

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 31 of 2013****FOR APPROVAL AND SIGNATURE:****HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****and****HONOURABLE MS. JUSTICE NISHA M. THAKORE**

=====		
Approved for Reporting	Yes	No
=====		

RANA GITABEN DILIPSINH & ORS.**Versus****TADVI HARESHBHAI MANGUBHAI & ANR.****Appearance:****MR.KARNA H DHOMSE(6684) for the Appellant(s) No. 1,2,3,4,5****DELETED for the Defendant(s) No. 1****MS HINA DESAI(1023) for the Defendant(s) No. 2****CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**
and**HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 27/11/2025****ORAL JUDGMENT****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

1. The captioned appeal is directed against the judgment dated 16.08.2012 passed in Motor Accident Claim Petition no. 2441 of 1997 (hereinafter referred to as "the impugned judgment") by the Motor Accident Claims Tribunal, Vadodara, Chhota Udaipur (hereinafter referred to as "the tribunal") whereby, it has awarded compensation of Rs.2,74,000/- together with interest at the rate of 9%. Being aggrieved, the captioned appeal. For the sake of convenience, the parties are referred to as per their status in the claim petition.

2. Mr.Karna Dhomse, learned Advocate appearing for the claimants has submitted that the challenge to the impugned judgment is mainly on three grounds namely the income, prospective income and the quantum of loss of consortium. It is submitted that the income of the deceased ought to have been considered atleast Rs.3,000/- per month considering the fact that the deceased possessed land bearing survey no. 359 admeasuring 2 acres and 24 gunthas (hereinafter referred to as "the agricultural land") and was cultivating it. It is submitted that the farming of banana and seasonal crops was being undertaken which fact, is strengthened by the evidence produced on record namely the village form no. 8A and 7/12 forms and they clearly suggest aspect of farming. It is further submitted that even the bills have been produced of the relevant years suggesting that the deceased, had purchased the seeds and the agricultural equipments. Besides, loan was obtained from the bank for the purpose of farming. It is submitted that apart from the regular farming the deceased, was engaged in agricultural activities for seasonal crops and was earning quiet well. Therefore, it is not correct to consider that the deceased was earning only a meager amount of Rs.1200/- per month and Rs.15,000/- per annum. It is fairly stated that though the claim of income is of Rs.7 lakhs per year, considering the documents produced on the record, just and reasonable compensation may be allowed.

2.1 Reliance is placed on the judgment in the case of *State of Haryana vs. Jasbir Kaur & Ors.* reported in (2003) 7 SCC 484. It is submitted that the facts in the case before the Apex Court were in close proximity to the facts of the present case.

In the said case, the deceased was possessing almost similar amount of land and the claim was of Rs.6.5 lakhs. The Apex Court after considering the merits, was of the opinion that every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. That use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal and the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non-arbitrariness. If it is not so, it cannot be just. It is therefore submitted that when all the documents were available suggesting that the deceased was possessing a huge parcel of land admeasuring 10,000 and odd sq. mts.; and when farming activities was also not disputed, awarding only Rs.15,000/- per annum is not just and reasonable.

2.2 It is further submitted that another ground raised is about the prospective income. The tribunal has considered 30% instead of 50% and as per applicable principle, the said consideration, is erroneous. Besides, the loss of consortium has been allowed only to an extent of Rs.10,000/- which, is against the principle laid down by the Apex Court in the case of *National Insurance Company Ltd. v. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680. It is therefore urged that the judgment of the tribunal, needs to be modified to the aforesaid extent.

3. On the other hand, Ms.Hina Desai, learned Advocate

appearing for the respondent-Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation") has submitted that as such, no error is committed by the tribunal. It is further submitted that no evidence was led by the claimants to substantiate the income of Rs.7 lakhs. On the basis of the material available on record, the tribunal, while exercising discretion has awarded just compensation which would fall within the purview of the provisions of the Act and the principles laid down by the Apex Court.

3.1 It is further submitted that the age of the deceased was 30 years and for the age group of 30-40 years, the prospective income, cannot be 50% and 30% has rightly been allowed. If this court deems it appropriate the court may consider awarding 40% prospective income; the deceased being self employed. It is further submitted that so far as the loss of consortium is concerned, in view of the settled principle, the same may be appropriately modified.

3.2 While concluding, it is submitted that the interest awarded at the rate of 9%, is on a higher side; however, it is fairly conceded that the respondent corporation has not preferred any appeal and accepted the judgment.

4. Heard the learned Advocates appearing for the respective parties. Considered the submissions and perused the documents and record and proceedings made available.

5. Tersely stated are the facts derived from the record:

6. On 13.10.1997 at around 6:00 p.m., the deceased, was

traveling in the S.T. bus bearing registration no. GJ-18-V-818. As the S.T. bus was driven in a rash and negligent manner and with excessive speed it, dashed against the railing of the bridge and fell into the river. In the said accident, the deceased sustained fatal, serious bodily injuries. It is not in dispute that the deceased was 30 years of age at the time of the accident. Motor Accident Claim Petition no. 2441 of 1997 was filed by the claimants seeking compensation for Rs.30 lakhs. The claimants, in support of their claim, have placed reliance on the revenue record namely the village form no. 8A and 7/12 forms for the agricultural land possessed by the deceased, which is a large parcel admeasuring 2 acres and 24 gunthas. It is also not in dispute that the deceased was engaged in banana farming. In support of this claim, necessary bills for purchasing the inputs in connection with the farming activities have been produced on the record. Besides, there are also documents which suggest that a loan was obtained from the bank.

7. The appellant claimed that the income of the deceased was Rs. 7 lakhs and this claim remained uncontroverted in her cross-examination. However, the fact remains that there is no evidence produced to support the income of Rs.7 lakhs and that aspect is recorded in the impugned judgment. The tribunal therefore rightly concluded that income for the year 1997, could not have been of Rs. 7 lakhs especially in the absence of any documentary evidence. The tribunal at the same time was not correct in accepting notional income at the rate of Rs.15,000/- per annum. Undisputedly, the deceased possessed large agricultural land. It emerges from the record

that other than the land exclusively in the name of the deceased, the family, was jointly possessing other parcels of land admeasuring 10 acres. The said aspect, has also remained uncontroverted. The evidence available on record namely; the village form no. 8A and 7/12 forms, they very well provide support to determine the notional income of the deceased.

8. At this stage, apt would be judgment in the case of *State of Haryana vs. Jasbir Kaur & Ors. (supra)* wherein the Apex Court has observed that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to be 'just and reasonable'. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it also has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. It has also been provided that by use of the expression "which appears to it to be just", a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. Relevant paragraphs 7 and 8 are reproduced hereinbelow for ready reference:

"7. It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to

be 'just and reasonable'. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The Courts and Tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non- arbitrary. If it is not so it cannot be just. (*Helen C. Rebello v. Maharashtra State Road Transport Corporation* (AIR 1998 SC 3191)).

8. It is clear on a bare reading of the Tribunal's decision as affirmed by the High Court that no material was placed before the former to prove as to what was the income. As rightly contended by learned counsel for the appellants, there was not even any material adduced to show type of land which the deceased possessed. The matter can be approached from a different angle. The land possessed by the deceased still remains with the claimants as his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered. Furthermore, there was no material before the Tribunal to arrive at the figure of Rs.4500 per month. No reason has been indicated to arrive at this figure. In the light of what has been discussed above about "just compensation" the income cannot be estimated without any material to justify the estimation. In the normal course, we would have remitted the matter back to the Tribunal for fresh consideration. But considering the fact that one young person lost his life, and the matter was pending before the Tribunal and the High Court for some years, we feel it appropriate to take all relevant factors into consideration, and decide the matter. Gauzing the relevant

aspects, noted above, the monthly income is fixed at Rs.3000/- per month, and after deducting Rs.1,000/- for personal expenses, financial contribution so far as the claimants are concerned is fixed at Rs.2,000/- per month. Worked out on the basis of multiplier of 18, the compensation is fixed at Rs.4,32,000/-. The amount of Rs.2,000/- awarded by the Tribunal for funeral expenses is not interfered with and thus the total compensation comes to Rs.4,34,000/-. The rate of interest i.e. 9% per annum as fixed by the Tribunal and affirmed by the High Court is appropriate, and does not need any alteration. After adjusting the sum which was deposited pursuant to the order of this Court dated 14.12.2001, the balance amount along with interest shall be deposited within three months from today before the Tribunal. On the deposit being made along with the amount already deposited, a sum of Rs.3 lakhs shall be kept in the fixed deposit in the name of the claimants and a sum of Rs.50,000/- shall be kept in fixed deposit in the name of Smt. Baldev Kaur, mother of the deceased. They shall be entitled to draw interest on the deposit, which shall be re-deposited for further terms of five years. In case of urgent need, it shall be open to the claimants to move Tribunal for release of any part of the amount in deposit. The Tribunal shall consider the request for withdrawal and shall direct withdrawal in case of an urgent need and not otherwise of such sum as would meet the need. It shall be specifically indicated to the Bank where the deposits are to be made that no advance or withdrawal of any kind shall be permitted without the order of the Tribunal. It shall be open to the claimants to approach the Tribunal for variance of the order relating to deposit in fixed deposit, if any other scheme would fetch better returns and also would provide regular and permanent income. "

9. Pertinently, when there was evidence produced in the nature of village form no. 8A and 7/12 forms, throwing sufficient light to substantiate that the farming activities were being undertaken, the income derived by the tribunal is on a lower side. Also, the deceased was of a young age of 30 years. The agricultural land is exclusively in his name and thus in the absence of any contrary evidence and considering the claim vis.a.vis the documentary evidence, this court deems it appropriate to determine the income of the deceased at the rate of Rs.3000/- per month. The deceased being 30 years of

age at the time of the accident, 40% prospective income of Rs.1200/- needed to be added. As per the settled law, the multiplier would be 16 and permissible 1/4th deduction deserves to be allowed. So far as loss of consortium is concerned, it is not in dispute that as per the judgment of the Apex Court in the case of *National Insurance Company Ltd. v. Pranay Sethi & Ors.(supra)*, it would be at the rate of Rs.40,000/- per member of the family. It is reported that one of the family member, that is the appellant no.4 Mr. Harisinh Ishwarsinh Rana, father of the deceased, has passed away. In view of the above, the remaining claimants would be entitled for the loss of consortium.

10. Before concluding, it may be noted that the contention of Ms. Hina Desai, learned Advocate appearing for the respondent- Corporation for reducing the rate of interest cannot be accepted and is rejected on two grounds namely that it has not preferred any appeal and secondly, nothing has been placed on record substantiating that the rate of interest awarded, was on a higher side.

11. Considering the above referred observations, the judgment of the tribunal is modified as below:

Sr.no	Particulars	Amount
1	Monthly income	3000/-
2	Prospective Income	1200/-
3	Multiplier	16
4	Total Dependency Loss	4200 x 12 x16 = 8,06,400/-
5	Deduction (1/4th)	2,01,600/-
		8,06,400/- (-) 2,01,600/- =

		6,04,800/-
6	Loss of Consortium	40,000 x 4 (dependents) =1,60,000/-
7	Final amount	7,64,800/-
8	Already awarded amount	2,74,000/-
9	Enhanced amount	4,90,800/-
10	Interest Rate	9%

12. As per the above calculation, the claimants would be entitled to enhanced amount of compensation of Rs.4,90,800/- together with interest at the rate of 9% from the date of filing of the application. The respondent corporation, is directed to deposit the entire enhanced awarded amount together with the interest with the tribunal within a period of eight weeks from the date of receipt of copy of this order. The tribunal would be at liberty to disburse it in favour of the claimants after due and proper verification.

13. In view of the above, the appeal is partly allowed. No order as to costs.

14. Record & proceedings, if any received, be sent back to the concerned Court, forthwith.

(SANGEETA K. VISHEN,J)

(NISHA M. THAKORE,J)

SINDHU NAIR

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: SINDHU UNNIKRIISHNAN NAIR(HC01395), PRIVATE SECRETARY, at High Court of Gujarat on 02/12/2025 17:58:16