

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1272 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

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Approved for Reporting	Yes	No
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GALBABHAI BHUPATBHAI TARAL & ORS.

Versus

RAMJILAL HANUMAN SAHAY PUNIYA & ORS.

Appearance:

KAASH K THAKKAR(7332) for the Appellant(s) No. 1,2,3,4,5

MR KK THAKKAR(2834) for the Appellant(s) No. 1,2,3,4,5

MR GC MAZMUDAR(1193) for the Defendant(s) No. 4

MR HG MAZMUDAR(1194) for the Defendant(s) No. 4

MS DIMPLE A THAKER(6838) for the Defendant(s) No. 2

NOTICE SERVED for the Defendant(s) No. 1,3

CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 05/05/2026****JUDGMENT**

1. The captioned appeal is filed against the impugned judgment and award dated 28.10.2024 passed by the learned Motor Accident Claims Tribunal (Main), Banaskantha at Palanpur in MACP No.40/2023, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.23,52,000/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till realization.

2. The succinct facts leading to file the captioned appeal are that on 19.08.2022, at about 8:30 p.m., the deceased-Nareshbhai Galbabhai Taral was travelling in a tractor trolley, which was proceeding on the correct side of the road and at a very moderate speed. When he reached near the place of accident, the driver of a trailer bearing registration no.RJ-52-GA-7705 came by driving his trailer from the opposite direction, at very excessive speed, in rash and negligent manner and dashed with the said tractor trolley, in which the deceased was travelling. Due to the impact of the said accident, the deceased sustained grievous injuries and succumbed to the injuries. It is also the case of the original claimants/appellants herein that at the time of accident, the deceased was aged about 28 years and was gainfully engaged in agriculture and masonry work and thereby he was earning a sum of Rs.25,000/- per annum. Therefore, the claim petition for seeking the compensation of Rs.30,00,000/- came to be filed.

3. On being served, all the respondents have filed their respective written statements and 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.23,52,000/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till 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. At the outset, Mr. Kaash K. Thakkar, learned counsel appearing on behalf of original claimants/appellants herein vehemently submitted that the learned Tribunal has awarded the meager amount of compensation under the heads of loss of estate and funeral expenses. He submitted that the learned Tribunal ought to have awarded a sum of Rs.18,150/- under the head of loss of estate and a sum of Rs.18,150/- under the head of funeral expenses in view of the ratio laid down by the Hon'ble Apex Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi**, reported in 2017 (16) SCC 680. He further submitted that the deceased-Nareshbhai Galbabbhai Taral left behind five legal representatives; however, the learned Tribunal has awarded a meager amount of compensation under the head of loss of consortium. He submitted that all the legal representatives are entitled to get the compensation under the head of loss of consortium. In support of his contention, learned counsel for the appellants placed the reliance upon the judgment of Hon'ble Apex Court rendered in the case of **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and Ors.**, reported in 2018 (18) SCC 130.

8. Per contra, Ms. Dimple A. Thaker, learned counsel appearing on behalf of respondent no.2/insurance company vehemently submitted that there is no infirmity in the impugned judgment and award. She submitted that the learned Tribunal has awarded just compensation. She further submitted that the claimant no.5 before the learned Tribunal is the brother of the deceased, therefore, he is not entitled to get the compensation under the head of loss of consortium.

9. Mr. H.G. Mazmudar, learned counsel appearing on behalf of respondent no.4/insurance company submitted that the learned Tribunal has awarded just 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 claimants/appellants have challenged the impugned judgment and award on the ground of quantum awarded by the learned Tribunal under the conventional heads.

11. So far as the quantum is concerned, the learned Tribunal has awarded a sum of Rs.18,000/- under the head of loss of estate and a sum of Rs.18,000/- awarded under the head of funeral expenses. The compensation awarded under these heads is enhanced to Rs.18,150/- each.

12. It is evident from the record that the deceased was survived by his parents, widow, minor child, and brother. So far as the parents, widow and minor child are concerned, they are entitled to get the compensation under the head of loss of consortium; however, the brother is not entitled to get the compensation under the head of loss of consortium. Therefore, in view of the ratio laid down by the Hon'ble Apex Court in the case of Nanu Ram @ Chuhru Ram (supra), a sum of Rs.1,93,600/- i.e. (48,400x4) is awarded under the head of loss of consortium.

13. In view of the above discussion, the claimants/appellants shall be

entitled for the following amount of compensation under the following heads:-

Sr. No.	Particular	Amount
1.	Loss of dependency	22,68,000/-
2.	Loss of estate	18,150/-
3.	Funeral Expenses	18,150/-
4.	Loss of consortium	1,93,600/-
	Total	24,97,900/-

14. In view of the above discussion, the original claimants/appellants shall be entitled for a total compensation of Rs.24,97,900/-; however, the learned Tribunal has awarded a sum of Rs.23,52,000/- as a compensation. Therefore, the original claimants/appellants shall be entitled for additional compensation of Rs.1,45,900/- i.e. (24,97,900-23,52,000). The learned Tribunal has awarded the interest at the rate of 9% 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.

15. 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 nos.2 and 4/insurance companies shall deposit the additional amount of compensation as per their share of liability determined by the learned Tribunal along with interest within a period of 6 weeks from the date of receipt of copy of this order.

16. 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.

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

HARSHIT

(MOOL CHAND TYAGI, J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: HARSHIT SANCHETI(HCD0070), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 14/05/2026 08:28:17