NEUTRAL CITATION
2026:GUJHC:55596

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2522 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No
		No

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DARSHANABEN MILINDKUMAR SHAH & ORS.
Versus
HANIFBHAI SULEMANBHAI MAKRANI & ORS.

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Appearance:
MR. HEMAL SHAH(6960) for the Appellant(s) No. 1,2,3,4,5
DS AFF.NOT FILED (N) for the Defendant(s) No. 2
MR DAKSHESH MEHTA(2430) for the Defendant(s) No. 3
MR. RUSHANG D MEHTA(6989) for the Defendant(s) No. 3
SERVED BY AFFIX(N) for the Defendant(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 01/09/2026

JUDGMENT

1. This appeal under section 173 of Motor Vehicle Act, 1988 is filed against judgment and award dated 28.03.2025 passed by learned MACT (Main), Morbi in MACP No.191 of 1994, whereby, learned Tribunal granted compensation of Rs.5,40,000/- with proportionate cost and interest at the rate of 7% per annum from the date of claim petition till realization.

2. Heard learned advocates for the parties.

3. Fact of accident; fact that deceased – Milindkumar

Natwarlal Shah died out of accident and issue of complete negligence of driver of Truck No.GTP-4617 are not in dispute.

4. Learned counsel for both sides fairly submitted that the aforementioned facts are undisputed, and therefore, this Court refrains from burdening this judgment by restating them. What is disputed is amount of monthly income of deceased taken by learned Tribunal.

5. Acording to impugned judgment and award, learned MACT has accepted last income tax return to consider early income of Rs.22,110/-, taking up Rs.2000/- as monthly income, ignoring previous income tax return of the deceased.

6. In the present case, deceased was partner in partnership firm. Considering this aspect, according to this Court, learned Tribunal has committed error in taking income from last income tax return instead of taking average from previous income tax return. Considering Exh.65 alongwith Exh.111; Exh.66 alongwith Exh.112; Exh.67 along with Exh.113 and Exh.68 along with Exh.114, monthly income of deceased would come to Rs.2500/- per month. Deceased was 36 years old survived by 5 dependents. Therefore, looking to this aspect, 1/4 should be deducted towards personal expenses and multiplier of 15 is required to be applied.

7. In view of judgment of Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Shethi reported in (2017) 16 SCC 680**, Rs.18,150/- each towards loss of estate and funeral expenses is required to be awarded.

8. Therefore, total compensation would be as under, which the claimants/s is/are entitled to get.

Particulars	**Amount (Rs.)**
Future dependency Loss Rs.2500/- per month + 40% prospective rise = Rs.3,500/- and and deducting 1/4 amount towards personal expenses the amount would be Rs.2625/- per month and applying 15 multiplier, total amount would be Rs.4,72,500/-	4,72,500/-
Loss of consortium (Rs.48,000/- x 5)	2,40,000/-
Funeral expenses	18,150/-
Loss of estate	18,150/-
Total...	**7,48,800/-**
Less: amount which is already awarded by learned Tribunal.	5,40,000/-
Additional amount which is awarded	**2,08,800/-**

9. Therefore, I hold that the claimants are entitled to get the enhanced compensation of Rs.2,08,800/- with 7% p.a. interest from the date of filing the claim petition till its realisation, which would meet the ends of justice.

10. For the reasons recorded above, the following order is passed.

10.1. The appeal is **partly allowed**.

10.2 The Insurance Company is directed to deposit the enhanced amount of Rs.2,08,800/- with 7% p.a. interest from the date of claim petition till its realisation before the concerned Tribunal, within a period of six weeks from the date of receipt of this order.

10.3 Upon deposit of amount, the Tribunal concerned shall disburse the entire awarded amount lying in the FDR and/or with the Tribunal, with accrued interest thereon, if any, to the claimant/s, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure.

10.4 While making the payment, the Tribunal shall deduct the courts fees, if not paid, in accordance with rules/law.

10.5 Record and proceedings be sent back to the concerned Tribunal, forthwith.

(J. C. DOSHI,J)

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