

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3244 of 2012****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

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Approved for Reporting	Yes	No

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BHAVESH SHASHIKANT JOSHI

Versus

KANJI LAXMAN PATEL & ORS.

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Appearance:

MR MEHUL S SHAH(772) for the Appellant(s) No. 1

MR PALAK H THAKKAR(3455) for the Defendant(s) No. 3

RULE SERVED for the Defendant(s) No. 1,2,4

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 18/02/2026****ORAL JUDGMENT**

1. Captioned appeal is filed against the impugned judgment and award dated 14.06.2012 passed by the Motor Accident Claims Tribunal (Aux), Bhuj at Kachchh in Motor Accident Claim Petition No.4 of 2003, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.1,42,500/- as a compensation along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till its

realization.

2. The succinct facts leading to file the captioned appeal is that on 20.10.2002, the claimant was traveling from Bhuj to Mandvi on a motorcycle bearing registration No.GJ-12-F-8012, along with his friends, namely Rajendrasinh Narendrasinh and Mayur Harishchandra Joshi. At the time of accident, the claimant was riding the aforesaid motorcycle, and his friends were traveling as pillion riders. At the time of accident, the claimant/appellant was driving the motorcycle on the correct side of the road at a very moderate speed, following the rules and regulations of traffic. When they reached the place of the accident, in the meantime respondent No.1 came from the opposite direction driving a jeep in a rash and negligent manner at an excessive speed, without observing traffic rules. As a result, he lost control over the steering and dashed his jeep into the motorcycle. Due to the impact of the said accident, the claimant and his friends sustained grievous injuries. It has been further averred that at the time of the accident, the claimant was about 19 years of age and was gainfully employed as a Technician in a laboratory, earning a sum of Rs.3,000/- per month. In the said accident, the claimant sustained head

injuries, a fracture of the femur, and fractures of tibia fibula.

3. On being served with the notice of the claim petition, the respondent-Insurance Company filed the written statement at Exh-52 thereby denying the averments made in the claim petition and prayed for rejection of the claim petition.

4. Having considered the pleadings, evidence and submissions made by the learned advocates for the respective parties, the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.1,42,500/- as a compensation along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.

5. Being aggrieved and dissatisfied with the impugned judgment and award, the original claimant/appellant has preferred the captioned appeal for enhancement of the compensation.

6. Heard learned advocates for the parties.

7. At the outset, learned advocate for the original claimant/appellant, submitted that at the time of the accident,

the claimant was aged about 19 years and he was gainfully engaged as Technician in a Lab and thereby earning a sum of Rs.3,000/- per month. He further submitted that owing to the injuries sustained in the accident, the claimant has sustained the disability of 60% body as a whole. However, the learned Tribunal had considered the said disability of 20% body as a whole. He further submitted that the learned Tribunal had awarded the compensation at a very lower side. He further submitted that the claim petition came to be filed under Section 163-A of the M. V. Act. He further submitted that the said Section has been amended and a new Section 164 came to be inserted in the Motor Vehicles Act with effect from 22.05.2018. He further submitted that as per Section 164 of the M. V. Act, in case of disability, the claimant is entitled to get the compensation of Rs.2,50,000/-. He further submitted that being a benevolent piece of legislation, the Section 164 can be made applicable retrospectively. In support of his contention, learned advocate for the appellant has placed reliance upon the judgment of the Hon'ble Supreme Court rendered in the case of **New India Assurance Company Limited Versus Urmila Halder**, reported in **2024 (0) AIJEL-SC 74844**. Placing reliance upon the aforesaid judgment, learned advocate for the appellant

submitted that the captioned appeal deserves to be allowed and in view of the Section 164 of the M. V. Act, the claimant ought to have awarded a lump sum of Rs.2,50,000/- along with the interest.

8. On the other hand, Mr. Palak H. Thakkar, learned advocate appearing on behalf of the respondent No.3-Insurance Company, vehemently submitted that there is no infirmity in the impugned judgment and award. The learned Tribunal has rightly assessed the income as well as functional disability of the claimant and thereafter awarded the just compensation. He further submitted that the provisions of Section 164 cannot be made applicable retrospectively. He further submitted that captioned appeal devoids of merits and hence, liable to be dismissed.

9. Having considered the submissions of the learned advocates for the parties and having gone through the record, it is to be noted that the claim petition came to be filed under Section 163-A of the M. V. Act. It is also undisputed fact that at the time of the accident, the claimant was aged about 19 years and he sustained head injuries, fracture of femur, fracture of tibia fibula and other injuries on his body. The doctor has issued

the disability certificate thereby certifying that the claimant has sustained the permanent disability of 60% body as a whole. However, the learned Tribunal considered the functional disability at 20%. It is not in dispute that the claim petition came to be filed under Section 163-A of the M. V. Act. Section 163-A came to be amended and a new Section 164 has been inserted in the Motor Vehicles Act and the same is reproduced hereinbelow for the ease of reference:-

“164. Payment of compensation in case of death or grievous hurt, etc.-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.”

10. As per provisions of Section 164 in case of permanent disability, the victim of the vehicular accident is entitled to get a lump sum compensation of Rs.2,50,000/-. The issue as to

whether Section 164 can be made applicable retrospectively, was considered by the Hon'ble Supreme Court in the case of **Urmila Halder**(*supra*), wherein paragraph 10 of the judgment, Hon'ble Supreme Court observed as under:-

"10. The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and accordingly, the claim has been enhanced to ₹5,00,000/- (Rupees Five Lakhs). As 50% of the compensation amount was stayed by this Court, the same be paid to the respondent in terms of the impugned judgment within eight weeks."

11. Thus, in view of the ratio ratio laid down by the Hon'ble Supreme Court in the case of **Urmila Halder**(*supra*), the provision of Section 164 can be made applicable retrospectively. Thus, having regard to the facts and circumstances of the present case, I am of the considered view that the compensation awarded by the learned Tribunal is enhanced from Rs.1,42,500/- to Rs.2,50,000/- as per provision of Section 164 of the M. V. Act.

12. Therefore, the claimant/appellant shall be entitled for the additional compensation of Rs.1,07,500/- i.e. (Rs.2,50,000/- -

(less) Rs.1,42,500/-). The learned Tribunal has awarded the interest at the rate of 7.5% per annum, therefore, the claimant/appellant shall also be entitled for the interest at the rate of 7.5% on the additional amount of compensation.

13. In view of the above discussions, the captioned appeal stands allowed partly. The impugned judgment and award is modified to the aforesaid extent.

14. The respondent No.3-Insurance Company is directed to deposit the additional amount of compensation along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization, within a period of 6 weeks from today.

15. Upon depositing of the said amount, the learned Tribunal shall disburse the amount to the original claimant, after deducting the deficit court fees, if any, and after due verification.

16. Statutory amount, if any, lying/deposited with the Registry of this Court, the same be transmitted to the concerned learned Tribunal forthwith.

17. R & P, if any, be sent back to the concerned learned Tribunal forthwith. No order as to costs.

CDP

(MOOL CHAND TYAGI, J)

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 21/02/2026 11:32:33