NEUTRAL CITATION
2026:GUJHC:51937

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1430 of 2019

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No

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DINESHBHAI NARSINHBHAI PATEL
Versus
HEIRS OF DCSD DAYARAM GANPATBHAI MISTRY & ORS.

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Appearance:
MR R G DWIVEDI(6601) for the Appellant(s) No. 1
MS POOJA H HOTCHANDANI(7765) for the Appellant(s) No. 1
MS KIRTI S PATHAK(9966) for the Defendant(s) No. 3
RULE SERVED for the Defendant(s) No. 1.1
UNSERVED EXPIRED (R) for the Defendant(s) No. 2

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CORAM:**HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

Date : 11/08/2026

JUDGMENT

1. The captioned appeal is filed against the impugned judgment and award dated 24.09.2018 passed by the Motor Accident Claims Tribunal (Main), District Court, Anand in Motor Accident Claim Petition No.207 of 2009, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.1,01,683/- as compensation along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization.

2. The succinct facts which led to the filing of the captioned appeal are that on 20.02.2009, at about 06:15 am, on Sunav

Road Near Babasitaram Madhi, the truck was going ahead and the truck driver applied the brake suddenly, due to which motorcyclist rammed into the truck from behind and the claimant- Dineshbhai Narsinhbhai Patel sustained grievous injuries because of the negligence on the part of the driver of the offending vehicle i.e., the truck bearing registration No.GJ-7-TT-5926.

2.1. Having been served with the notice of claim petition, the original opponent No.3- Insurance Company appeared and filed its Written Statement at Exhibit-20, thereby denying the averments made in the claim petition and praying for dismissal of the claim petition. The original opponent Nos.1 & 2 did not appear before the learned Tribunal.

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.1,01,683/- as compensation along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization.

2.3. Being aggrieved and dissatisfied with the impugned judgment and award, the appellant herein preferred the captioned appeal on the ground of quantum as well as the exoneration of the Insurance Company.

3. Heard learned advocates for the parties.

4. Mr. R. G. Dwivedi, learned advocate appearing on behalf of the original claimant/appellant herein vehemently submitted that at the time of accident, the claimant- Dineshbhai Narsinhbhai Patel was working as a teacher. The learned Tribunal had assessed the income of the claimant at Rs.16,373/- per month. It is submitted that at the time of accident, the claimant/appellant was aged about 45 years, therefore, the learned Tribunal ought to have added 30% to the monthly income on account of future prospects of the claimant. In support of his contention, he placed reliance upon the judgments rendered by the Hon'ble Apex Court in case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, reported in **(2017) 16 SCC 680** and **Sidram Vs. The Divisional Manager, United India Insurance Company Limited & Anr.**, reported in **(2023) 3 SCC 439**.

4.1. Learned advocate for the appellant further submitted that the learned Tribunal had awarded a meagre amount of compensation under the head of pain, shock and suffering, actual loss of income and transportation, special diet and attendant charges. Therefore, he prayed for enhancement of compensation.

4.2. Learned advocate for the appellant further submitted that the learned Tribunal had exonerated the Insurance Company from satisfying the award on the ground that the insurant- Dayaram Ganpatram Mistry had expired on 06.09.2008, therefore, the contract of insurance had come to an end. Hence, the policy was no longer enforceable. It is submitted that the findings returned by the learned Tribunal are against the settled proposition of law. In support of his contention, he placed reliance upon the judgment rendered by the Hon'ble Apex Court in case of **United India Insurance Company Limited Vs. Santro Devi & Ors.**, reported in **(2009) 1 SCC 558**.

5. Per contra, Ms. Kirti S. Pathak, learned advocate appearing on behalf of respondent No.3- Insurance Company vehemently submitted that at the time of accident, the claimant was working as a teacher. After the accident, he continued in the service. It is submitted that the income of the claimant, after the accident, had not been reduced. Therefore, the claimant is not entitled to get any amount of compensation under the head of future loss of income. It is submitted that the learned Tribunal had awarded just compensation under all the heads of compensation.

5.1. Learned advocate for the Insurance Company further submitted that the insurant- Dayaram Ganpatram Mistry had expired on 06.09.2008, therefore, the Insurance Policy had come to an end and as such there is no valid contract between the insurant and the Insurance Company. Hence, the learned Tribunal had rightly exonerated the Insurance Company from satisfying the award. In support of her contention, she placed reliance upon the judgment rendered by the Hon'ble Apex Court in case of **Raj Kumar Versus Ajay Kumar & Anr.**, reported in **(2011) 1 SCC 343** and the judgment rendered by the Gujarat High Court in case of **United India Insurance Company Limited Vs. Manjulaben Purshottamdas Patel & Ors.**, reported in **1994 ACJ 740**. Having placed reliance upon the aforesaid judgments, she submitted that the captioned appeal is liable to be dismissed.

6. 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 appellant has challenged the impugned judgment and award on the ground of quantum as well as the exoneration of the Insurance Company.

7. So far as quantum is concerned, it is not in dispute that at the time of accident, the claimant was working as a teacher. The learned Tribunal had assessed the income of the claimant at Rs.16,373/- per month, which is not in dispute. It is also not in dispute that at the time of accident, the claimant was aged about 45 years, therefore, 30% of the monthly income is to be added on account of future prospects of the claimant in view of the ratio laid down by the Hon'ble Apex Court in case of **Pranay Sethi** (*supra*) and **Sidram** (*supra*). Thus, after adding 30% to the income, it would come to Rs.21,285/- i.e. (16,373 + 30% of 16,373).

8. The learned Tribunal has assessed the functional disability of the claimant at 6%, which is not in dispute. Thus, applying the multiplier of 13 as per the age of the claimant, the future loss of income would come to Rs.1,99,212/- i.e. (21,285 x 6% x 12 x 13).

9. It has been argued by the learned advocate for the Insurance Company that the claimant is not entitled to get the

compensation under the head of future loss of income as after the accident, he continued in service and his income was not reduced. The mere fact that the claimant continued in service and his income had increased cannot be a ground not to award the compensation under the head of future loss of income. Recently, in case of **Soni Sharma Vs. Oriental Insurance Company Limited & Ors.**, reported in **2026 ACJ 109**, the Hon'ble Apex Court in para Nos.11 & 12 has observed as under:-:-

> *"11. It is pertinent to note that, at the time of the accident, the claimant-appellant was serving in the Indian Army, a profession which demands highest standards of physical fitness, alertness, and endurance. Any impairment or disability resulting from the said accident is, therefore, not merely a personal affliction but one that has a direct bearing on his ability to effectively discharge his duties. Such an impairment is likely to adversely affect his efficiency, career prospects both in service or thereafter, and overall service capability in a profession where physical robustness is a fundamental prerequisite, thereby justifying compensation as was awarded by the Tribunal.*
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> *12. The mere fact that the claimant-appellant continued in service or did not seek premature retirement could not have been determinative of the issue, as loss of earning capacity may subsist notwithstanding continuation in employment. Likewise, loss of promotional prospects is required to be assessed on reasonable probabilities having regard to the nature of employment and extent of disability, and does not require strict proof. The High Court substantially reduced the compensation on the ground that the amounts awarded were excessive. Such an exercise amounts to re-appreciation of evidence which is beyond the permissible scope of appellate jurisdiction under the Motor Vehicles Act."*

10. Thus, considering the ratio laid down by the Hon'ble Apex Court in case of **Soni Sharma** (*supra*), the contentions raised by

the learned advocate for the respondent No.3- Insurance Company is not sustainable. Hence, rejected.

11. The learned Tribunal had awarded a sum of Rs.7,500/- under the head of mental pain, shock and suffering. Owing to the accident, the claimant sustained grievous injuries and he remained hospitalized for a considerable time and thereafter, he received treatment as an out-door patient. Thus, considering the totality of the facts and circumstances of the case, the compensation awarded under this head is enhanced from Rs.7,500/- to Rs.15,000/-.

12. The learned Tribunal had awarded a sum of Rs.10,000/- under the head of actual loss of income. Considering the period of treatment, the compensation under the head of actual loss of income is required to be awarded for a period of three months. Hence, a sum of Rs.49,119/- i.e. (16,373 x 3) is awarded under the head of actual loss of income.

13. The learned Tribunal had awarded a sum of Rs.27,615/- under the head of medical expenses. The compensation awarded under this head is not under challenge, therefore, the same does not require any interference.

14. The learned Tribunal had awarded a sum of Rs.5,000/- under the head of transportation, special diet and attendant charges. Considering the all attending circumstances, the compensation awarded under this head is enhanced from Rs.5,000/- to Rs.10,000/-.

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

Particulars	**Amount (Rs.)**
Future Loss of Income	1,99,212/-
Mental Pain, Shock and Suffering	15,000/-
Medical Expenses	27,615/-
Transportation, Special Diet and Attendant Charges	10,000/-
Actual Loss of Income	49,119/-
Total Compensation	3,00,946/-
Less: Self Negligence (50 %)	1,50,473/-
Total Compensation	1,50,473/-
Less: compensation already awarded by the learned Tribunal	1,01,683/-
Additional amount of Compensation	**48,790/-**

16. The learned Tribunal has held that the claimant himself negligent for causing the accident to the extent of 50%. Therefore, 50% of the total compensation is deducted on account of self negligence of the claimant. Hence, the claimant shall be entitled for the compensation of Rs.1,50,473/- i.e. (Rs.3,00,946/- - 50% of 3,00,946/-).

17. The learned Tribunal had already awarded a sum of Rs.1,01,683/-. Therefore, the claimant/appellant shall be entitled for an additional compensation of Rs.**48,790/-** i.e. (Rs.1,50,473/- - Rs.1,01,683/-). The learned Tribunal has awarded the interest at the rate of 9% per annum, therefore, the claimant/appellant shall also be entitled for the interest at the

rate of 9% on the additional amount of compensation.

18. So far as exoneration of the Insurance Company from satisfying the award is concerned, the learned Tribunal had exonerated the Insurance Company on the ground that the owner of the vehicle Dayaram Ganpatram Mistry had expired on 06.09.2008. The said fact is not in dispute. In case of **Santro Devi** (*supra*), the Hon'ble Apex Court has held that merely on the ground that the owner of the vehicle had expired would not absolve the Insurance Company from satisfying award. Learned advocate for the respondent No.3- Insurance Company placed reliance upon the judgment rendered by the Gujarat High Court in case of **Manjulaben Purshottamdas Patel** (*supra*), in view of the authoritative pronouncement of the Hon'ble Apex Court in case of **Santro Devi** (*supra*), I am of the considered view that the learned Tribunal has committed a grave error in exonerating the Insurance Company from satisfying the award.

19. Thus, in view of the above discussion, the captioned appeal stands allowed partly. The impugned judgment and award is modified and the Insurance Company is held liable to satisfy the award.

20. The respondent No.3- Insurance Company is directed to deposit the awarded amount of compensation along with the interest at the rate of 9% per annum from the date of filing of the claim petition till its realization, within six weeks from the date of receipt of a copy of this judgment.

21. Upon depositing the said amount, the learned Tribunal shall disburse the amount to the original claimant, after deducting the deficit court fees, if any, and after due verification. Statutory amount, if any, lying/deposited with the Registry of this Court, the same be transmitted to the concerned learned Tribunal forthwith.

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

23. Pending application, if any, stands disposed of, accordingly.

(MOOL CHAND TYAGI, J)

CDP