

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/FIRST APPEAL NO. 2245 of 2016**

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SIKANDARBHAI ISMAILBHAI BAKROLIYA

Versus

PUSPENDRA NAGENDRA TRIPATHI [DELETED] & ORS.

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Appearance:

MR VAIBHAV N SHETH(5337) for the Appellant(s) No. 1

DELETED for the Defendant(s) No. 1

MR NIKUNT K RAVAL(5558) for the Defendant(s) No. 3

RULE SERVED for the Defendant(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 07/09/2026****JUDGMENT**

1. Seeking enhancement of compensation granted by the Motor Accident Claims Tribunal (Auxi.), Sabarkantha at Modasa (in brief, 'Tribunal'), vide order dated 28.09.2015, passed in Motor Accident Claim Petition (Old) No. 917 of 2010 and (New) No. 1650 of 2013, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 (in brief, 'MV Act').

1.1 By the impugned judgment and award, the Tribunal granted the compensation of Rs.1,26,540/- along with interest at the rate of 8% per annum from the date of filing of the claim petition, till realization against opponent Nos. 1 to 3, herein.

2. The judgment and award passed by the Tribunal as



well as the liability to pay the compensation is accepted by opponent No.3 – insurance company. Hence, this Court does not deem it fit to burden the present judgment by re-stating the facts of the case.

3. Heard, learned advocate, Mr. Sheth, appearing for the appellant and learned advocate, Mr. Raval, appearing for opponent No.3 – insurance company. Though served, none appears for opponent Nos. 1 and 2.

4. Learned advocate, Mr. Sheth, appearing for the appellant submitted that, though, the alleged accident took place on 27.06.2010, the learned Tribunal, in absence of any concrete evidence, took the notional monthly income of the appellant at Rs.2500/- per month, only. It was submitted that, as per the settled principles of law, in absence of any evidence establishing the income of the claimant, the Tribunal ought to have referred to the minimum daily wage for the skilled workers, prevailing at the time of road accident. In the present case, at the time of accident, the claimant was repairing trucks. The attention of this Court was, therefore, drawn to the minimum wage for the skilled workers prevailing at the time of accident, i.e. on 27.06.2010, which was Rs.4210/- per month and therefore, it was submitted that the Tribunal ought to have applied the said rate. It was, further, submitted that, on account of the road accident, the appellant – claimant had



to undergo operation of right leg, where, two bars were fitted with screws and that had led to the appellant – claimant undergo knife for the second time. It was, therefore, submitted that the learned Tribunal has assessed the compensation in a very truncated manner and has awarded Rs.1,26,540/-, on all counts.

5. *Per contra*, learned advocate, Mr. Raval, appearing on behalf of opponent No.3 – insurance company would support the impugned judgment and award and would argue that the Tribunal has rightly, in absence of any evidence on record, assessed the income of the appellant – claimant at Rs.3050/- per month and disability at 12% of the body as a whole. Thus, the Tribunal has awarded just, fair and adequate compensation, which this Court may not disturb by allowing this appeal.

6. Having heard the learned advocates for the parties, I find fault with the learned Tribunal, which failed to take into consideration the minimum wages for the skilled workers prevailing at the time of accident, i.e. on 27.06.2010, which was Rs.4210/- and was prevailing between 01.04.2010 to 20.09.2010 within the State of Gujarat, as mandated by the Hon'ble Apex Court in the case of '**Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari & Anr.**', reported in 2025 LiveLaw SC 871, and instead the Tribunal took a meager amount of Rs.3500/- as

monthly income for mathematical calculation of compensation. Therefore, such an approach on the part of the Tribunal is unacceptable. This Court cannot go to meager or lower side to calculate the compensation. Such an approach has shrunk the very concept of just, fair and adequate compensation. It should not be wind-fall, but, at the same time, it should not be petty. The appellant claimant suffered fracture injuries and he had to undergo knife, twice. Firstly, when two rods were inserted in his right leg and fitted with screws and secondly, for removing them. Overlooking, these major factors under the head of pain, shock and suffering, the Tribunal has assessed Rs.10,000/- and Rs.9,000/- towards transportation and attendance and special diet charges, jointly. I find this as the end result of the conservative thoughts and it runs contrary to very thought of just, fair and adequate compensation. Looking to 12% physical / functional disability accepted by the claimant, I find that this a fit case to grant additional compensation. I, therefore, find that granting **Rs.1,75,000/-** towards total compensation would be just, fair and adequate compensation.

7. Hence, for the reasons recorded herein above, this appeal is **partly allowed** in the aforesaid terms. The appellants are entitled to get enhanced amount of compensation / additional compensation of (Rs.1,75,000 – Rs.1,26,540) = **Rs.48,460/-** along with the interest at the



rate of 8%, as the same is since sustained. Opponent No.3 – insurance company is directed to deposit the additional amount of compensation, along with interest and proportionate costs, with the concerned Tribunal within the period of ***eight weeks***, from today. After the entire amount is deposited, the concerned Tribunal shall disburse the same to the claimants, in accordance with law. R&P, if any, be sent back, forthwith.

Direct service is permitted.

UMESH/-

(J. C. DOSHI,J)