

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3760 of 2012**

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LAKSHMANBHAI MOHANBHAI

Versus

RAJESH CHANDULAL & ORS.

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Appearance:

MS AMRITA AJMERA(5204) for the Appellant(s) No. 1

DELETED for the Defendant(s) No. 7

MR GC MAZMUDAR(1193) for the Defendant(s) No. 5

MR HG MAZMUDAR(1194) for the Defendant(s) No. 5

RULE SERVED for the Defendant(s) No. 2,3,4,6,8

RULE UNSERVED for the Defendant(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 23/09/2026

JUDGMENT

1. The present First Appeal, under Section 173 of Motor Vehicles Act, 1988, is preferred by the appellant – original claimant being aggrieved and dissatisfied with the judgment and award dated 9.8.2012 passed by the Motor Accident Claims Tribunal, Surendranagar in Motor Accident Claim Petition No.539 of 2004.

2. Brief facts of the case are as under:

2.1 That on 10-07-2004 at about 09.45 p.m., the claimants were traveling by ambassador car No.GJ-3 AB-2972 on Morvi-Rajkot road and at that time, opponent No. 1 came driving truck No.GTY 7039 in a rash and negligent manner, in

full speed and in endangering human life and dashed the said truck with ambassador car and damaged the car, at that time rickshaw No.GJ-3 W-1115 coming from back side, dashed with the car and accident was caused, which resulted into damage to the car and serious bodily injuries on different parts of applicants' body. That after the accident they were taken to Govt. Hospital of Morvi, and for further treatment, they were transferred to the Gondhia Hospital, Rajkot, where they took treatment as an indoor patients. That they have incurred huge amount towards medical treatment. That there is all possibility to receive permanent partial disablement. That according to claimants, they incurred huge amount towards medical treatment, attendance, diets, transportation etc. and they have undergone suffering from the pain and shock in the present injuries.

2.2 According to claimant in petition No.539/0400, in the accident, his ambassador car was damaged and, hence, he has claimed damages of Rs.4 lakh from the opponents.

2.3 The learned Tribunal after hearing both the parties and considering the evidence on record, was pleased to pass the impugned judgment and award.

2.4 Hence, this appeal.

3. Learned advocate for the appellant - claimant has

submitted that the Tribunal has committed an error in not properly calculating the amount of compensation. She has submitted that amount of award is on lower side as the Tribunal has not properly considered the various aspects; like pain, shock and suffering, transportation, special diet, medical expenses etc.

3.1 She has submitted that the compensation is required to be enhanced by modifying the award impugned accordingly and this appeal may be allowed.

4. *Per contra*, learned advocate for respondent – Insurance Company has submitted that the impugned judgment and award passed by the Tribunal is just and proper and therefore, he prays to dismiss the appeal.

5. Apt to note that the Motor Vehicle Act, 1988 is a beneficial piece of Legislation. The concept of just and fair compensation is integral and seminal to the MV Act. The compensation to be awarded under the principle of just and fair compensation to the injured of the road accident or the legal representative/s of the deceased person is based on the principle of fairness, reasonableness and equability. Anguish of the heart or for mental turbulence being consequential result of the road accident cannot be actually compensated, but the quint essentiality lies in adopting holistic and pragmatic view to the computation of the compensation for the loss sustained, which is to be in the realm of realistic approximation. Although exact or perfect arithmetical calculation of compensation for reparation of the loss arrived from the road accident is almost impossible. The

Tribunal is bestowed with duty to make an endeavour to award just compensation regardless of the amount claimed by the claimant. The determination of the quantum of compensation therefore, must be liberal and not niggardly since the law values life and limb in a free country in generous scale. Needless to state that money may be awarded, so that something tangible may be procured to reach something else of the like nature, which has been destroyed or lost, but money cannot renew physical frame that has been battered and shattered being a result of the road accident. Yet Tribunal to endeavour to bring back victim to stage of pre-road accident as far as possible. Thus, the award must be reasonable and cannot be assessed with moderation though it cannot at the same time be pity and what could be granted must be just, fair and equitable compensation.

6.1 I have considered the submissions made by the rival parties. I have perused the record and proceedings of the Tribunal. I have gone through the impugned judgment and award passed by the learned Tribunal. From the record, it transpires that the learned Tribunal has committed error in assessing and granting the compensation and the same is required to be enhanced suitably.

6.2 Therefore, total compensation would be as under, which the claimant/s is/are entitled to get.

Particulars	Amount (Rs.)
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Future loss of income	69,696/-
Loss of actual income	9000/-
Pain, shock and suffering	15,000/-
Medical expenses	6,000/-
Special diet, attendant charges, transportation	10,000/-
Total...	1,09,696/-
Less : Amount which is already awarded	74,300/-
Additional amount which is awarded	35,396/-

7. Therefore, I hold that the claimant are entitled to get the enhanced compensation of Rs.35,396/- with 9% p.a. interest from the date of filing the claim petition till its realisation, which would meet the ends of justice.

8. For the reasons recorded above, the following order is passed.

8.1 The present appeal is **partly allowed**.

8.2 The Insurance Company is directed to deposit the enhanced amount Rs.35,396/- with 9% p.a. interest from the date of claim petition till its realization before the concerned Tribunal, within a period of eight weeks from the date of receipt of this order.

8.3 The Tribunal shall disburse the entire awarded

amount lying in the FDR and/or with the Tribunal, with accrued interest thereon, if any, to the claimant, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure. Rest of the direction(s) of the Tribunal remain same.

8.4 While making the payment, the Tribunal shall deduct the courts fees, if not paid, in accordance with rules/law.

8.5 Record and proceedings be sent back to the concerned Tribunal, forthwith.

SHEKHAR P. BARVE

(J. C. DOSHI,J)