

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4473 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

Approved for Reporting	Yes	No

RAJUBHAI GOVINDBHAI VASAVA (LHS OF DECD. ARUNBHAI
RAJUBHAI VASAVA) & ORS.

Versus

PIYUSHBHAI VITHHALBHAI PATEL & ORS.

Appearance:

NISHIT A BHALODI(7.557.57) for the Appellant(s) No. 1,2,3

MASUMI V NANAVATY(7.5321) for the Defendant(s) No. 3

MR VIBHUTI NANAVATI(513) for the Defendant(s) No. 3

NOTICE SERVED for the Defendant(s) No. 1

YASHKUMAR J TRIVEDI(7.5624) for the Defendant(s) No. 2

CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 02/07/2026

JUDGMENT

1. Captioned appeal is filed against the impugned judgment and award dated 30.08.2025 passed by the Motor Accident Claims Tribunal (Auxi.-7), Vadodara at Karjan in Motor Accident Claim Petition No.130 of 2020 (Old No.70 of 2018), whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.8,29,000/- as a compensation along with the interest at the rate of 7.5% per annum from the date of filing

of the claim petition till its realization.

2. The succinct facts leading to the filing the captioned appeal are that on 28.12.2017, at about 06:30 p.m., Vishnubhai Maheshbhai Vasava was driving the motorcycle bearing registration No.GJ-06-JS-4403 and Arunbhai Rajubhai Vasava was travelling as a pillion rider on the said motorcycle. When they reached at the place of accident, in the meantime, the opponent No.1 came by driving the Tractor bearing registration No.GJ-06-LB-8006 at excessive speed in a rash and negligent manner and dashed with the motorcycle of the deceased. As a result of the accident, Vishnubhai Maheshbhai Vasava and Arunbhai Rajubhai Vasava sustained grievous injuries and subsequently succumbed to the same.

2.1. Having been served with the notice of the claim petition, the opponent No.3-Insurance Company appeared and filed written statement, thereby denying the contents of the claim petition and prayed for dismissal of the claim petition.

2.2. Having considered the pleadings of the parties, oral as well as documentary evidence on record and the submissions canvassed by learned advocates for the parties, the learned Tribunal had awarded a sum of Rs.8,29,000/- as a compensation along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.

2.3. Being aggrieved and dissatisfied with the impugned judgment and award, the appellants herein preferred the

captioned appeal on the ground of quantum.

3. Heard learned advocates for the parties.

4. Mr. Nishit A. Bhalodi, learned advocate appearing on behalf of the original claimants/appellants herein, vehemently submitted that at the time of accident, the deceased was minor and he was gainfully engaged in agricultural work. He further submitted that the income of the deceased was not proved on record by leading any cogent evidence. Therefore, the learned Tribunal has assessed the income of the deceased at Rs.5,000/- per month which is lesser than the minimum wages prevalent at the time of accident. He further submitted that in absence of any cogent evidence of income, the learned Tribunal ought to have considered the minimum wages prevalent at the time of accident.

4.1. Learned advocate for the original claimants/appellants herein vehemently submitted that the learned Tribunal had awarded a meagre amount of compensation under the conventional heads of compensation. In support of his contention, he has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, reported in **(2017) 16 SCC 680** and **Magma General Insurance Company Limited Vs Nanu Ram @ Chuhru Ram and Ors.**, reported in **2018 (18) SCC 130**. Therefore, he prayed for enhancement of compensation.

5. *Per contra*, Mr. Vibhuti Nanavati, learned advocate

appearing on behalf of the respondent No.3-Insurance Company, vehemently submitted that at the time of accident, the deceased was minor and engaged in agricultural work. He further submitted that in the claim petition as well as in the affidavit, they stated that at the time of accident, the income of the deceased was of Rs.5,000/- per month. The same was relied upon by the learned Tribunal. Therefore, the learned Tribunal has not committed any error in considering the income of the deceased at Rs.5,000/- per month. He further submitted that the learned Tribunal has awarded the just compensation under all the heads of compensation. Therefore, there is no infirmity in the impugned judgment and award passed by the learned Tribunal. Hence, the captioned appeal is liable to be dismissed.

6. In rebuttal, Mr. Nishit A. Bhalodi, learned advocate appearing on behalf of the original claimants/appellants, submitted that the income of the deceased was pleaded on lower side but it is the duty of the Tribunal as well as of the Court to award the just compensation. He placed reliance upon the judgment rendered by the Hon'ble Supreme Court in the case of **Rajesh and Ors. Versus Rajbir Singh and Ors.**, reported in **(2013) 9 SCC 54**. He further submitted that the Hon'ble Supreme Court in the case of **Hitesh Nagjibhai Patel Versus Bababhai Nagjibhai Rabari and Anr.**, reported in **2025 (0) AIJEL-SC 75833**, directed all the Motor Accident Claims Tribunals to consider the minimum wages for calculating the compensation. He further submitted that in view of the ratio laid down by the Hon'ble Supreme Court in the aforesaid judgments, the learned Tribunal ought to have considered the minimum

wages prevalent at the time of accident.

7. Having considered the submissions canvassed by the learned advocates for the parties and having gone through the record, it is to be noted that the appellants have challenged the impugned judgment and award on the ground of quantum.

8. So far as the quantum is concerned, it is the case of the claimants that the deceased- Arunbhai Rajubhai Vasava was engaged in an agricultural work and thereby earning a sum of Rs.5,000/- per month. The learned Tribunal after considering the pleadings and affidavit, assessed the income of the deceased at Rs.5,000/- per month. It is now well settled that while determining the compensation, the Tribunal and Court are not strictly governed by the pleadings of the party, but the Tribunal/Court has to award the just compensation. In the case of **Rajesh and Ors.** (*supra*), the Hon'ble Supreme Court, in paragraph 16, observed as under:-

“16. In a report on accident, there is no question of any reference to any claim for damages, different heads of damages or such other details. It is the duty of the Tribunal to build on that report and award just, equitable, fair and reasonable compensation with reference to the settled principles on assessment of damages. Thus, on that ground also we hold that the Tribunal/court has a duty, irrespective of the claims made in the application, if any, to properly award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for compensation.”

9. Further, in the case of **Hitesh Nagjibhai Patel** (*supra*), the

Hon'ble Supreme Court, in paragraph Nos.15 and 16, observed as under:-

“15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law.

16. We may also observe that, in general, i.e., accidents involving adults, we are often confronted with situations where the Minimum Wage Data is not readily available and every so often, the question that has been made up to this Court hinges only on the calculation of income. In that view of the matter and in the hope of reducing the claimants need to file appeals to this Court or even the High Court, we deem it appropriate to direct that in cases where the claimant has failed to furnish appropriate details of income or adequate proof thereof, it shall be the responsibility and obligation of the contesting party, more particularly the insurance company to furnish before the Tribunal the applicable minimum wage as duly issued by the concerned government.”

10. Thus, in view of settled legal position, even though the income of the deceased was pleaded lesser than the minimum wages, it is the duty of the Tribunal/Court to consider the income of the deceased on the basis of the minimum wages prevalent at the time of accident.

11. Thus, in view of the ratio laid down by the Hon'ble Supreme Court in the the case of **Rajesh and Ors.** (*supra*) and **Hitesh Nagjibhai Patel** (*supra*), though the claimants have pleaded the income of the deceased at Rs.5,000/- per month, yet considering the minimum wages prevalent at the time of accident, the income of the deceased is to be assessed on the basis of minimum wages. The accident in question took place on 28.12.2017. At the relevant point of time, the minimum wages for the skilled worker was of Rs.8,388/- per month. Therefore, the income of the deceased is reassessed at Rs.8,388/- per month.

12. It is not in dispute that at the time of accident, the deceased was aged about 17 years, therefore, 40% of the monthly income is to be added on account of future prospects of the deceased. Thus, after adding 40% to the notional monthly income on account of future prospects, it would come to Rs.11,743/- i.e. (8,388 + 40% of 8,388). It is on record that at the time of accident, the deceased was bachelor, therefore, 1/2 of the monthly income is deducted on account of personal expenses of the deceased. Thus, after deducting 1/2 on account of personal expenses, the monthly income for calculating the loss of dependency would come to Rs.5872/- i.e. (11,743 - 1/2 of 11,743). Thus, applying the multiplier of 18 as per the age of deceased, the future loss of dependency would come to Rs.12,68,352/- i.e. (5872 x 12 x 18).

13. The learned Tribunal had awarded a meagre amount of compensation under the heads of loss of estate and funeral

expenses. In view of the ratio laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi and Ors.** (*supra*), the compensation awarded under the aforesaid heads is enhanced to Rs.18,150/- each.

14. The learned Tribunal had awarded a meagre amount of compensation under the head of loss of consortium. The claim petition came to be filed by the father and the brother of the deceased. In view of the ratio laid down by the Hon'ble Supreme Court in the case of **Nanu Ram @ Chuhru Ram and Ors.** (*supra*), father of the deceased is entitled to get the compensation under the head of loss of consortium. Therefore, a sum of Rs.48,400/- is awarded under the head of loss of consortium.

15. Thus, in view of the above discussions, the original claimants/appellants shall be entitled for the following amount of compensation under the following heads:-

Particulars	Amount (Rs.)
Future Loss of Dependency	12,68,352/-
Loss of Estate	18,150/-
Loss of Consortium	48,400/-
Funeral Expenses	18,150/-
Total Compensation	13,53,052/-
Less: compensation already awarded by the learned Tribunal	8,29,000/-
Additional amount of Compensation	5,24,052/-

16. The learned Tribunal had already awarded a sum of Rs.8,29,000/-. Therefore, the claimants/appellants shall be entitled for the additional compensation of Rs.**5,24,052/-** i. e.

(Rs.13,53,052/- -(less) Rs.8,29,000/-). The learned Tribunal has awarded the interest at the rate of 7.5% per annum, therefore, the claimants/appellants shall also be entitled for the interest at the rate of 7.5% on the additional amount of compensation.

17. In view of the above discussion, the captioned appeal stands allowed partly. The impugned judgment and award is modified to the aforesaid extent accordingly.

18. The respondent No.3-Insurance Company is directed to deposit the additional amount of compensation along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization, within a period of 6 weeks from the date of receipt of copy of this judgment.

19. Upon depositing of the said amount, the learned Tribunal shall disburse the amount to the original claimant/s, after deducting the deficit court fees, if any, and after due verification.

20. Statutory amount, if any, lying/deposited with the Registry of this Court, the same be transmitted to the concerned learned Tribunal forthwith.

21. R & P, if any, be sent back to the concerned learned Tribunal forthwith. No order as to costs.

(MOOL CHAND TYAGI, J)

CDP