

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3220 of 2025****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

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Approved for Reporting	Yes	No

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MAHEBUB KASAMBHAI BOGHA

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

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Appearance:

NISHIT A BHALODI(9597) for the Appellant(s) No. 1

MR HS MUNSHAW(495) for the Defendant(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 09/01/2026****ORAL JUDGMENT**

- 1) Feeling aggrieved and dissatisfied with the judgment and award dated 26.03.2025 passed by learned Motor Accident Claims Tribunal (Aux.), Rajkot, (hereinafter referred to as "the Tribunal" for short), in Motor Accident Claim Petition No.577/2022, the appellant – injured-original claimant preferred present appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act" for short).
- 2) Heard Mr. N. A. Bhalodi, learned Advocate for the appellant – original Claimant and Mr.H.S.Munshaw, learned Advocate for the respondent – GSRTC. Perused the original record and proceedings.

- 3) It is the case of the appellant that on 24.01.2022 at around 01:15, while the appellant was waiting for his bus, at that time ST Bus bearing No.GJ-18-Z-6511 came in rash and negligent manner and both legs of the appellant were crushed by run over them. As a result, the appellant sustained serious injuries and got permanent disability. Therefore, the appellant has filed MAC Petitions seeking compensation. After appreciating the evidence produced on record the learned Tribunal was pleased to partly allowed the claim petition and awarded compensation of Rs.25,00,000/-.
- 4) Learned counsel for the appellant has submitted that, the Tribunal has committed error in reducing annual income of the appellant to Rs.3,88,053/- considering the average past 3 years income tax returns as the appellant was serving as a driver and earning Rs.40,000/- p.m. Therefore, the Tribunal ought to have considered Rs.4,41,380/- p.a. Further the Tribunal has not considered future prospective income of the appellant. Hence, he has requested to enhance the compensation amount in the appeal.
- 5) Learned Advocate Mr. Bhatt for Mr. Munshaw, for the GSRTC has opposed the appeal on the ground that after the accident, income gradually decreased and no actual loss of income was considered. Therefore, the compensation awarded by the Tribunal is just, legal and proper and no interference is required to call for. With these submissions he has requested to dismissed the appeal.
- 6) As the appeal is filed on limited grounds the same is required to be decided in narrow compass.
- 7) Considering the law laid down by the Hon'ble Supreme Court in the case of **Govind Yadav Vs. National Insurance Co. Ltd.,** reported in

2012(1) TAC 1 (SC), that if no proof of income is produced on the record then Tribunal has to consider prevalent minimum wages in absence of ample evidence of monthly income of the applicant. In the present case, the accident occurred in the year 2022 and the appellant has produced his last three years income tax returns which reveals that for the F.A 2021-22, his income was Rs.4,41,380/-. Hence, the income of the injured is reassessed as **Rs.4,41,380** p.a. Further, the Tribunal has considered disability of the injured as 50% and multiplier of 15 were considered by the learned Tribunal as per the judgment of the Apex Court in the case of **Sarla Verma (Smt) & Ors. Vs. Delhi Transport Corporation & Anr. [2009 (6) SCC 121]** which are just and proper. However, the Tribunal has considered multiplier of 15 without considering future prospect and awarded Rs.3,88,053/- under the head of future loss of income, which is required to be enhanced by 40%. Therefore, 40% of Rs.4,41,380/- is equal to Rs.1,76,552/-, which comes to total **Rs.6,17,932/-** p.a. Now total income under the head of future loss of income is required to be considered as Rs.6,17,932/- p.a. x 50% x 15 / 100 = **Rs.46,34,490/-**. The Tribunal has awarded Rs.29,10,390/- towards future loss of income, however, this Court is of the view that the appellant is entitled to get additional amount of **Rs.17,24,100/-** under the head of future loss of income.

Further, the learned Tribunal has awarded Rs.25,000/- under the head of pain, shock and suffering, which is reassessed to Rs.50,000/- and Rs.25000/- under the head of special diet, attendant and transportation which is just and proper. However, as discussed above, the actual loss of income is required to be reassessed as **Rs.2,15,690/-** for six months. Therefore, the appellant is entitled for additional amount of **Rs.21,664/-** under the head of actual loss of income.

- 8) As discussed above, the appellant is entitled to get compensation computed as under:

Heads	Awarded by Tribunal	Reassessed by this Court
Future loss of income	Rs.29,10,390/-	Rs.46,34,490/-
Actual loss of income	Rs.1,94,026/-	Rs.2,15,690/-
Medical Expenses	Rs.13,45,489/-	Rs.13,45,489/-
Pain, shock and sufferings	Rs.25,000/-	Rs.50,000/-
Special diet, attendant and transportation	Rs.25,000/-	Rs.25,000/-
Total compensation	Rs.44,99,905/-	Rs.62,70,669/-

- 9) It is pertinent to note that the Tribunal has calculated total compensation of Rs.44,99,905/-, meaning thereby, the claimant is entitled to get Rs.44,99,905/- against the injuries sustained in vehicular accident. However, as the claimant had prayed Rs.25,00,000/- in his claim petition, the Tribunal has adopted mypick view and awarded only Rs.25,00,000/- towards compensation. This Court is of considered view that, the Tribunal has committed error in not awarding compensation as per entitlement of the claimant. In view of the decision of ***Nagappa Vs Gurudayal Singh and others, reported in (2003) 2 Supreme Court Cases 274,*** there is no bar to award just compensation as sought for. It is duty of the Tribunal to award just and fair compensation to the claimant and in the matter of compensation of actual due and is to be awarded, despite the claimant claimed lesser value, the Tribunal has awarded lesser amount of Rs.25 lacs, which is required to be enhanced.

- 10) In view of above, as the Tribunal has awarded total compensation of Rs.25,00,000/-, however, as discussed above, the appellant would be entitled to get additional amount of **Rs.37,70,669/-** with proportionate costs and interest as awarded by the learned Tribunal.
- 11) Hence, present appeal is **partly allowed**. The judgment and award dated 26.03.2025 passed by learned Motor Accident Claims Tribunal (Aux.), Rajkot, in Motor Accident Claim Petition No.577/2022 stands modified to the aforesaid extent. Rest of the judgment and award remains unaltered. The respondent – GSRTC shall deposit said additional amount of **Rs.37,70,669/-** in MAC Petition No.577 of 2022 and along with interest as awarded by the Tribunal, before the Tribunal within a period of **four weeks** from the date of receipt of this order. Record and proceedings be remitted back to the concerned Tribunal forthwith.
- 12) The learned Tribunal is directed to recover or deduct the deficit court fees on enhanced amount and thereafter disburse the amount accordingly. Award to be drawn accordingly.

SUCHIT

(HASMUKH D. SUTHAR,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PATEL SUCHIT JAYESHBHAI(HC01083), Private Secretary, at High Court of Gujarat on 12/01/2026 15:37:15