

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2101 of 2024****With****R/CROSS OBJECTION NO. 195 of 2025****In****R/FIRST APPEAL NO. 2101 of 2024****With****R/FIRST APPEAL NO. 4540 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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NARANBHAI DHANJIBHAI PATNI

Versus

LH OF LATE NARAYANBHAI DASRATHBHAI PANCHAL & ORS.

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Appearance:

DARSHIT R BRAHMBHATT(8011) for the Appellant(s) No. 1

MR RATHIN P RAVAL(5013) for the Defendant(s) No. 1.1,1.2,1.3

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 24/06/2026****JUDGMENT**

1. Both the captioned appeals are preferred by Naranbhai Dhanjibhai Patni who is the claimant in MACP No.255 of 2016 and the opponent No.1 in MACP No.55 of 2016. The First Appeal No.2101 of 2024 has been preferred with a prayer to quash and set aside the impugned judgment and award passed by the learned Tribunal in MACP No.55 of 2016, whereas the cross-

objection is preferred by the legal representatives of the deceased- Narayanbhai Dashrathbhai Panchal who filed the MACP No.55 of 2016. The First Appeal No.4540 of 2025 has been preferred with a prayer seeking enhancement of compensation as awarded by the learned Tribunal in MACP No.255 of 2016.

2. Since all the captioned appeals and cross objection arise out of the same accident, they are heard and disposed of together by this judgment.

3. The succinct facts which led to the filing of the captioned Appeals and cross objection are that, on 06.01.2015, at about 09:30 P.M., Narayanbhai Dashrathbhai Panchal (deceased in MACP No.55 of 2016) was riding his motorcycle bearing registration No.GJ-18-AE-4734 from GH-2 to GH-3 in slow speed, by observing traffic rules. When he reached near the place of accident, in the meantime, the claimant in MACP No.255 of 2016 and opponent No.1 in MACP No.55 of 2016, i.e. Naranbhai Dhanjibhai Patni came by riding one Honda Activa bearing registration No.GJ-18-AE-7235 in a rash and negligent manner, without following the traffic rules and dashed with the right side of the motorcycle in which the deceased in MACP No.55 of 2016 was travelling, thereby causing the accident. As a result of the said accident, deceased-Narayanbhai Dashrathbhai Panchal in MACP No.55 of 2016 sustained grievous injuries and succumbed to the said injuries, while claimant- Naranbhai Dhanjibhai Patni in MACP No.255 of 2016 sustained grievous injuries.

3.1. Having been served with the notices of claim petition, the original opponent No.1 in MACP No.55 of 2016 appeared and filed Written Statement at Exhibit-12, thereby denying the contents of the claim petition and prayed for dismissal of the claim petition.

3.2. 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 in MACP No.55 of 2016 had awarded a sum of Rs.13,40,694/- as a compensation along with the interest at the rate of 8% per annum from the date of filing of the claim petition till realization and in MACP No.255 of 2016 had awarded a sum of Rs.5,000/- as a compensation along with the interest at the rate of 9% per annum from the date of filing of the claim petition till realization.

3.3. Being aggrieved and dissatisfied with the impugned judgment and award, Naranbhai Dhanjibhai Patni, has preferred both the first appeals. First Appeal No. 2101 of 2024 is preferred with a prayer to quash and set aside the impugned judgment and award passed by the learned Tribunal in MACP No.55 of 2016 dated 07.11.2023, while First Appeal No.4540 of 2025 has been preferred with a prayer seeking enhancement of compensation as awarded by the learned Tribunal in MACP No.255 of 2016. The cross objection has preferred by the legal representatives of deceased- Narayanbhai Dashrathbhai Panchal seeking the enhancement of compensation against the impugned judgment and awarded passed by the learned Tribunal in MACP

No.55 of 2016.

4. Heard learned advocates for the parties.

5. Mr. Darshit R. Brahmhatt, learned advocate appearing on behalf of the appellant vehemently submitted that the accident had occurred owing to the contributory negligence of both the riders of the two wheelers. He further submitted that the rider of the motorcycle bearing registration No.GJ-18-AE-4734 had contributed for causing the accident to a larger extent.

5.1. Learned advocate for the appellant further submitted that original claimant No.1 in MACP No.55 of 2016 Bhadraben Narayanbhai Panchal i.e. widow of Narayanbhai Dashrathbhai Panchal has filed her affidavit in examination-in-chief before the learned Tribunal. He further submitted that she was not the eye-witness to the accident and the said fact has been admitted by her in cross-examination. He further submitted that the appellant had also stepped into the witness-box and filed his affidavit at exhibit-37. He further submitted that he has narrated the manner in which the accident took place. He further submitted that his version is also supported by the Panchnama of place of accident. But the learned Tribunal, ignoring the oral as well as documentary evidence on record, held the appellant-Naranbhai Dhanjibhai Patni negligent to a larger extent and returned the finding that he was contributorily negligent to the extent of 90%, while the deceased in MACP No.55 of 2016 Narayanbhai Dashrathbhai Panchal was held negligent to the extent of 10%. He further submitted that the learned Tribunal

ought to have determined the negligence of the deceased at a larger extent, therefore, he prayed for modification of the findings returned by the learned Tribunal on the issue of negligence. In support of his contention, he has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in the case of **Jiju Kuruvila and Ors. Versus Kunjuamma Mohan and Ors. with Oriental Insurance Company Limited Versus Smt. Chinnamma Joy and Ors.**, reported in (2013) 9 SCC 166 and **Prabhavathi and Ors. Versus The Managing Director, Bangalore Metropolitan, Transport Corporation**, reported in 2025 (0) AIJEL-SC 74820.

5.2. Learned advocate for the appellant further submitted that the learned Tribunal has assessed the income of the deceased at a higher side. He further submitted that it is the case of the cross objectors that the deceased was an LIC agent, but the said fact was not proved on record. He further submitted that the documentary evidence produced on record is contrary to the fact that the deceased was an LIC agent. He further submitted that in absence of proof of income, the learned Tribunal ought to have assessed the minimum wages prevalent at the relevant point of time. Therefore, he prayed for reduction of compensation awarded by the learned Tribunal in MACP No.55 of 2016.

5.3. Learned advocate for the appellant further submitted that the appellant has also filed the claim petition being MACP No.255 of 2016 before the learned Tribunal seeking the compensation on account of injuries sustained by the appellant in the accident. However, the learned Tribunal had awarded a

meagre amount under all the heads of compensation. He further submitted that the appellant has proved on record that after the accident, he was got admitted in Civil Hospital and thereafter he was discharged from there and on the very same day, he was admitted in Upadhyay Hospital. He further submitted that he placed the medical bills on record. But the learned Tribunal has not awarded any compensation under the head of medical expenses. He further submitted that the learned Tribunal has ignored the documentary evidence on record and awarded a meagre amount of compensation. Therefore, he prayed for enhancement of compensation.

6. *Per contra*, Mr. Rathin P. Raval, learned advocate appearing on behalf of the cross objectors vehemently submitted that the learned Tribunal after considering the oral as well as the documentary evidence on record, determined the contributory negligence of the appellant herein at larger extent. He further submitted that FIR came to be lodged against the appellant. After investigation, the charge-sheet was also filed against the appellant herein. He further submitted that the appellant has also admitted the said fact in cross-examination that he was charge-sheeted. He further submitted that the appellant has not challenged the charge-sheet. Therefore, the learned Tribunal, after considering the oral as well as documentary evidence on record, determined the issue of negligence. He further submitted that the learned Tribunal ought to have considered the sole negligence of the appellant herein, however the learned Tribunal has determined the negligence in the ratio of 90:10 between the appellant and the deceased respectively. He further submitted

that after conducting the investigation, the charge-sheet filed against the appellant is sufficient to prove his negligence. In support of his contention, he has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in the case of **Suhagrani and Ors. Versus Manager Chola mandalam MS General Insurance Co. Ltd.**, reported in **2025 INSC 837**, **Ranjeet and Anr. Versus Abdul Kayam Neb and Anr.**, reported in **2025 (0) AIJEL-SC 74889** and judgment of Gujarat High Court in the case of **National Insurance Company Limited Versus Anitadevi Parasmal Devra @ Sharma and Ors.**, reported in **2021 (0) AIJEL-HC 243507**.

6.1. Learned advocate for the cross objectors further submitted that he has also filed the Cross Objection seeking the enhancement of compensation in MACP No.55 of 2016. He further submitted that the learned Tribunal, after considering the oral as well as documentary evidence, has rightly assessed the income of the deceased. He further submitted that the respondents also examined the officials from LIC to prove that at the time of accident, the deceased was working as an LIC agent. The said witness has also proved the commission earned by the deceased on record. Therefore, the learned Tribunal had assessed the income of the deceased in accordance to the oral as well as documentary evidence led by the original claimants of MACP No.55 of 2016. He further submitted that the learned Tribunal had awarded a meagre amount of compensation under the conventional heads. He further submitted that the accident in question took place on 06.01.2015 and thereafter the deceased was admitted in Hospital and during the treatment, he

died on 14.01.2015. During that period, he suffered a lot of pain and mental agony. However, the learned Tribunal had not awarded any amount of compensation under the head of pain, shock and suffering. He further submitted that the learned Tribunal ought to have awarded the compensation under the head of pain, shock and suffering.

6.2. Learned advocate for the cross objectors further submitted that so far as the compensation awarded by the learned Tribunal in MACP No.255 of 2016, the claimant- Naranbhai Dhanjibhai Patni has not sustained any permanent disability. He further submitted that the medical bills have not been proved on record as per Evidence Act. Therefore, the learned Tribunal has rightly determined the compensation on the basis of the oral as well as documentary evidence led before the learned Tribunal. He further submitted that there is no infirmity in the impugned judgment and award passed by the learned Tribunal in MACP No.255 of 2016. Therefore, he prayed for rejection of the First Appeal No.4540 of 2025 which was preferred by the appellant against the impugned judgment and award passed by the learned Tribunal in MACP No.255 of 2016.

7. In rebuttal, Mr. Darshit R. Brahmbhatt, learned advocate appearing on behalf of the appellant submitted that after the accident, the appellant has also made the complaint to the Police. He further submitted that on the basis of the complaint, the Police did not take any action. He further submitted that in the criminal case, the appellant has been acquitted from all the charges. Therefore, no negligence can be attributed to him.

8. *Per contra*, Mr. Rathin P. Raval, learned advocate appearing on behalf of the cross objectors, vehemently submitted that the acquittal in criminal case would not have any bearing in proceedings under the Motor Vehicles Act. He further submitted that the negligence has to be proved on the basis of evidence available on record. The standard of proof in civil and criminal matter is different. In civil matter, the case has to be proved on the preponderance of probability and in criminal case, the strict proof beyond reasonable doubt is required. Therefore, the judgment rendered in criminal case has no relevance in MACP matter. In support of his contention, he has placed reliance upon the judgment rendered by the Division Bench of Gujarat High Court in the case of **Pankajbhai Chandulal Patel Versus Bharat Transport Co. and Anr.**, reported in **1997 (1) GLH 455**.

9. 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 negligence as well as quantum. He has also challenged the impugned judgment and award passed by the learned Tribunal in MACP No.255 of 2016 on the ground of quantum. While, the original claimants in MACP No.55 of 2016 have filed the Cross Objection seeking the enhancement of compensation.

ISSUE OF NEGLIGENCE

10. So far as the negligence is concerned, it is the case of the appellant that on 06.01.2015, at about 09:30 P.M., Narayanbhai Dashrathbhai Panchal was going on a motorcycle bearing

registration No.GJ-18-AE-4734 from GH-2 to GH-3 in very slow speed and when he passed near bus stand, Sector-6/7 cross road, in the meantime, the appellant i.e. Naranbhai Dhanjibhai Patni came by riding the Honda Activa bearing registration No.GJ-18-AE-7235 in a rash and negligent manner so as to endanger the human life, without following the traffic rules and dashed with the right side of the motorcycle bearing registration No.GJ-18-AE-4734. It is also pleaded that the accident took place on the crossings of the road.

11. The original claimant/respondent No.1 herein- Bhadraben Narayanbhai Panchal widow of the deceased filed her affidavit in examination-in-chief at Exhibit-15 along with the lines of pleading. She also stepped into the witness-box and she was cross-examined. In her cross-examination, she admitted that she has not seen the accident. Therefore, her oral testimony on the issue of negligence is of no use. The original claimants in MACP No.55 of 2016 have also proved on record the FIR and Panchnama of place of accident at exhibits-28 & 29 respectively. Perusal of FIR would show that the FIR came to be lodged by one Akash Panchal against the appellant. The Panchnama of place of accident shows the position of the vehicles on record and further shows that the steering of the motorcycle got damaged. While, the Mudguard of the Activa was damaged in the said accident. The appellant has filed his affidavit at exhibit-37 and he also stepped into the witness-box. He also deposed that on the day of accident, he was riding his Activa at a moderate speed on the correct side of the road by following the traffic rules. When he was turning to the road towards bus stand, in the meantime, the

deceased came by riding his motorcycle and hit the Activa from rear side. He also deposed that the accident had occurred owing to the sole negligence of the rider of the motorcycle. In cross-examination, he admitted that after investigation, the charge-sheet came to be filed against him. Perusal of the record shows that the appellant has also made complaint to the Police in respect of the alleged offence by registered post. Perusal of the complaint sent by the appellant to the Police transpires that it is not clear on which date the said complaint was sent to the Police, but the postal acknowledgment has been placed on record. It is also evident from the record that the said communication has not been proved in evidence, therefore, the same has not been exhibited. Be that as it may, on the basis of the said complaint, the Police has not taken any action and thereafter, conducting the investigation, charge-sheet came to be filed against the appellant. It is also admitted that the said charge-sheet was neither challenged by the appellant before any higher forum nor has he has taken any steps against the action of the Police for non recording any FIR on the basis of his complaint. The fact remains that the FIR came to be registered against the appellant and after investigation, charge-sheet was filed against the appellant herein. It is also settled proposition of law that the claimants have to prove negligence on the touchstone of preponderance of probability and beyond reasonable doubt.

12. In the case of Jiju Kuruvila (*supra*), the Hon'ble Supreme Court observed in paragraph No.22, as under:-

“22. Ext.-A1, FIR registered by Pampady Police

against the bus driver, P.C. Kurian, under Sections 279, 337 and 304A IPC shows that the accident occurred due to rash and negligent driving on the part of the bus driver. After investigation, the police submitted a charge- sheet (Ext.-A4) against the bus driver under Section 279, 337 and 304A IPC with specific allegation that the bus driver caused the death of Joy Kuruvila due to rash and negligent driving of the bus on 16th April, 1990 at 4.50P.M. In view of the direct evidence, the Tribunal and the High Court held that the accident was occurred due to rash and negligent driving on the part of the bus driver.”

13. In the case of Prabhavathi (*supra*), the Hon’ble Supreme Court observed in paragraph Nos.10 & 11, as under:-

“10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasnt any sufficient evidence on record, indicating that the accident occurred due to negligent driving on the part of the de- ceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

*11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in **Jiju Kuruvila v. Kun- jujamma Mohan, (2013) 9 SCC 166** where it was held that in the absence of any direct or corroborative evidence on record, it cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in **Kumari Kiran v. Sajjan Singh and Ors., (2015) 1 SCC 339**. In the present case, therefore, on an allegation simpliciter, it cannot be presumed that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed.”*

14. Now adverting to the facts of this case, it is not in dispute that the charge-sheet came to be field against the appellant herein. The appellant has not challenged the said charge-sheet

before any higher forum. He faced the trial and in the said trial, he has been acquitted from all the charges levelled against him. At this juncture, it would be profitable to refer the judgment of the Hon'ble Supreme Court in the case of Suhagrani and Ors. (*supra*), the Hon'ble Supreme Court observed in paragraph No.9, as under:-

"9. Having heard the learned Counsels appearing for the parties and on perusal of the case papers in general and particularly the evidence of PW-1 namely the claimant No. 1, it would emerge therefrom that PW-1 has deposed that she was proceeding as a pillion rider on a motorcycle driven by her deceased husband and said vehicle was hit by a mini truck from hindside resulting in both PW-1 and the deceased falling down and deceased having sustained grievous injuries. The evidence tendered before the tribunal particularly Ex.P-02 (MLC Information to Discharge, Neuron Hospital), Ex.P-06 i.e., death report, Ex.P-07 death information sent to the police station, Gaurjhamar, Ex. P-08 FIR, Ex.P-11 i.e., the final report would clearly indicate that the accident in question had occurred on account of rash and negligent driving of the offending vehicle namely mini truck. However, by relying upon the statement of Naresh, PW-2 the insurer has made an attempt to stave off its liability by contending PW-2 had admitted before the jurisdictional police that deceased had himself fallen on account of his vehicle having fallen due to loss of balance. This statement made by PW2 before the jurisdictional police has found favour with the High Court and thereby disbelieved the plea of the claimants which had been accepted by the Tribunal. However, the High Court erred in not taking into consideration the fact that PW-2 when confronted while being cross-examined with his statement made to the jurisdictional police exhibit D-1 has denied having given such statement. He has also specifically deposed that he has not stated before the police that his father had fallen from the motorcycle on his own accord. He has specifically denied that false complaint has been lodged by the claimant before the jurisdictional police. The jurisdictional police who had recorded the statement (Ex-D1) of PW-2 was not examined. No attempts have been made by the insurer of the offending vehicle to prove the contents of Ex-D1. This is yet another reason as to why the findings recorded by the High Court in

this regard cannot be sustained. The fact that the jurisdictional police had conducted investigation and recorded the statement of various persons during course of investigation had resulted in filing of the chargesheet against the driver of the offending vehicle which is not in dispute has been completely ignored by the High Court and it has proceeded to doubt the very occurrence of the accident, by ignoring the vital evidence available on record. No reason has been assigned by the High Court as to why the said evidence was being brushed aside or not taken into consideration.”

15. In the case of Ranjeet and Anr. (*supra*), the Hon’ble Supreme Court observed in paragraph No.4, as under:-

“4. It is settled in law that once a charge sheet has been filed and the driver has been 1 hereinafter referred to as the Tribunal. held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.”

16. In the case of Anitadevi Parasmal Devra @ Sharma and Ors. (*supra*), the Division Bench of this High Court observed in paragraph No.6, as under:-

“6. Having heard learned counsels for the parties and on perusal of the records, we are of the considered view that following points would raise for our consideration:

(i) Whether Tribunal committed an error in arriving at a conclusion that accident had occurred on account of negligence of the driver of the jeep and there was no negligence on the part of the deceased?

(ii) Whether the compensation awarded by the Tribunal under any of the heads including medical expenses is excessive? And if so, to what extent?

RE: POINT No.(i)

The judgment and award of the Tribunal would clearly indicate that father of the deceased had entered the witness box and had filed his affidavit in lieu of examination-in-chief Exh.58 revealing that he was not present at the time of the accident. However, the

undisputed records viz. FIR disclosed that driver of the jeep was on the wrong side and had dashed with the motorcycle driven by the deceased. The insurer neither examined the driver of the jeep nor produced any contrary evidence to establish or prove that there was some negligence on the part of the deceased. In absence of such evidence available and FIR disclosing that on account of rash and negligent driving by the driver of the jeep that had caused the accident, Tribunal could not have proceeded is record of finding contrary to the same on the basis of if s and but s viz. that deceased might have contributed his negligence to the accident in question. That apart, we notice that insurer had never questioned the correctness of the contents of the FIR or had challenged the charge-sheet filed against the driver of the jeep. Hence, for these reasons, we are of the considered view that findings recorded by the Tribunal would not call for interference insofar as holding that driver of the jeep has been negligent to the extent of 100% for causing the accident in question. Accordingly, point No. (i) is answered against the appellant and in favour of the respondents.

RE: POINT No.(ii)

The compensation which has been awarded by the Tribunal under various heads are as follows:

<i>Amount in Rs.</i>	<i>Particulars</i>
<i>Rs.16,06,500/-</i>	<i>Loss of Dependency</i>
<i>Rs.15,000/-</i>	<i>Loss of Estate</i>
<i>Rs.40,000/-</i>	<i>Loss of Consortium</i>
<i>Rs.15,000/-</i>	<i>Funeral Expenses</i>
<i>Rs.3,06,000/-</i>	<i>Medical Bills and Hospital Charges</i>
<i>Rs.19,82,500/-</i>	<i>Total Compensation</i>

17. Thus, considering the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases, I am of the considered view that the learned Tribunal has not committed any error in holding the appellant himself negligent to the extent of 90% in causing the accident and the deceased was negligent to the

extent of 10% in causing the accident.

18. So far as the acquittal of the appellant in criminal case is concerned, in view of Sections 41 to 44 of Evidence Act, the judgment passed in criminal case has no relevance in MACP matter. In the case of Pankajbhai Chandulal Patel (*supra*), the Division Bench of this High Court observed in paragraph No.10, as under:-

“10. In our view, the judgment of Criminal Court is not relevant to prove in a Civil Court or before the Tribunal, the guilt or innocence of the person driving the vehicle. Evidence before the two Courts on the same issue would not be the same as all the witnesses for one or another reason are not examined in both the forums or do not state consistently. At times, somewhere material evidence is suppressed or witnesses are won over, or driver of the vehicle is made to confess the guilt despite truth being otherwise; so that claimant may fail before the Tribunal. The law, therefore, does not [at page 459] provide to place sole reliance on the judgment of Criminal Court making the claim free from claimant's onus to prove the issue of negligence. The claimant has to lead evidence to prove his case. Consequently, negligence or innocence will have to be established independent of the Criminal Court's finding or judgment. The Tribunal determining the issues arising in petition for compensation has, therefore, to come to its independent finding appreciating the evidence produced before it. The judgment of the Criminal Court can only show that the concerned driver was convicted or acquitted in the criminal case. At the most, in our view the judgment of the Criminal Court may provide corroboration to the evidence adduced by the claimant, but can never be the sole decisive factor qua negligent driving, for the negligence is required to be established leading necessary evidence. If the statement confessing the guilt is made by the driver of the offending vehicle before the Criminal Court, it will be, at the most, if made voluntarily, corroborative piece of evidence provided of course it relates to the issue/s in question before the Civil Court or Tribunal, but can never be the sole decisive factor as the claimant in compensation petition has to establish his case independent of confessional statement made by the

driver. Having regards to the materials on record, if there is a reason to question or doubt the voluntary character of the confession for any reason, or owing to fraud, undue influence, allurement, promise, plea bargain, misrepresentation; or is made or got made pursuant to any device or design or collusion so as to succeed in the claim petition, or there is nothing on record going to show that the statement made relates to the issue in question, or the same wrong under investigation, or the fact made a base for a claim before the Civil Court or Tribunal, the same has to be kept out of consideration unless the driver appears and explains ruling out the possibility of involuntary character or device or design, or makes it clear that it relates to the same wrong, fact or issue.”

19. It is settled proposition of law that the claimants have to prove the negligence on the preponderance of probability as held by the Hon’ble Supreme Court in the case of **Bimla Devi & Ors. Versus Himachal Road Transport Corporation & Ors.**, reported in **(2009) 13 SCC 530** and **Parmeshwari versus Amir Chand & Ors.**, reported in **2011 (11) SCC 635**. Thus, having regard to the settled legal position, I am of the considered view that the findings returned by the learned is liable to be upheld. As such the findings returned by the learned Tribunal is not required to be interfered with. Hence, the issue is negligence is answered accordingly.

QUANTUM IN MACP NO.55 OF 2016

20. So far as the quantum in MACP No.55 of 2016 is concerned, it has been argued on behalf of the appellant that it has not been proved on record that at the time of accident, the deceased- Narayanbhai Dashrathbhai Panchal was working as an LIC agent and he was earning a sum of Rs.40,000/- per month, as determined by the learned Tribunal. In order to prove

the occupation and income of the deceased, the original claimants have led the oral as well as documentary evidence on record. The widow of the deceased- Bhadraben Narayanbhai Panchal has filed her affidavit at Exhibit-15, wherein she deposed that her husband was working as an LIC agent on the day of the accident and he was earning a sum of Rs.35,000/- to Rs.40,000/- per month. The original claimants have also caused to issue the witness summons to Competent Authority of LIC. In pursuance to the witness summons caused to issue to LIC, one Mr. Chandrakant U. Sapkali, Senior Manager, LIC Office, Ahmedabad appeared before the learned Tribunal and he filed the production pursis at exhibit-25, thereby submitting the documents relating to the details of commission. It also appears from the record that learned advocate for the claimants before the learned Tribunal has filed an application below Exhibit-26 for exhibiting those documents. The learned Tribunal after hearing both the sides, ordered to exhibit those documents. The documents were exhibited collectively at Exhibit-27. Perusal of said documents would show that the said witness has furnished the statement of the commission earned by the deceased during the period commencing from 01.04.2012 to 31.03.2013, 01.04.2013 to 31.03.2014 & 01.04.2014 to 31.03.2015, and also furnished the statement of Agency. It has been argued that the name of the deceased is not reflected in these documents and the name of agent is shown as Bhadraben N Panchal, and not the name of the deceased. The particulars of Agency at Exhibit-27 transpires that the date of appointment is 15.10.1987 and the date of exit is 14.01.2015. Further, the last exit status also shown as " Agent's Death". The exit date of the deceased is a

date of death of Narayanbhai Dashrathbhai Panchal and further the name of nominee has shown as Smt. Bhadraben. Had Bhadraben been the insurance agent, her name would have not been shown as nominee. Hence, there is no iota of doubt that the deceased was not an LIC agent. Therefore, the oral version of the claimants is supported by the documentary evidence produced by the witness and witness has also furnished the documents on behalf of the LIC.

21. The learned Tribunal after considering the income from commission of both the years, took the average income and assessed the monthly income at Rs.14,665/-. Therefore, the learned Tribunal has not committed any error in ascertaining the income of the deceased at the time of accident. Further, it is not in dispute that at the time of accident, the deceased was aged about 55 years, therefore, the learned Tribunal added 10% of the actual income on account of future prospects of the deceased. The learned Tribunal after considering the number of dependents, deducted 1/3rd from the monthly income of the deceased and thereafter, calculated the future loss of dependency at Rs.14,19,660/-. While, ascertaining the loss of dependency, the learned Tribunal has followed the settled principle of law. Therefore, there is no infirmity in awarding the compensation under the head of future loss of dependency at Rs.14,19,660/-.

22. The learned Tribunal had awarded a meagre amount of compensation under the heads of loss of estate and funeral expenses. In view of the ratio laid down by the Hon'ble Supreme

Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, reported in **(2017) 16 SCC 680**, the compensation awarded under the aforesaid heads is enhanced to Rs.18,150/- each.

23. The learned Tribunal had awarded a meagre amount of compensation under the head of loss of consortium. It is evident from the record that the deceased was survived by three legal representatives. In view of the ratio laid down by the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs Nanu Ram @ Chuhru Ram and Ors.**, reported in **2018 (18) SCC 130**, all the claimants are entitled to get the compensation under the head of loss of consortium. Therefore, a sum of Rs.1,45,200/- i.e. (48,400 x 3) is awarded under the head of loss of consortium.

24. It has been argued on behalf of the original claimants that after the accident, the deceased survived for eight days. During that period, the deceased has suffered a lot of mental agony, pain, shock and suffering due to the injuries sustained in the accident. However, the learned Tribunal has not awarded any compensation under the head of pain, shock and suffering. It is evident from the record that the accident in question took place on 06.01.2015 and the deceased expired on 14.01.2015 during treatment. Therefore, it would be just and proper, if a sum of Rs.10,000/- is awarded under the head of pain, shock and suffering.

25. Thus, in view of the above discussion, the claimants in

MACP No.55 of 2016 shall be entitled for the following amount of compensation under the following heads:-

Particulars	Amount (Rs.)
Future Loss of Dependency	14,19,660/-
Loss of Estate	18,150/-
Loss of Consortium	1,45,200/-
Pain, Shock and Suffering	10,000/-
Funeral Expenses	18,150/-
Total Compensation	16,11,160/-
Less: Self Negligence	1,61,116/-
Total Compensation	14,50,044/-
Less: compensation already awarded by the learned Tribunal	13,40,694/-
Additional amount of Compensation	1,09,350/-

26. In view of the above discussion, the claimants shall be entitled for the total compensation of Rs.16,11,160/-. Out of the total compensation 10% is deducted on account of self negligence of the deceased. Therefore, the claimants shall be entitled for the compensation of Rs.14,50,044/- i.e. (Rs.16,11,160/- -(less) 10% of 16,11,160/-).

27. The learned Tribunal had already awarded a sum of Rs.13,40,694/-. Therefore, the claimants shall be entitled for the additional compensation of Rs.**1,09,350/-** i. e. (Rs.14,50,044/- - (less) Rs.13,40,694/-). The learned Tribunal has awarded the interest at the rate of 8% per annum, therefore, the claimant shall also be entitled for the interest at the rate of 8% on the additional amount of compensation.

QUANTUM IN MACP NO.255 OF 2016

28. Now, so far as the appeal preferred by the appellant in MACP No.255 of 2016 for enhancement is concerned, it is evident from the record that the appellant has not filed any disability certificate on record. The appellant has filed his affidavit in examination-in-chief at exhibit-24, wherein he deposed that at the time of accident, he was aged about 50 years and he was working as a Deputy Section Officer and was earning a sum Rs.45,000/- per month. He also deposed that during accident, he remained bed-ridden for a period of six months and he could not attend his official duties. He also deposed that in the treatment, he has spent a sum of Rs.2,00,000/- and he suffered a loss of actual income to the tune of Rs.2,70,000/-. He also deposed that owing to the accident, he spent substantial amount on special diet, attendant charges and transportation. He was cross-examined by the opponent, wherein he has admitted that he has not sustained any fracture in the said accident. He also admitted that he has not underwent any surgical operation for the injuries sustained in the accident. Having considered the oral as well as documentary evidence on record, the learned Tribunal had awarded the total compensation to the tune of Rs.50,000/- and thereafter deducted 90% from it on account of self negligence and the compensation of Rs.5,000/- was awarded to the appellant.

29. So far as the compensation is concerned, the learned Tribunal had awarded a sum of Rs.20,000/- under the head of loss of amenities towards life, a sum of Rs.20,000/- under the head of pain, shock and sufferings and a sum of Rs.10,000/-

under the head of special diet, attendant charges & transportation. The learned Tribunal had not awarded any compensation under the head of actual loss of income and medical expenses. Perusal of the record transpires that the appellant has filed the discharge summary of Civil Hospital, Gandhinagar. The doctor has prescribed the medicine and thereafter he was discharged and directed to come for follow up after five days. It is the case of the appellant that thereafter, the appellant got admitted to Upadhyay Hospital and incurred a substantial amount for treatment. A receipt of payment of Rs.1,47,500/- has been produced on record. Neither the discharge summary of Civil Hospital nor the receipts issued by Upadhyay Hospital has been proved on record as per Evidence Act, therefore, the learned Tribunal has not considered these documents on record. It is settled proposition of law that the learned Tribunal is not governed by the strict provisions of Evidence Act. In the case of **Union of India and Ors. Versus T R Varma**, reported in **1957 AIR 882**, the Constitutional Bench of the Hon'ble Supreme Court has held that strict provisions of the Evidence Act are not applicable to Tribunals.

30. The learned Tribunal ought to have considered the documents on record and awarded the actual medical expenses incurred by the appellant on treatment. Thus, considering the actual bills for treatment issued by Upadhyay Hospital, a sum of Rs.1,47,500/- is awarded under the head of medical expenses.

31. The learned Tribunal had not awarded any amount of compensation under the head of actual loss of income.

Considering the nature of injuries sustained by the appellant, the actual loss for one month is awarded under the head of actual loss of income. In the affidavit, the appellant had deposed that he was getting a salary of Rs.45,000/- per month. Hence, a sum of Rs.45,000/- is awarded under the head of actual loss of income.

32. So far as the compensation awarded under the other heads are concerned, the learned Tribunal had awarded just compensation. Therefore, no interference is required to be made in the compensation awarded by the learned Tribunal under the other heads.

33. Thus, in view of the above discussion, the claimant in MACP No.255 of 2016 shall be entitled for the following amount of compensation under the following heads:-

Particulars	Amount (Rs.)
Loss of Amenities of Life	20,000/-
Actual Loss of Income	45,000/-
Medical treatment	1,47,500/-
Special Diet, Attendant Charges and Transportation	10,000/-
Pain, Shock and Suffering	20,000/-
Total Compensation	2,42,500/-
Less: Self Negligence (90 %)	2,18,250/-
Total Compensation	24,250/-
Less: compensation already awarded by the learned Tribunal	5,000/-
Additional amount of Compensation	19,250/-

34. In view of the above discussion, the claimant shall be entitled for the total compensation of Rs.2,42,500/-. Out of the total compensation 90% is deducted on account of self negligence of the claimant. Therefore, the claimant shall be entitled for the compensation of Rs.24,250/- i.e. (Rs.2,42,500/- -(less) 90% of 2,42,500/-).

35. The learned Tribunal had already awarded a sum of Rs.5,000/-. Therefore, the claimant shall be entitled for the additional compensation of Rs.**19,250**/- i.e. (Rs.24,250/- -(less) Rs.5,000/-).The learned Tribunal has awarded the interest at the rate of 9% per annum, therefore, the claimant shall also be entitled for the interest at the rate of 9% on the additional amount of compensation.

36. In view of the above discussion, the First Appeal No.2101 of 2024 stands dismissed and Cross Objection No.195 of 2025 stands partly allowed, the impugned judgment and award is modified accordingly to the aforesaid extent, while the First Appeal No.4540 of 2025 stands partly allowed and the impugned judgment and award is modified accordingly.

37. The concerned party/parties as held liable by the learned Tribunal is/are directed to satisfy the award (including the additional amount of compensation) along with interest within a period of 6 weeks from the date of receipt of a copy of this judgment.

38. Upon depositing of the said amount, the learned Tribunal

shall disburse the amount to the original claimant/s, 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.

39. R & P be sent back to the concerned learned Tribunal forthwith.

(MOOL CHAND TYAGI, J)

CDP

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CHIRAG DESHRAJ PAL(HCD0072), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 15/07/2026 10:51:09