IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 411 of 2015

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE NISHA M. THAKORE

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Approved for Reporting	Yes	No

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NEW INDIA ASSURANCE CO LTD
Versus
JALPABEN DIPESHBHAI VAISHNANI & ORS.

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Appearance:
MS DIMPLE A THAKER(6838) for the Appellant(s) No. 1
MR. JAY M THAKKAR(6677) for the Defendant(s) No. 2,3
NISHIT A BHALODI(9597) for the Defendant(s) No. 1,4
RULE SERVED for the Defendant(s) No. 5,6

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CORAM:**HONOURABLE MS. JUSTICE NISHA M. THAKORE**

Date : 02/04/2026

ORAL JUDGMENT

1. Heard Ms. Dimple A. Thaker learned advocate on record for the appellant-New India Assurance Company Ltd., Mr. Nishit A. Bhalodi learned advocate has appeared on behalf of respondent-original claimant and Mr. Jay M. Thakkar learned advocate has entered appearance on behalf of respondents No. 2 and 3.

2. The present appeal is filed at the instance of the original opponent No. 2-Insurance Company under Section 173 of the Motor Vehicles Act, 1988, (for short "the Act

1988 "), being aggrieved and dissatisfied by the judgment dated 09.12.2014 and award dated 22.12.2014 passed by the Motor Accident Claims Tribunal, (Aux), at Gondal in M.A.C.P No. 487 of 2006. By the said judgment and award the Tribunal has partly allowed the claim petition preferred by the original claimants under Section 166 of the Act, 1988 holding them entitled to recover a sum of Rs. 5,85,500/-, towards compensation from the original opponents jointly and severally, with interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realisation with proportionate costs.

3. Before adverting to the merits of the appeal, appropriate would be to consider the manner in which the accident was reported.

3.1. On fateful day on 28.12.2005, the deceased Dipeshbhai Jamanbhai was traveling as a pillion rider on Hero Honda Splendor Motor Cycle bearing registration MH-16X-854 which was driven by original opponent No.1. They were traveling from Puna road, Maharashtra and while they had reached near village Kamarganv opposite to Miles Stone Hotel, their vehicle was hit by unknown luxury bus. It was pleaded that the vehicles were driven in a rash and negligent manner and the luxury bus had approached from the wrong side and had hit the motorcycle and ran away. Due to the impact, the deceased had sustained fatal injuries

and he had died on the spot. The heirs and legal representatives of the deceased which includes the wife of the deceased, their two minor children and the parents of the deceased, have preferred claim petition under Section 166 of the Act, 1988 praying for compensation of Rs. 8 lakhs with interest and cost from the original opponents which includes the driver of the motorcycle, the owner of the motorcycle and the Insurance Company.

4. Considering the pleadings, the summons were issued upon the original opponents before the Tribunal. Despite service of summons, the driver cum owner (opponent No.1) had chose not to enter appearance or to object to the claim petition. The original opponent No.2 Insurance Company had objected to the claim petition by submitting its written statement at Exh. 17. Apart from disputing the averments made in the claim petition, specific defense was raised by the Insurance Company, disputing the negligence of the driver of the motorcycle as well as holding of any valid driving license. It was also contended that in absence of the driver and the owner of the unknown luxury bus alleged to be involved in the accident as being not joined as party to the proceedings, the claim petition was not maintainable. It was contended that the accident had occurred due to sole negligence on the part of driver of the unknown luxury bus. By raising aforesaid grounds, the Insurance Company had disputed their liability to pay any amount of compensation.

Considering the aforesaid pleadings, the Tribunal had framed issues at Exh. 23, which are reproduced as under :-

> *"1. Whether the accident was caused due to rash and negligent driving on the part of driver of MH-16X-854 as alleged?*
>
> *2. What amount of compensation the applicant is entitled to and from whom?*
>
> *3. What order and award?"*

5. On the issue of negligence, the Tribunal had taken into consideration, the examination-in-chief affidavit of the wife of the deceased at Exh. 29 who had mainly reiterated the averments made in the claim petition in her cross-examination. The opponent Insurance company had failed to bring on record any contradictory facts on the issue of negligence. Considering the aforesaid evidence in light of the other corroborative material; the post- mortem report of the deceased produced on record, the FIR of the alleged accident, the panchnama of the place of accident, the Tribunal arrived at a finding that both the drivers of the respective vehicles involved in the accident have attributed to the occurrence of accident. The Tribunal had further relied upon the Full Bench decision of Hon'ble Supreme Court 2014 ACJ 74 as well as of this Hon'ble High Court in

the case of **Mayaben Ramanlal Jaiswal and another Vs. Rajubhai Chimanlal Jaiswal and another reported in (2014) ACJ 859** holding that in case of composite negligence, all the opponents were jointly and severally liable to pay the amount of compensation to the claimants. On the quantum of compensation, the Tribunal has noted that the claimants have contended that the deceased was serving in Shiv Shakti Solvent and was also doing furniture work thereby earning income of Rs.8000/- per month, however, in absence of any evidence on record being produced reflecting the income of the deceased, the Tribunal had fixed the monthly income of deceased as Rs. 3000/-. Considering the avocation of the deceased of serving in the Industry, the Tribunal has considered 30% addition towards future rise in the aforesaid income and has thereby determined the prospective income of the deceased as Rs. 3,900/- per month. Considering the age of the deceased 20 years as recorded in the postmortem report, the Tribunal has applied the multiplier of 17 and has considered the deduction of 1/3rd towards personal and living expenses of the deceased so as to arrive the monthly dependency of the deceased as Rs. 2,600/-. The loss of dependency was fixed as Rs. 5,30,400/- (Rs. 2600/- multiply by 12 multiply by 17). The Tribunal has further taken into consideration, the amounts under conventional heads and has awarded Rs. 20,000/- and Rs. 5000/- respectively. Lastly, the Tribunal has awarded Rs. 30,000/-

under the head of love and affection and consortium. The Tribunal has thereby awarded total compensation of Rs. 5,85,500/-. Having held so, the Tribunal has further apportioned the liability of the opponent No.1, i.e driver cum owner of the motorcycle to the extent of 30% thereby fixing the liability of the driver of unknown luxury bus as 70%. However, considering it as the case of composite negligence, all the opponents are held jointly and severally liable to pay compensation of Rs. 5,85,500/- with interest and cost. Hence, the present appeal at the instance of the Insurance Company of the motorcycle disputing their liability mainly on the ground of the negligence and the quantum of compensation.

6. Learned advocate appearing for the appellant Insurance Company has vehemently submitted that despite specific defense being raised before the Tribunal disputing the issue of negligence, the Tribunal has not appreciated the evidence on record in its right perspective while holding the driver of the motorcycle negligent to the extent of 30%. She has invited my attention to the defense raised in the written statement at Exh. 17 by the appellant Insurance Company and has urged this Court to re-appreciate the FIR and panchanamas as according to her no negligence can be attributed to the driver of the motorcycle towards the accident. Alternatively, she has submitted that even considering 30% liability of the driver of the motorcycle, the

Insurance Company could not have been held liable to pay the entire amount of compensation as can be gathered from the directions issued by the Tribunal in its impugned judgment and award by holding the driver, owner and the Insurance Company of the motorcycle, jointly and severally liable along with the driver of the unknown luxury bus.

7. In support of her submission, reliance was placed on the judgment of the Kerala High Court in the case of **National Insurance Co. Ltd Vs. Sivasankara Pillay and Ors.** reported in **(1995) ACJ 1077.** The reliance was also placed on the decision of Kerala High Court in the case of **United India Insurance Company Ltd. Vs. Mariamma George,** reported in **AIR 2010 (NOC) 838 (Kerala).** Referring to the observations made in the aforesaid decision, learned advocate has submitted that the appellant Insurance Company at the most can be held liable to pay the amount of compensation to the extent of 30%. On the quantum of compensation, learned advocate had submitted that in absence of any proof of income being produced on record, the Tribunal committed a serious error in fixing the income of the deceased as Rs. 3000/-. It was submitted that as per settled principles laid down by the Hon'ble Supreme Court in its various decisions, in absence of proof of income on record, considering the nature of avocation of the victim of the accident Courts/Tribunal are bound to follow the yardstick of minimum wages prevailing at the time of

accident the standard rates of minimum wages notified by the State Government as prevailing on the date of the accident ought to have been followed for fixing income. According to her, the minimum wages prevailing even in the case of skilled workers to be considered was Rs. 2,400/-. She has further disputed the liability of the Insurance Company by submitting that the pillion rider on a motorcycle cannot be considered third party. The question of law as to whether insurance company can be held liable to pay compensation in case of injuries or deaths of pillion rider is pending consideration before the larger Bench, in view of the order dated 25.08.2022 passed by the Hon'ble Supreme Court in the case of **Mohana Krishnan S. Vs. K. Balasubramaniyam & ors, Special Leave to Appeal Nos. 3433 of 2020.** By making aforesaid submissions learned advocate has referred to and relied upon on the grounds raised in the appeal memo and has urged this Court to allow the appeal and to exonerate the Insurance Company from its liability to pay compensation or to alternatively modify the impugned judgment and award to the extent of 30%.

8. Per contra, learned advocate Mr. Nishit Bhalodi appearing for the respondent original claimant has forcefully objected to the aforesaid submissions made by learned advocate for the appellant-Insurance Company. Learned advocate had mainly relied upon the findings and

reasons assigned by the Tribunal and has submitted that the Tribunal has rightly appreciated the FIR and panchnama produced on record in light of the evidence of the claimant. As rightly noted by the Tribunal, no contradictory material fact has been brought on record by the Insurance Company in the cross-examination of the claimant. In absence of any rebuttal of the evidence of the claimant, though the driver of the unknown luxury bus has not been joined as party to the proceedings, however, considering the manner in which the accident was reported and been established by the claimant, the Tribunal has rightly fixed the negligence of respective drivers to the extent of 70% : 30%. It is equally settled principle that in case of composite negligence, the claimant is entitled to sue both or any of the joint tortfeasors and is also entitled to recover the entire amount of compensation as their liability as joint tortfeasor is jointly and severally. The reliance was placed on the decision of the Coordinate Bench of this Court in the case of legal heirs of deceased **Karna bhai Rajsibhai & Ors. Vs. Owner of Chakdo Rickshaw No. GJ-11-V-3106 & Ors., oral order dated 05.02.2025,** passed in First Appeal No. 1714 of 2010 as well as in the case of **Arvind Tulsidas Ganatra Vs. Dilipkumar Jwalaprasad Pande in First Appeal No. 4162 of 2018, oral order dated 15.02.2024.** Inviting my attention to the reasons assigned, learned advocate had submitted that the Court has mainly relied upon the decision of the Hon'ble Supreme Court in the case

of **Khenyei Vs. New India Assurance Company Ltd. (2015) 9 SCC 273**. Learned advocate has also placed reliance upon the decision of the learned Single Judge of this Court in the case of **Mayaben Ramanlal Jaiswal and another (supra).** Inviting my attention to the facts of the aforesaid cases referred to and relied upon, learned advocate had submitted that in similar set of facts where the collision had occurred between the vehicle involved in the accident and the unknown vehicle, the Court has appreciated the evidence on record and had answered the issue of negligence of the drivers of both the vehicles involved. Though the Court has apportioned the negligence of the respective drivers of the vehicles involved, as regards the liability towards the payment of entire amount of compensation in case of composite negligence is concerned, it has been held that the claimants are entitled to sue any of the tortfeasors and recover the entire compensation. Learned advocate has, therefore, urged this Court to dismiss the present appeal on the issue of negligence.

9. As regards the quantum of compensation is concerned, learned advocate had fairly submitted that no appeal or cross-objections have been filed by the claimant, however, in order to defend the amount of compensation determined by the Tribunal to be just and proper, he had pointed out that if the minimum wages are required to be considered as Rs. 2,400/- then the future rise of income has

wrongly been confined to 30% instead of 40%. Similarly, the deduction of 1/3rd has wrongly been applied instead of ¼th. Considering the fact that the deceased was survived by five members in the family at the time of accident. He has further pointed out that the amount of compensation awarded under the conventional heads is also required to be revisited in light of the well settled principles laid down by the Hon'ble Supreme Court in its landmark decision in the case of **National Insurance Company Ltd Vs. Pranay Sethi and Ors reported in (2017) 16 SCC 680.** Learned advocate had, therefore, submitted that if the aforesaid components are taken into consideration which is strictly in accordance with the settled principles laid down by Hon'ble Supreme Court, the amount of compensation is required to be enhanced. He has, therefore, objected to the entertainment of appeal on the issue of quantum of compensation as well. Lastly, learned advocate had drawn my attention to the written statement filed by the Insurance Company at Exh. 17 to point out that in fact the defense was raised disputing their liability on the ground that the insurance policy was not produced on record at the relevant stage. He had invited my attention to the insurance policy which is essentially a cover note issued by the appellant Insurance Company in respect to the offending vehicle motor cycle at mark 29/3. Learned advocate had further submitted that considering the grounds raised in the appeal memo there is no challenge to the liability on the ground

that the policy was not issued in respect of the motor cycle involved in the accident. Thus, having not disputed the aforesaid policy, the issue which has been raised for the first time before this Court with regard to the liability of the Insurance company to be deferred in case of pillion rider of the insured vehicle pending consideration in the reference, was not taken before the Tribunal. He has, therefore, objected to take into consideration the aforesaid issue for entertaining the present appeal. However, he had submitted that despite the aforesaid contention being raised if one looks at the policy produced on record at mark 29/3, it is evident that the said policy is not an act policy but a package policy. The close examination of the contents of the policy suggest that apart from the risk of the driver of the motorcycle one passenger was also permitted as pillion rider on the motorbike. Reading the overall contents of the policy, this Court may not dwell into the aforesaid issue as pending consideration in the reference before the Hon'ble Supreme Court in the facts of the case. The attention of this Court was invited to the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Balakrishnan & another reported in 2013 (1) SCC 731.** It was submitted that before the Hon'ble Supreme Court the appellant Insurance Company contended that it was an 'Act only' policy and therefore, the liability could not be fastened on the Insurance company to pay the compensation. It was pointed out that the vehicle was insured in the name of the

company, the Managing Director was the legal owner of the vehicle and therefore, the insurance liability was to the limited extent as stipulated in the policy. On the other hand the insurer had objected by submitting that even assuming that the respondent No.1 was not the owner a non-fare paying passenger would not be covered under the policy. Barring the insurer and the insured, all others were required to be treated as third parties and, therefore the liability was covered in terms of the policy. The question arose for consideration before the Hon'ble Supreme Court was whether in the present case, policy is an 'Act policy' or comprehensive/package policy. The Hon'ble Supreme Court while appreciating the record noted that the Tribunal and the High Court had failed to discuss on the issue or appreciating the contents of the policy. The matter was therefore, remitted back to the Tribunal to scurtinise the policy in its proper perspective and the parties were permitted to lead additional evidence to examine as to whether it was a comprehensive/package policy so as to determine the issue of liability.

10. The learned advocate had further submitted that in the background of the facts of the case, the Court had taken into consideration, the decision of the High Court of Delhi in the case of **Yashpal Luthra Vs. United India Insurance Company Limited reported in 2011 ACJ 1415.** The controversy arose before the Hon'ble High Court with regard

to interpretation of the term package policy. After recording the evidence of the competent authority of the tariff advisory committee (TAC) and the Insurance Regulatory and Development Authority (IRDA), a circular dated 16th November 2009 was issued by IRDA to CEOs of all Insurance Companies. restating the factual position relating to the liability of insurance company in respect of pillion rider on a two-wheeler and occupants in a private car under the comprehensive/package policy. Referring to the aforesaid circular being reproduced, learned advocate had submitted that the Hon'ble Supreme Court noted that it has been admitted by the competent authority that the term 'comprehensive policy' is presently called a "package policy'. Learned advocate had therefore submitted that considering the aforesaid clarification issued by the competent authorities, in view of the contents of the policy produced on record at mark 29/3 the aforesaid policy is required to be treated as 'comprehensive policy' covering the risk of the pillion rider as well. Learned advocate has therefore, urged this Court to dismiss the appeal and to confirm the impugned judgment and order of the Tribunal.

11. I have carefully considered the arguments made by learned advocates appearing for the respective parties and I have also perused the findings and reasons assigned by the Tribunal on the issues framed. I have also re-appreciated the relevant evidence on record. At the outset, it would be

appropriate to look into the issue of negligence. On careful appreciation of the evidence of the wife of the deceased who has been examined as witness and her evidence been recorded at Exh. 29, it transpires that she is not the eyewitness to the accident, however, she has reiterated the manner in which the accident had taken place as pleaded in the original claim petition. She has categorically pleaded and deposed before the Tribunal that the deceased was traveling as a pillion rider on a motorcycle which was driven in a rash and negligent manner by the original opponent No.1 driver cum owner of the motorcycle rightly in the middle of the road. At the same time, she has in the equal breath pleaded and deposed that the driver of the unknown luxury bus was equally negligent in driving the vehicle and had hit the motorcycle from the opposite side.

12. Having noted the aforesaid evidence of the said witness on appreciation of her cross-examination, the suggestion put forward by the opponent Insurance Company, she has conceded to the fact that her husband was sitting as a pillion rider on the motorcycle and the said vehicle had met with an accident with the unknown vehicle. She has denied the suggestion of the counsel for the Insurance that the driver of the motorcycle was not negligent. Except for the aforesaid suggestion of the counsel for the Insurance Company, no contradictory material fact has been brought on record rebutting the evidence of the claimant involving

the driver of the offending vehicle motorcycle equally negligent towards occurrence of the accident. On re-appreciation of the documentary evidence mainly the FIR and the panchnama produced on record, the case of the claimant has been corroborated through the aforesaid documentary evidence. The Tribunal with such evidence on record has rightly taken into consideration the post-mortem report of the deceased which suggest that the deceased had succumbed to fatal injuries caused in a motor vehicle accident. The driver cum owner of the vehicle had chosen not to object to the claim petition, at the same time the Insurance Company has failed to examine the driver of the motorcycle as witness. With such evidence on record no error can be found with the approach of the Tribunal in holding the driver of the motor cycle negligent towards the occurrence of the accident. The Tribunal has further taken into consideration the FIR and the panchnama produced on record in light of the evidence of wife of the deceased to hold the driver of the unknown luxury bus negligent towards occurrence of accident.

13. Having noted the aforesaid findings and reasons assigned by the Tribunal and having re-appreciated the evidence, as regards the legal position of the liability of insurance company is concerned, admittedly when the deceased was a pillion rider it is a case of composite negligence. In such circumstances, where the joint

tortfeasors were involved, the claimants are entitled to seek recovery of the amount of compensation by filing claim petition against both tortfeasors or either of them and are also entitled to recover the entire amount of compensation as liability of joint tortfeasors is jointly and severally as held by the Hon'ble Supreme Court in the case of **Khenei (supra),** in case of composite negligence, apportionment of compensation between two tortfeasors *vis a vis* the claimant is not permissible. Thus, the claimants are entitled to seek recovery of the entire amount of compensation from any of the tortfeasors. The Court has also held that it would not be appropriate for the Court/Tribunal to determine the extent of composite negligence of the driver of two vehicle in absence of impleadment of other joint tortfeasors, however, as regards the entitlement of recovery of amount of compensation is concerned no error can be found with the directions issued by the Tribunal to recover the amount of compensation jointly and severally. Thus, leaving the option open for the claimant to seek recovery of the entire compensation from either of the opponents.

14. Having examined the issue of negligence, if one looks at the issue of liability, it would be required to be noted that the issue of pillion rider being not a third party for the purpose of determining the liability of the insurance company of insured vehicle pending consideration in the reference before the Hon'ble Supreme Court has been

agitated for the first time in the present appeal. On careful consideration of the defense raised in the written statement at Exh. 17 and the grounds raised in the appeal memo, the same is bereft of such defense. The policy issued by the insurance company as produced on record at mark 29/3 has not been disputed by the appellant Insurance company. On bare perusal of the contents of the policy, it is evident that it is a package policy issued by the Insurance Company in fact the insured vehicle is permitted to ply with one passenger. Considering the aforesaid contents of the policy in light of the circular issued by the competent authority IRDA as reproduced in the decision of the Hon'ble Supreme Court in the case of **Balakrishnan (supra),** there is no reason for this Court to accept the plea of the appellant-Insurance Company that the Insurance Company was not liable to pay the compensation to the claimants. Considering the decision of the Delhi High Court in the case of **Yashpal Luthra (supra),** this Court is of the view that the package policy of the motor cycle covers the risk of pillion rider as well. Thus, the Tribunal has rightly fixed the liability of the appellant Insurance company jointly and severally with the driver of the unknown luxury bus to pay compensation to the claimants.

15. This brings me to the last issue of quantum of compensation as disputed by the appellant-Insurance Company mainly on the ground that the income of the

deceased is fixed on the higher side. It is true that no documentary evidence worth has been produced on record to satisfy that the deceased was earning monthly salary of Rs. 8000/-. The Tribunal has therefore, rightly followed the minimum wages, however, as evident from the standard rates of minimum wages as notified by the State of Gujarat at the time of the accident which has taken place on 28.12.2005, the minimum wages as notified in the case of skilled workman was Rs. 2,400/-. Apt would be to follow the principles laid down by the Hon'ble Supreme Court in the case of **Govind Yadav vs. New India Assurance Company Limited** reported in **2012 ACJ 28 (SC).** It has been held that in absence of any direct proof of income being produced on record, the Courts/Tribunal are at liberty to follow the minimum wages notified at the time of accident for the purpose of determination of the income of the victim of the accident. Considering the avocation of the deceased in the facts of the case, the Tribunal ought to have fixed the income of the deceased to Rs. 2,400/- per month. As regards the loss of dependency is concerned if one looks at the well settled principles laid down by Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation reported in 2009(6) SCC 121,** the Tribunal ought to have considered deduction of ¼th instead of 1/3rd as admittedly, the deceased was survived by 5 members in the family at the time of accident towards his personal and living expenses. As regards the multiplier applied, the age of

the deceased being fixed as 28 years which would fall in the age group of 26 to 30 years, no error can be found with the approach of the Tribunal in adopting the multiplier of 17.

16. Considering the circumstances on record, following the decision of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra),** the case of the deceased being treated of a fixed salary person falling between the age group of below the age of 40 years, 40% rise was required to be considered towards the prospective income of the deceased. Considering the aforesaid components, the loss of dependency is redetermined as Rs. 5,15,400/-. Learned advocate for the respondents has fairly conceded to the fact that no appeal or cross-objections have been filed praying for enhancement. However, since the appeal is also filed on the issue of quantum of compensation bearing in mind the object of legislation to award just and reasonable amount of compensation, noticing the vehemency of the appellant-Insurance Company disputing the quantum of compensation, this Court is mandated to examine the aforesaid aspect. Considering the broad principles that a beneficial legislation is required to be adopted in a manner which promote social welfare, protect vulnerable groups and provide effective remedies to accident victims this Court bearing in mind the core object of just and reasonable amount of compensation to be awarded, cannot ignore the well settled principles laid down by Hon'ble Supreme Court

on quantum of compensation. While considering the amount of compensation under the head of dependency loss, this Court has in absence of appeal or any cross-objections been filed by the original claimant, been compelled to look into the quantum of compensation being awarded under the conventional heads as well.

17. In view of the subsequent decision of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra),** as well as in the case of **Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhur Ram & Ors** reported in **(2018) 18 SCC 130**, the amount of compensation awarded under the head of loss of love, affection and consortium is re-determined. Noticing the fact that the deceased was survived by five members in the family, the amount of loss of consortium is required to be re-visited in view of aforesaid principles. However, it is also required to be noted that the mother of the deceased is reported to have expired pending the present proceedings. Keeping in mind the aforesaid fact and the fact that the claimants mainly include the wife of the deceased, their two children, the father of the deceased, the loss of consortium is re-determined as Rs. 1,93,600/- (Rs. 48,400/- multiply by 4) instead of Rs. 30,000/- awarded under the head of love, affection and consortium. Similarly, the amount of compensation awarded under the head of loss of estate and funeral expenses is re-determined as Rs. 18,150/- each.

18. For the foregoing reasons, the total amount of compensation is re-determined as under :-

Sr. No.	Details	Tribunal	In Appeal
1.	Loss of Dependency	Rs. 5,30.400/-	Rs.5,15.400
2.	Conventional amount	Rs. 30,000/-	Rs. 1,93.600/-
3.	Funeral expenses	Rs. 5000/-	Rs. 18,150/-
4.	Loss of estate	Rs. 20,000	Rs. 18,150.
5.	Total amount	Rs.5,85,400/-	Rs. 7,45,300/-

19. For the forgoing reasons, the First Appeal is hereby partly allowed. The impugned judgment dated 09.12.2014 and award dated 28.12.2014 passed by the Motor Accident Claims Tribunal in MACP No. 487 of 2006 by Motor Accident Claims Tribunal (Aux) Gondal is hereby modified by holding the original claimants entitled to seek recovery of total amount of compensation to the tune of Rs. 7,45,300/- with interest at the rate of 9% from the original opponents jointly and severally. Rest of the directions issued by the Tribunal with regard to the apportionment of the awarded amount in favour of the claimants is hereby confirmed. Needless to clarify that in case the minors have turned major it shall be open for the Tribunal to pass appropriate orders.

20. Having held so, the appellant Insurance company is directed to deposit the enhanced amount of compensation to the tune of Rs.7,45,300/- with interest and proportionate costs as awarded by this order before the concerned Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment. On deposit of the entire awarded amount with the concerned Tribunal, it shall be open for the Tribunal to proceed with the release and disbursement of the awarded amount in favour of the respective claimants subject to due verification and strictly adhering to the guidelines of Hon'ble Supreme Court in this regard. The Tribunal shall undertake such exercise within a period of two weeks from the date of deposit of the entire awarded amount. It is further directed that it shall be open for the Tribunal to recover the requisite Court fees, if any, before proceeding with the release and disbursement of the awarded amount.

21. With these observations, the First Appeal stands disposed of in the aforesaid terms. The record and proceedings are directed to be sent back to the concerned Tribunal with a writ of this judgment.

(NISHA M. THAKORE,J)

MARY VADAKKAN