deceased had joined the school on 01.04.2016 and that the accident occurred on 09.09.2016. As per the evidence, payment was made on an hourly basis. The

bank account statement produced at Exh.37 shows that from April to July 2016, a gross payment of Rs.38,950/- was made. However, in the cross-examination produced at Exh.33, the witness failed to state the educational qualifications of the deceased, the subjects taught by him at the school, or the school timings. No muster roll or pay slip was produced on record. Further, though the school allegedly had around 150 to 200 employees, no ESI or Provident Fund deductions were made. No salary slip for the months of August or September 2016 was produced. The witness was also unable to state whether the deceased attended the school after July 2016 or not. Moreover, no account statements or income-tax returns of the school were produced on record by the said witness

10) Even for the sake of argument, if it is accepted that the deceased was working with the said school, it is evident that he was receiving remuneration on lecture basis and was not in permanent employment. Therefore, the question of considering 50% future prospects does not arise. Accordingly, the submissions canvassed by the learned counsel for the appellant in this regard are not acceptable. As per the evidence of the claimant, it has been stated that the brother of the deceased was working with Dholakia School and had no relationship with the management of the school, and that the elder brother of the deceased was also previously working in the said school. As per the salary slips produced at Exh.36, the deceased was receiving salary from April to July 2016, however, the bank account of the deceased had a balance of only Rs.6,000/-. The deceased was not paying any income tax, nor any corroborative evidence was produced to establish that he was parallel serving as a lecturer at Dholakia School and as a service adviser at Shree Siddhi Vinayak Honda Motors during the same period. Witness Narendrabhai Chauhan, Manager of Shree Siddhi Vinayak Honda Motors, examined at Exh.41, produced the appointment letter at Exh.43 and the salary certificate for the period from April to July 2016, from which it appears that the deceased was receiving a salary of Rs.6,457/- per month, along with incentives of Rs.1,150/-, thereby receiving a total amount

of Rs.7,607/- per month.

11) Considering the aforesaid facts and the evidence produced on record, the Tribunal has rightly discarded the evidence relating to Dholakia School, on the basis of which, the appellant wanted to prove the income of the deceased at Rs.45,000/- per month, that too for part-time engagement as a lecturer. The Tribunal has therefore assessed the income of the deceased at Rs.8,000/- per month. Further, the deceased was working in two shifts, in absence of any cogent and reliable evidence, does not inspire confidence. Therefore, the Tribunal has rightly concluded that the higher income was projected only with a view to claim exorbitant compensation. As no error has been committed by the Tribunal in appreciating the evidence led by the claimant regarding the alleged income of the school teacher at Exhibit 33, the Tribunal has rightly discarded the said evidence, and the same does not require any interference. At the same time, this Court is of also considered view that the deceased was pursuing degree engineering course and he was earning during his study also. Therefore, considering the engineering degree of the deceased, his future prospects as a promising young man, and his potential to earn more in the future, in light of ***Narender Dev Poonia*** **(supra)**, this Court deems it fit to consider the income of the deceased at ₹15,000/- per month only with a view to award just compensation, though the Tribunal has not committed any error.

12) It is well settled that there must be a balance between the two extremes, namely, a windfall and a pittance, a bonanza and a modicum. Compensation under the Motor Vehicles Act is not intended to be a bonanza. The concept of “just compensation” must be viewed through the prism of fairness, reasonableness, and adherence to the principle of equity. In a case of death, the legal heirs of the deceased cannot expect a windfall; at the same time, the compensation awarded should not be illusory or merely token. It must be just, fair, and reasonable.

13) It is pertinent to note that, the Tribunal is not a passive observer. The Tribunal has taken holistic view and accepted the evidence based on tested veracity of version or testimony of witnesses rather than accepted the same based on face value. Appreciation of evidence must stern from the prudence, reasonableness and intelligence of Tribunal. Trustworthiness of evidence is material and important. Further, the Tribunal should not shut eyes and restrain to appreciate the evidence and whatever the evidence tenders by the claimant should be accepted as it is as in every trial and all judicial process, truth is guiding star.

14) In view of the above observations, the income of the deceased is reassessed as Rs.15,000/- per month. Further, the Tribunal has rightly considered future prospective income of the deceased at 40 %. As the deceased was unmarried, 1/2 deduction as personal expenditure and living of the deceased and multiplier of 18 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.

15) Therefore, calculating the income of the deceased as Rs.15,000/- and future prospect of 40% = Rs.6,000/- which comes to Rs.21,000/- and 1/2nd amount is required to be deducted as personal expenditure and living of the deceased which comes to Rs.10,500/- and the net amount comes to Rs.10,500/-. In view of above, the amount under the head of **loss of future dependency** is required to be reassessed as Rs.10,500/- x 12 months x 18 multiplier = **Rs.22,68,000/-**. Therefore, the appellant is entitled to get additional amount of **Rs.10,58,400/-** under the head of future loss of dependency.

16) Further, the Tribunal by relying on the judgment of **Pranay Sethi (supra)** has awarded total Rs.36,000/- under the two 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 appellant – original claimant is entitled for additional amount of **Rs.300/-** (i.e. Rs.18,150/- - Rs.18,000/- = Rs.150/- towards loss of estate and Rs.18,150/- - Rs.18,000/- = Rs.150/- towards funeral expenses).

17) 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 amount towards loss of consortium is reassessed as Rs.48,400/- for claimant.

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

Heads	Awarded by the Tribunal	Reassessed by this Court
Future loss of dependency	12,09,600/-	22,68,000/-
Loss of Estate	18,000/-	18,150/-
Funeral expenses	18,000/-	18,150/-
Loss of consortium	48000/-	48,400/-
Total compensation	**12,93,600/-**	**23,52,700/-**

19) As Rs.12,93,600/- is already awarded by learned Tribunal, the appellant– original claimant is entitled to get **additional amount of Rs.10,59,100/-** (Rs.23,52,700/- - Rs.12,93,600/-) with proportionate costs and interest as awarded by the learned Tribunal.

20) Hence, present appeal is **partly allowed**. The judgment and award dated 31.12.2024 passed by learned Motor Accident Claims Tribunal at Rajkot, in Motor Accident Claim Petition No.1370 of 2016 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. It is provided that respondent No.2 shall deposit

such **additional amount of Rs.10,59,100/-** 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.

21) The Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly. Award to be drawn accordingly.

(HASMUKH D. SUTHAR,J)

SUCHIT

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PATEL SUCHIT JAYESHBHAI(HC01083), Private Secretary, at High Court of Gujarat on 09/01/2026 13:15:37