IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1355 of 2015

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CHAUDHARI RATANBEN WD/O RAMABHAI TEJABHAI & ORS.
Versus
SADBHAV ENGINEERING LTD & ANR.

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Appearance:
MR DK CHAUDHARI(5361) for the Appellant(s) No. 1,2,3
MR RATHIN P RAVAL(5013) for the Defendant(s) No. 2
RULE UNSERVED for the Defendant(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA**
and
HONOURABLE MR.JUSTICE J. L. ODEDRA

Date : 16/09/2026
ORAL JUDGMENT
(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. The occurrence of the accident on 04.12.2016 between a two wheeler driven by the deceased and the truck is not in dispute. The liability of the insurer of the truck to satisfy the compensation is also not in dispute.

2. As a result of the accident and the Tribunal on consideration of the evidence adduced before it, has come to the conclusion that the monthly income of the deceased was Rs.3,000/- per month and applying appropriate multiplier has ultimately awarded a sum of Rs.6,48,000/- as compensation.

3. Being aggrieved, the claimants are in appeal. It is sought to be argued that the documentary evidence which indicated that the claimants owned agricultural lands and the bills that they had produced to indicate their agricultural income has not been

properly considered and therefore, ascertainment of monthly income at Rs. 3,000/- per month was on the lower side.

4. It is also sought to be argued that the attribution of negligence to the extent of 10% on the deceased was also incorrect.

5. As far as the negligence is concerned, it is not in dispute that charge-sheet was led against the driver of the truck. For the purpose of deciding a claim under the Motor Vehicles Act, the filing of a charge-sheet against the driver of the offending vehicle would render the negligence attributable on the person against whom the charge-sheet has been led. Moreover, having regard to the fact that the accident occurred between a truck and a two wheeler and the driver of the truck was not examined, it is clear that attribution of 10% negligence on the deceased was improper. Therefore, the finding of contributory negligence attributed to the deceased is set aside and it is held that driver of the truck alone is responsible for the accident.

6. As far as the quantum is concerned, the Tribunal has arrived at a conclusion that the deceased was earning Rs.3,000/- per month. In our view, having regard to the fact that there was documentary evidence indicating that he had a land holding and bills are also produced to indicate that the sale of agriculture produce, it would be appropriate to hold that the deceased was earning sum of Rs.5,000/- per month, which comes to a sum of Rs.60,000/- per annum.

7. As the deceased was aged 28 years, the future prospect of 40% would have to be added to the said income and out of the said amount, 1/3rd would be deducted towards his personal expenses. Consequently, the monthly income for the purpose of calculating the compensation towards loss of dependency would have to taken as Rs.56,000/- per annum. As the deceased was 28 years old, a multiplier of 17 will have to applied and claimants would therefore, entitle to Rs.9,52,000/- towards the loss of dependency. The claimants were the mother, widow and minor daughter. In accordance with the ratio laid by the Hon'ble Supreme in case of ***National Insurance Company Ltd. v. Pranay Sethi and others reported in (2017) 16 SCC 680***, each of the dependents would be entitled to loss of consortium.

8. Consequently, the appeal stands ***allowed.***

9. The compensation, therefore, payable for the death of Vashrambhai Ramabhai Chaudhary would be as follows:

Income	Rs.60,000/- (Rs.5,000x12)
Prospective Income (40%)	Rs.24,000/-
Total	Rs.84,000/-
Deduction (1/3rd)	Rs.28,000/--
Dependency Loss	Rs.56,000/-
Multiplier	x17
Future Loss of Income	Rs.9,52,000/-
Loss of Consortium	Rs.1,45,200/-
Loss of Estate	Rs.18,150/-
Funeral	Rs.18,150/-

Total	**Rs.11,33,500/-**
Awarded	**Rs.6,48,000/-**
Additional Compensation	**Rs.4,85,500/-**

10. Ten weeks' time is granted to the Insurance Company to deposit the enhanced amount. The enhanced amount shall be deposited with interest @ 9%, i.e. from the date filing of the claim petition till payment.

11. R & P, if received, to be sent back forthwith.

(N.S.SANJAY GOWDA,J)

(J. L. ODEDRA, J)

SIDDHARTH