



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1185 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No

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SAMIRHUSEN YASINMIYA MALEK

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION & ANR.

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Appearance:

MR.HIREN M MODI(3732) for the Appellant(s) No. 1

MS SEJAL K MANDAVIA(436) for the Defendant(s) No. 1

RULE SERVED for the Defendant(s) No. 2

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CORAM: HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 31/08/2026

JUDGMENT

1. The captioned appeal is filed against the impugned judgment and award dated 28.07.2025 passed by the learned Motor Accident Claims Tribunal (Main), Kheda at Nadiad in MACP No.598/2024, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.7,48,110/- as a compensation along with interest at the rate of 7.5% per annum from the date of filing of claim petition till its realization.

2. The succinct facts leading to file the captioned appeal are that on



21.05.2024, when the claimant-Samirhusen Yasinmiya Malek was travelling in a motorcycle bearing registration no.GJ-23-BP-5202 as a pillion rider, in the meantime, the driver of ST bus bearing registration no.GJ-18-Z-7377 came by driving the said bus in a rash and negligent manner and dashed with the motorcycle of the claimant, thereby caused the accident. As a result, the claimant sustained serious and multiple injuries.

3. On being served, the respondent no.1/ST Corporation filed its written statement at Exh.10, thereby denying all the averments made in the claim petition and prayed for rejection of the claim petition.

4. Having considered the pleadings, evidence led by the respective parties and the submissions canvassed by the respective parties, the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.7,48,110/- as a compensation along with interest at the rate of 7.5% per annum from the date of filing of claim petition till its realization.

5. Being aggrieved and dissatisfied with the impugned judgment and award, the original claimant/appellant herein challenged the impugned judgment and award on the ground of quantum.

6. Heard learned counsels for the parties.

7. Mr. Hiren M. Modi, learned counsel appearing on behalf of original claimant/appellant herein vehemently submitted that at the time of accident, the claimant/appellant was student, aged about 17 years and he sustained the functional disability to the extent of 64%. The



learned Tribunal considering the judgment rendered by the Hon'ble Apex Court in case of **Master Mallikarjun Vs. Divisional Manager, National Insurance Company Limited & Anr.**, reported in (2014) 14 SCC 396, has assessed the compensation accordingly. He submitted that the income of the claimant/appellant ought to have been assessed in accordance to the ratio laid down by the Hon'ble Apex Court in case of **Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and Anr.**, reported in 2025 ACJ 1986. He further submitted that the accident had occurred on 21.05.2024, therefore, the monthly income of the claimant/appellant ought to have been assessed on the basis of minimum wages prevalent at the time of accident as notified by the Government of Gujarat and hence, the claimant/appellant ought to have been awarded the future loss of income accordingly. He further submitted that the learned Tribunal has not awarded any compensation under the heads of pain, shock and suffering, actual loss of income, special diet, attendant charges and transportation, therefore, he prayed for award of compensation under these heads.

8. Per contra, Ms. Sejal K. Mandavia, learned counsel appearing on behalf of respondent no.1/Gujarat State Road Transport Corporation vehemently submitted that at the time of accident, the claimant/appellant was minor, aged about 17 years, therefore, he was not having any actual income. She further submitted that the learned Tribunal has rightly placed the reliance upon the judgment rendered by the Hon'ble Apex Court in the case of Master Mallikarjun (supra) and assessed the compensation accordingly. She submitted that there is no infirmity in the impugned judgment and award, therefore, the captioned appeal is liable to be dismissed.



9. Having considered the submissions of the learned counsels for the parties and having gone through the record, it is to be noted that the appellant/claimant has challenged the impugned judgment and award on the ground of quantum.

10. So far as the quantum is concerned, at the time of accident, the claimant/appellant was aged about 17 years and he was studying in 12th standard. Hence, he was not having any actual income. In case of Hitesh Nagjibhai Patel (supra), the Hon'ble Apex Court has held that in case of a student, the Tribunal/Court has to assess the income of the claimant on the basis of minimum wages prevalent at the time of accident for the skilled worker. In the present case, the vehicular accident took place on 21.05.2024. At the relevant point of time, the minimum wages for the skilled worker was Rs.13,234/- per month as notified by the Government of Gujarat. Therefore, the income of the claimant/appellant is reassessed at Rs.13,234/- per month. It is not in dispute that at the time of accident, the claimant/appellant was aged about 17 years, therefore, 40% of the monthly income is added on account of future prospects of the claimant/appellant in view of the ratio laid down by the Hon'ble Apex Court in case of **National Insurance Company Ltd. Vs. Pranay Sethi**, reported in 2017 (16) SCC 680 and **Sidram Vs. The Divisional Manager, United India Insurance Company Limited & Anr.**, reported in 2022 INSC 1202. Thus, after adding 40% to the monthly income, it would come to Rs.18,528/- i.e. (13,234+13,234X40%). The learned Tribunal has assessed the functional disability of the claimant/appellant at 64%, which is not under challenge. Thus, considering the functional disability of 64% and applying the multiplier of 18 as per age of the claimant/appellant, the future loss of income would come to Rs.25,61,311/- i.e.



(18,528X64%X12X18).

11. It emerges from the record that the claimant/appellant has sustained multiple fractures. He also sustained the fracture on his head. He remained hospitalized as an indoor patient for a quite long period and he underwent surgical intervention for his treatment. During that period, he might have endured a lot of pain, shock and suffering. Therefore, a sum of Rs.1,00,000/- is awarded under the head of pain, shock and suffering.

12. The learned Tribunal has awarded a sum of Rs.2,48,110/- under the head of medical expenses on the basis of the actual medical bills produced at Exhs.24 to 26. The compensation awarded under this head requires no interference and accordingly, the same is maintained.

13. The learned Tribunal has not awarded any compensation under the head of actual loss of income. Considering the nature of injuries sustained by the claimant/appellant and having regard to the period of hospitalization and the period of treatment as an outdoor patient, the actual loss of income is awarded for a period of 4 months. Hence accordingly, the claimant/appellant shall be entitled for a sum of Rs.52,936/- i.e. (13,234X4) under the head of actual loss of income.

14. The learned Tribunal has not awarded any compensation under the head of special diet, attendant charges and transportation. Considering the period of treatment and other attending circumstances, a sum of Rs.50,000/- is awarded under the head of special diet, attendant charges and transportation.



15. In view of the above discussion, the claimant/appellant shall be entitled for the following amount of compensation under the following heads:-

Sr. No.	Particular	Amount
1.	Future loss of income	25,61,311/-
2.	Actual loss of income	52,936/-
3.	Medical expenses	2,48,110/-
4.	Pain, shock and suffering	1,00,000/-
5.	Special diet, attendant charges and transportation	50,000/-
	Total	30,12,357/-

16. The learned Tribunal has already awarded a sum of Rs.7,48,110/- as a compensation, therefore, the original claimant/appellant shall be entitled for additional compensation of Rs.22,64,247/- i.e. (30,12,357-7,48,110). The learned Tribunal has awarded the interest at the rate of 7.5% per annum, therefore, the original claimant/appellant shall be entitled for the same rate of interest on additional amount of compensation from the date of filing of claim petition till its realization.

17. In view of the above discussion, the captioned appeal stands allowed partly and the impugned judgment and award is to be modified to the aforesaid extent. The respondent no.1/ST Corporation shall deposit the additional amount of compensation along with interest within a period of 6 weeks from the date of receipt of copy of this order.

18. Upon depositing of the said amount of compensation, the learned Tribunal shall disburse the entire amount of compensation along with



interest to the original claimant/appellant herein after deducting deficit of Court fee, if any, after due verification. The amount, if any, lying deposited with the registry of this Court, the same shall be transmitted to the learned Tribunal concerned. No order as to costs.

19. Record & Proceedings, if any, be sent back to the learned Tribunal concerned.

HARSHIT

(MOOL CHAND TYAGI, J)