

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3454 of 2010****With
R/FIRST APPEAL NO. 3455 of 2010****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

Approved for Reporting	Yes	No

JIGNABEN @ JIGISHABEN WD/O MAHESH SHANABHAI PATEL & ORS.
Versus
PATEL DIPAKKUMAR NATWARLAL & ORS.

Appearance:

MR A R DWIVEDI(11319) for the Appellant(s) No. 1,2,3,4
MR R G DWIVEDI(6601) for the Appellant(s) No. 1,2,3,4,5
MR HS MUNSHAW(495) for the Defendant(s) No. 2
MR TANMAY B KARIA(6833) for the Defendant(s) No. 4
SERVED BY AFFIX. (R) for the Defendant(s) No. 1,3

CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**Date : 17/12/2025****ORAL JUDGMENT**

1. The captioned appeals are preferred against the common impugned judgment and award dated 24.05.2010 passed by the Motor Accident Claims Tribunal (Aux), Ahmedabad Rural in Motor Accident Claim Petition No.595 of 2000 and 596 of 2000, whereby the claim petitions were partly allowed and the learned Tribunal has awarded a sum of Rs.3,97,000/- as a compensation in Motor Accident Claim Petition No.595 of 2000

and a sum of Rs.1,75,000/- as a compensation in Motor Accident Claim Petition No.596 of 2000 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 appeals are that on 16.02.2000 at about 04:15 pm, the deceased Pintubhai Rambhai and Maheshbhai Shanabhai Patel were riding on scooter bearing Registration No.GJ-1-NN-9545. The said scooter was being driven by Maheshbhai Shanabhai Patel while the Pintubhai Rambhai was riding as a pillion rider on the said scooter. At the time of accident, that they were returning on the aforesaid scooter from Ganesh Engineering Works and when they reached near Amraiwadi, an AMTS bus bearing registration No.GRU-8599 came in a rash and negligent manner at a very excessive speed so as to endanger the human life and hit the scooter on which the Pintubhai Rambhai and Maheshbhai Shanabhai Patel were riding. In the said accident, they sustained grievous injuries and they were taken to L.G. Hospital where they succumbed to the injuries. It is also the case of the original claimants before the learned Tribunal that at the time of accident, the deceased Maheshbhai Shanabhai Patel was

working with Atlas Electricals Company as a production in-charge in the said company since last ten years and Pintubhai Rambhai was working as a peon in the Atlas Electricals Company.

3. It is also pleaded in the claim petition that at the time of accident, the deceased Pintubhai Rambhai was getting a salary of Rs.2,500/- while Maheshbhai Shanabhai Patel was getting a salary of Rs.4,550/-.

4. Therefore, the claim petitions were filed for seeking the compensation.

5. On being served with the notices of the claim petitions, the respondent No.1 and 2 filed the written statement at Exh-16 while the respondent No.4 filed the written statement at Exh-24. In their respective written statements, the averments made in the claim petitions were denied and prayed for dismissal of the claim petitions.

6. Having considered the pleadings of the parties, the learned Tribunal had framed following issues for determination.

- “1. Whether it is proved that the deceased sustained injuries and died on account of rash or negligent driving on the part of the driver of the vehicle involved in the accident?*
- 2. What amount, if any, the claimant is entitled to by way of compensation and from which of the opponents?*
- 3. What order and award?”*

7. Having considered the pleadings, evidence oral as well as the documentary and submissions of the learned advocates for the parties, the learned Tribunal had partly allowed claim petitions and in Motor Accident Claim Petition No.595 of 2000, the learned Tribunal had awarded a sum of Rs.3,97,000/- as a compensation along with the interest at the rate of 7.5% per annum while in Motor Accident Claim Petition No.596 of 2000, the learned Tribunal had awarded a sum of Rs.1,75,000/- 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.

8. Being aggrieved and dissatisfied with the impugned judgment and award, the original claimants/appellants- herein challenged the common impugned judgment and award passed in both the captioned claim petitions on the ground of quantum.

9. Heard learned advocates for the parties.

10. Mr. R. G. Dwivedi, learned advocate appearing on behalf of the original claimants/appellants, vehemently submitted that the learned Tribunal has not considered the evidence of income on record. He further submitted that in order to prove the income of the deceased, the claimants/appellants-herein examined the employer and he proved the employment and the salary of the deceased. However, the learned Tribunal has ignored all these evidences of income on record, and considered the income at a lower side. He further submitted that the learned Tribunal has not made any enhancement of income on account of future prospects of the deceased. He further submitted that the learned Tribunal has awarded a meager amount under the conventional heads. He further submitted that the learned Tribunal even has not awarded any amount of compensation under the head of loss of consortium, though the deceased were survived by their legal representatives. Therefore, he submitted that the compensation awarded by the learned Tribunal in both the claim petitions is required to be enhanced and impugned judgment and award is required to be modified accordingly.

11. On the other hand, Mr. H. S. Munshaw, learned advocate appearing on behalf of the respondent No.2, vehemently submitted that there is no infirmity in the impugned judgment and award. He further submitted that the learned Tribunal has rightly determined the income as the income was not proved on record. He further submitted that there is no infirmity in the impugned judgment and award, therefore, both the appeals are liable to be dismissed.

12. Having considered the submissions of the learned advocates for the parties and having gone through the record, it is to be noted that the negligence has not been disputed. Further, there is no dispute regarding the age and occupation of the deceased. The appellants/original claimants have challenged the common impugned judgment and award on the point of quantum.

In First Appeal No.3455 of 2010 (MACP No.596 of 2000)

13. So far as the First Appeal No.3455 of 2010 is concerned, it is not in dispute that at the time of accident the deceased

Pintubhai Rambhai was aged about 19 years and he was bachelor at the time of accident. It is not in dispute that at the time of accident, he was working with Atlas Electricals Company as peon. It has been pleaded that he was getting a salary of Rs.2,500/- per month. The original claimants have also filed the affidavit along with the lines of pleading. The original claimants have also examined the employer and his deposition was recorded at Exh-32. The employer in his deposition at Exh-32 deposed that at the time of accident, the deceased Pintubhai Rambhai was working with their company as a peon and he was getting a salary of Rs.2,500/-. However, the learned Tribunal ignored the deposition of the employer and the salary slip produced on record and assessed the income of the deceased Pintubhai Rambhai at Rs.1,500/-. In the case of **GSRTC Vs Ramaben Manubhai Pancholi** reported in **LAWS (GJH)-2008-12-63** and **Rajwati @ Rajjo & Ors Vs United India Insurance Company Limited & Ors** reported in **IX (2022) SLT 630**, the Hon'ble Courts have held that the salary slip cannot be ignored merely on the ground that the employer was not examined. Coming to the case on hand, the appellants as they have not only produced the salary slip on record but they have also examined the employer at Exh-32. In the light of evidence on

record, the learned Tribunal has committed serious illegality in not considering the income of the deceased Pintubhai Rambhai as Rs.2,500/- per month at the time of accident. Thus, in these facts and circumstances, the income of the deceased Pintubhai Rambhai is re-assessed at Rs.2,500/- as proved on record. It is not in dispute that at the time of accident, the deceased was aged about 19 years, therefore, 40% of the monthly income is to be added on account of future prospects of the deceased. Therefore, after adding 40% to the monthly income of the deceased, the income would come to Rs.3,500/- ($2,500 + 40\%$ of 2,500).

14. Since the deceased was bachelor at the time of accident, hence, $1/2$ of the salary is required to be deducted on account of the personal expenses of the deceased. Therefore, after deducting $1/2$ of the salary, the monthly income for calculating the future loss of dependency would come to Rs.1,750/- ($3,500 - (\text{less}) 1/2 \times 3,500$). It is not in dispute that at the time of accident he was aged about 19 years, therefore, after applying the multiplier of 18 as per the age of the deceased, the loss of dependency would come to Rs.3,78,000/- i.e. ($1,750 \times 12 \times 18$).

15. So far as the loss of estate is concerned, the learned Tribunal has awarded a meager amount of Rs.10,000/- under the said head. In view of the ratio of the judgment of Apex Court rendered in the case of **Sarla Varma & Ors Vs. Delhi Transport Corp. & Anr.** reported in **2009 (06) SCC 121** and **National Insurance Company Ltd. Vs. Pranay Shethi**, reported in **(2017) 16 SCC 680**, a sum of Rs.18,150/- is awarded under the head of loss of estate and similarly a sum of Rs.18,150/- is awarded under the head of funeral expenses.

16. It is on record that the deceased Pintubhai Rambhai was survived by his parents, however, the learned Tribunal has not awarded any amount of compensation under the head of loss of consortium. In view of the ratio of judgment of Apex Court rendered in the case of **Sarla Varma(supra)**, **Pranay Shethi(supra)** and **Magma General Insurance Company Limited Vs Nanu Ram @ Chuhru Ram** reported in **2018 (18) SCC 130** both the parents are entitled to get the compensation under the head of loss of consortium and hence, a sum of Rs.96,800/- (48,400 x 2) is awarded under the head of loss of consortium.

17. Thus, in view of the above discussions, the appellants/claimants of First Appeal No.3455 of 2010 (in M.A.C.P. No.596 of 2000) shall be entitled for the following amount of compensation under the following heads:-

Particulars	Amount (Rs.)
Loss of dependency	3,78,000/-
Loss of estate	18,150/-
Funeral expenses	18,150/-
Loss of consortium	96,800/-
Total	5,11,100/-
Less: compensation already awarded	1,75,000/-
Enhancement	3,36,100/-

18. In view of the above discussions, the claimants/appellants shall be entitled for the total compensation of Rs.5,11,100/-. The learned Tribunal has already awarded a sum of Rs.1,75,000/-. Therefore, the claimants/appellants shall be entitled for the additional compensation of Rs.**3,36,100/-** i. e. (Rs.5,11,100/- - (less) Rs.1,75,000/-). The learned Tribunal has awarded the interest at the rate of 7.5% per annum, therefore, the claimants/appellants shall also be entitled for the interest at the rate of 7.5% on the additional amount of compensation.

In First Appeal No.3454 of 2010 (MACP No.595 of 2000)

19. So far as the claimants of the Motor Accident Claim Petition No.595 of 2000 is concerned, it is not in dispute that the deceased Maheshbhai Shanabhai Patel at the time of accident was aged about 30 years and 6 months as per the school leaving certificate at Exh-28. He was also working with the Atlas Electricals Company as a production in-charge and he was getting a salary of Rs.4,550/-. He was also engaged in agriculture as revealed from Exh-42, 43 and 44 on record.

20. The learned Tribunal has considered the monthly income of the deceased Maheshbhai Shanabhai Patel as Rs.3,000/- per month. Though the employer was examined by the original claimants/appellants- herein before the learned Tribunal at Exh-32 and he proved the monthly salary and employment of the deceased Mahesh Shanabhai Patel. Considering the income of salary as well as the agricultural income, it would be just if the income of the deceased Maheshbhai Shanabhai Patel at the time of accident is re-assessed at Rs.6,000/- per month. It is also evident from the impugned judgment and award that the learned

Tribunal has not enhanced the said income by 40% in consonance of the ratio of the judgment of Apex Court rendered in the case of **Pranay Shethi(supra)** and hence, the notional monthly income of Rs.6,000/- is also enhanced by 40% on account of future prospects of the deceased. Thus, after adding 40% to the monthly notional income of the deceased, the income would come to Rs.8,400/- (6,000 + 40% of 6,000).

21. It is on record that the deceased was survived by his widow, two children and parents i.e. five legal representatives. Therefore, 1/4 of the income has to be deducted on account of personal expenses of the deceased. After deducting 1/4 of the monthly income on account of personal expenses of the deceased, the monthly income for calculating the future loss of dependency would come to Rs.6,300/- (8400 – (less) 1/4 of 8,400).

22. It is not in dispute that at the time of accident the deceased was aged about 30 years and 6 months, therefore, applying the multiplier of 17 as per the age of the deceased, the loss of dependency would come to Rs.12,85,200/- i.e. (6,300 x 12 x 17).

23. It is on record that the learned Tribunal had awarded a meager amount of Rs.10,000/- under the head of loss of estate and a sum of Rs.3,000/- is awarded under the head of funeral expenses. The compensation awarded under these heads are required to be enhanced in consonance to the ratio of the judgment of the Apex Court rendered in the case of **Pranay Shethi(supra)** hence, a sum of Rs.18,150/- is awarded under the head of loss of estate and a sum of Rs.18,150/- is awarded under the head of funeral expenses.

24. It is on record that the deceased was survived by his widow, two minor children and parents, however, the learned Tribunal had not awarded any amount of compensation under the head of loss of consortium. All the claimants/appellants are not entitled for the compensation under the head of loss of consortium, therefore, a sum of Rs.2,42,000/- (48,400 x 5) is awarded under the head of loss of consortium.

25. Thus, in view of the above discussions, the appellants/claimants of First Appeal No.3454 of 2010 (in MACP No.595 of 2000) shall be entitled for the following amount of

compensation under the following heads:-

Particulars	Amount (Rs.)
Future Loss of Income	12,85,200/-
Loss of estate	18,150/-
Funeral expenses	18,150/-
Loss of consortium	2,42,000/-
Total	15,63,500/-
Less: compensation already awarded	3,97,000/-
Enhancement	11,66,500/-

26. In view of the above discussions, the claimants/appellants shall be entitled for the total compensation of Rs.15,63,500/-. The learned Tribunal had already awarded a sum of Rs.3,97,000/-. Therefore, the claimants/appellants shall be entitled for the additional compensation of Rs.**11,66,500/-** i. e. (Rs.15,63,500/- -(less) Rs.3,97,000/-). The learned Tribunal has awarded the interest at the rate of 7.5% per annum, therefore, the claimants/appellants shall also be entitled for the interest at the rate of 7.5% on the additional amount of compensation.

27. In view of the above discussions, both the appeals stand allowed partly to the aforesaid extent. The impugned judgment and award is modified accordingly.

28. The respondent No.2- Ahmedabad Municipal Transport Service is directed to deposit the additional amount of compensation along with the interest within a period of six weeks from today.

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

30. Amount, if any, lying deposited with the Registry of this Court, the same be transmitted to the concerned learned Tribunal forthwith.

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

(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 20/12/2025 15:55:29