

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/FIRST APPEAL NO. 2305 of 2016****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

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Approved for Reporting	Yes	No

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LAXMIBEN KANTIBHAI KALSWA (MEENA) & ORS.**Versus****MAKHANLAL OKARMAL MEGHWAL [DISMISSED] & ORS.**

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Appearance:**MR.HIREN M MODI(3732) for the Appellant(s) No. 1,2,3****DISMISSED FOR NON PROSECUTION for the Defendant(s) No. 1,2****MR GC MAZMUDAR(1193) for the Defendant(s) No. 3****MR HG MAZMUDAR(1194) for the Defendant(s) No. 3**

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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 30.06.2016 passed by the learned Motor Accident Claims Tribunal (Auxiliary) and Court No.23, City Civil and Sessions Court, Ahmedabad in MACP No.421/2003, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.3,85,000/- as a compensation along with interest at the rate of 8% 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 23.10.2002, at about 06:00 pm, when the deceased-Kantibhai Kalsava was riding his bicycle on Sarkhej-Gandhinagar road, in the meantime, the respondent no.1 came by driving his motorcycle bearing registration no.GJ-18-T-9536 at an excessive speed, in a rash and negligent manner and hit the deceased, thereby caused the accident. Due to the impact of the said accident, the deceased sustained serious injuries and succumbed to the injuries.

3. On being served, the respondent no.3/insurance company filed its written statement at Exh.17, 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.3,85,000/- as a compensation along with interest at the rate of 8% 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 claimants/appellants 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 claimants/appellants herein vehemently submitted that at the time of accident, the deceased was aged about 20 years; however, the



learned Tribunal has not considered the prospective income of the deceased. He submitted that considering the age, 25% of the monthly income ought to have been added on account of future prospects of the deceased.

8. Learned counsel for the appellants further submitted that the learned Tribunal has awarded meagre amount of compensation under conventional heads. In support of his contention, learned counsel for the appellants placed the reliance upon the judgment rendered by the Hon'ble Apex Court in case of **National Insurance Company Ltd. Vs. Pranay Sethi**, 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. Having placed the reliance upon the aforesaid judgments, learned counsel for the appellants prayed for enhancement of compensation.

9. Per contra, Mr. H.G. Mazmudar, learned counsel appearing on behalf of respondent no.3/insurance company vehemently submitted that there is no infirmity in the impugned judgment and award. He further submitted that the learned Tribunal has awarded just compensation under all the heads of compensation, therefore, the captioned appeal is liable to be dismissed.

10. Having considered the submissions of the learned counsels for the parties and having gone through the record, it is to be noted that the original claimants/appellants herein have challenged the impugned judgment and award on the ground of quantum.

11. So far as the quantum is concerned, the learned Tribunal has

assessed the income of the deceased at Rs.2,500/- per month, which is not under challenge. At the time of accident, the deceased was aged about 20 years, therefore, 40% of the monthly income is added on account of future prospects of the deceased. Thus, after adding 40% to the monthly income, it would come to Rs.3,500/- i.e. $(2,500 + 2,500 \times 40\%)$. The deceased was survived by 3 legal representatives, therefore, $\frac{1}{3}$ of the monthly income is deducted on account of personal expenses of the deceased. Thus, after deducting $\frac{1}{3}$ on account of personal expenses of the deceased, the monthly income for calculating the future loss of dependency would come to Rs.2,333/- i.e. $(3,500 - 3,500 \times \frac{1}{3})$. Thus, applying the multiplier of 18 as per the age of the deceased, the future loss of dependency would come to Rs.5,03,928/- i.e. $(2,333 \times 12 \times 18)$.

12. The learned Tribunal has awarded meagre amount of Rs.5,000/- under the head of funeral expenses. In view of the ratio laid down by the Hon'ble Apex Court in case of Pranay Sethi (supra), the compensation awarded under this head is enhanced from Rs.5,000/- to Rs.18,150/-.

13. The learned Tribunal has not awarded any compensation under the head of loss of estate. In view of the ratio laid down by the Hon'ble Apex Court in case of Pranay Sethi (supra), a sum of Rs.18,150/- is awarded under the head of loss of estate.

14. The learned Tribunal has awarded meagre amount of compensation under the head of loss of love and affection and consortium. It is not in dispute that the deceased was survived by 3 legal representatives at the time of accident, therefore, all the legal representatives are entitled to get the compensation under the head of



loss of consortium in view of the ratio laid down by the Hon'ble Apex Court in case of Nanu Ram @ Chuhru Ram (supra). Hence accordingly, a sum of Rs.1,45,200/- i.e. (48,400X3) is awarded under the head of loss of consortium.

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

Sr. No.	Particular	Amount
1.	Future loss of dependency	5,03,928/-
2.	Loss of consortium	1,45,200/-
3.	Loss of estate	18,150/-
4.	Funeral expenses	18,150/-
	Total	6,85,428/-

16. The learned Tribunal has already awarded a sum of Rs.3,85,000/- as a compensation, therefore, the original claimants/appellants shall be entitled for additional compensation of Rs.3,00,428/- i.e. (6,85,428-3,85,000). The learned Tribunal has awarded the interest at the rate of 8% per annum, therefore, the original claimants/appellants 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.3/insurance company 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 claimants/appellants 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)