

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/FIRST APPEAL NO. 3219 of 2024****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

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Approved for Reporting	Yes	No

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KAUSHIKBHAI HARIKRISHNA GAUR
Versus
PRAKASH VINODKUMAR LABADIYA & ANR.

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Appearance:

MS CHANDNI O VYAS(12215) for the Appellant(s) No. 1
VIRAL K VASHI(8220) for the Appellant(s) No. 1
MASUMI V NANAVATY(9321) for the Defendant(s) No. 2
MR VIBHUTI NANAVATI(513) for the Defendant(s) No. 2
SERVED BY PUBLICATION IN NEWS for the Defendant(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 27/08/2026****JUDGMENT**

1. The captioned appeal is filed against the impugned judgment and award dated 23.07.2024 passed by the learned Motor Accident Claims Tribunal (Auxiliary), City Civil & Sessions Court, Ahmedabad in MACP No.480/2013, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.2,32,000/- as a compensation along with interest at the rate of 9% 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 25.02.2013, at about 10:30 p.m., when the claimant-Kaushikbhai Harikrishna Gaur was walking near Mukti Maidan, in the meantime, the respondent no.1 herein came from behind by driving a car bearing registration no.GJ-01-KA-1591 in a rash and negligent manner, at an excessive speed, without blowing any horn and hit the claimant. Due to the impact of the said accident, the claimant fell down on the road and sustained grievous injuries, including fracture injuries.

3. On being served, the respondent no.1 filed his written statement at Exh.25, while the respondent no.2/insurance company filed its written statement at Exh.21, 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.2,32,000/- as a compensation along with interest at the rate of 9% 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. Ms. Chandni O. Vyas, learned counsel appearing on behalf of original claimant/appellant, vehemently submitted that at the time of



accident, the claimant/appellant was an NRI. She further submitted that the documents pertaining to his income were proved on record at Exhs.36 to 39; however, the learned Tribunal has disbelieved all these documents and assessed the income of the claimant/appellant at Rs.5,100/- per month. She submitted that the income of the claimant/appellant ought to have been assessed on the basis of the documents produced on record. Alternatively, she submitted that in the eventuality of disbelieving the oral and documentary evidence of income, the learned Tribunal ought to have assessed the income of the claimant/appellant on the basis of minimum wages prevalent at the time of accident in U.K. At the time of accident, the claimant/appellant was an NRI and therefore, at the relevant point of time, the minimum wages applicable in the U.K. was £6.19 per hour. Considering 25 working days in a month and 40 working hours per week, the gross income of the claimant/appellant ought to have been assessed accordingly. She further submitted that at the relevant point of time, the income tax at the rate of 20% was applicable to the claimant/appellant, therefore, after deducting 20% towards income tax, the net income ought to have been assessed. Therefore, she prayed for enhancement of compensation accordingly.

8. Per contra, Mr. Vibhuti Nanavati, learned counsel appearing on behalf of respondent no.2/insurance company, vehemently submitted that it was not proved on record that at the time of accident, the claimant/appellant was an NRI. He further submitted that the copy of passport was not proved on record, which could have established that the claimant/appellant was an NRI and was residing in the U.K. at the relevant point of time.



9. In rebuttal, Ms. Chandni O. Vyas, learned counsel appearing on behalf of original claimant/appellant, submitted that it is the case of the claimant/appellant that at the time of accident, he was an NRI. She further submitted that the said fact was also narrated in the affidavit and the affidavit was got attested by the Consulate General of the U.K. Therefore, she submitted that there is no iota of doubt that the claimant/appellant was not an NRI at the relevant point of time.

10. Having considered the submissions of the learned counsels for the parties and having gone through the record, it is to be noted that it is the case of the claimant/appellant that at the time of accident, he was an NRI, but the passport was not proved on record to establish his status as NRI.

11. At this stage, Ms. Chandni O. Vyas, learned counsel appearing on behalf of original claimant/appellant, submitted that she may be permitted to lead additional evidence before the learned Tribunal to prove the status of the claimant/appellant as an NRI. In view of the statement of learned counsel for the claimant/appellant, the matter is required to be remanded back in order to facilitate the claimant/appellant to lead the relevant evidence on record to establish his status as an NRI in order to assess the income of the claimant/appellant.

12. Accordingly, the captioned appeal stands allowed partly and the impugned judgment and award is set aside and the matter is remanded back to the learned Tribunal to decide the claim petition afresh, expeditiously and preferably within a period of six months from the date of receipt of copy of this order. The learned Tribunal shall permit both



the parties to lead their respective evidence on record on the relevant issues arising for consideration. Both the parties are directed not to seek any unnecessary adjournment and are further directed to cooperate with the learned Tribunal for expeditious disposal of the claim petition within a period of six months from today.

13. The amount, if any, lying deposited with the registry of this Court, the same shall be transmitted to the learned Tribunal concerned forthwith.

14. Record & Proceedings, if any, be sent back to the learned Tribunal concerned forthwith. No order as to costs.

HARSHIT

(MOOL CHAND TYAGI, J)