IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 2446 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE L. S. PIRZADA

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Approved for Reporting	Yes	No

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KIRANSINH JAVANSINH THAKOR
Versus
YOGESHKUMAR DAHYABHAI PATEL & ORS.

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Appearance:
NISHIT A BHALODI(9597) for the Appellant(s) No. 1
MR KV GADHIA(319) for the Defendant(s) No. 3
RULE SERVED for the Defendant(s) No. 1,2

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CORAM:**HONOURABLE MR.JUSTICE L. S. PIRZADA**

Date : 03/11/2026

ORAL JUDGMENT

1. The present First Appeal under Section 173 of the Motor Vehicles Act, 1988, is preferred by the appellant-original claimant, being aggrieved and dissatisfied with the judgment and award dated 08.11.2019 passed by the Motor Accident Claims Tribunal (Aux.), Anand, in MACP No. 24 of 2014.

2. Since the factual aspects of the road accident involving the vehicle and the liability of the owner as well

as the insurer are not disputed by the insurance company, and considering that the facts have already been detailed in the record, I have avoided burdening this judgment with unnecessary narration, as there is no purpose in reiterating the same.

3. Heard learned advocate Mr.Nishit A. Bhalodi for the appellant-original claimant. He submitted that the present appeal has been preferred on the ground that the compensation awarded by the learned Tribunal is on the lower side and that the learned Tribunal has not considered various aspects, including future prospects and the minimum wages applicable to the claimant. It was further submitted that the present claimant was a pillion rider on motorcycle bearing registration No. GJ-24-D-4483, which was being driven by deceased Kanuji Nenaji Thakor. In M.A.C.P. No.24 of 2014, preferred by the legal representatives and heirs of deceased Kanuji Nenaji Thakor, 15% negligence was attributed to the deceased driver of the motorcycle. However, the learned

Tribunal has also deducted 15% of the compensation awarded to the present claimant. It was submitted that such deduction is not permissible, as the claimant was a pillion rider and was not driving the motorcycle. Therefore, insofar as the present claimant is concerned, it is a case of composite negligence. Considering that the present case pertains to injuries sustained by the claimant, the appeal is required to be allowed.

4. Per contra, learned advocate Mr. K. V. Gadhia for respondent No. 3-insurance company submitted that the impugned judgment and award passed by the learned Tribunal is just and proper. The learned Tribunal has rightly considered the income of the claimant, the nature of the injuries, the dependency and future prospects of income, and has rightly awarded compensation under the relevant heads. It was, therefore, submitted that the present appeal is devoid of merit.

5. It is required to be considered that the Motor

Vehicles Act, 1988, is a beneficial piece of legislation, and the concept of just compensation is integral and central to the Act. Compensation is required to be awarded on the principles of fairness and reasonableness to persons injured in road accidents or to the legal representatives of deceased persons.

6. I have considered the submissions made by the learned advocates for the parties. In the present case, the learned Tribunal has assessed the income of the claimant at Rs.4,000/- per month. As submitted by learned advocate for the appellant, the same is on the lower side. However, as the accident took place in the year 2011, the minimum wage prevailing at the relevant time was Rs.5,750/- per month, which is considered by this Court as the income of the claimant. An addition of 40% towards future prospects is required to be made, as per the judgment of the Hon'ble Apex Court in **National Insurance Company Limited v. Pranay Sethi**, reported in **(2017) 16 SCC 680**, which brings the monthly income

to Rs.8,050/-. Considering the disability assessed at 36% and the multiplier of 18 adopted by the learned Tribunal, the future loss of income is recalculated accordingly. The amount of Rs.50,000/- awarded by the learned Tribunal towards pain, shock and suffering (P.S.S.) is required to be enhanced to Rs.75,000/-. The medical expenses have already been awarded by the learned Tribunal. The actual loss of income for six months is required to be recalculated on the basis of minimum wages, which comes to Rs.34,500/- (Rs.5,750/- x 6). The remaining amounts awarded under the other heads are maintained. Further, considering the fact that the present claimant was a pillion rider on motorcycle bearing registration No. GJ-24-D-4483, which was being driven by deceased Kanuji Nenaji Thakor, the learned Tribunal has attributed 15% negligence to the deceased driver of the motorcycle. However, insofar as the present claimant is concerned, he was merely a pillion rider and was not driving any vehicle. Therefore, the case of the present claimant is one of composite negligence. Hence, the amount deducted by

the learned Tribunal towards 15% negligence of the driver of the vehicle is required to be set aside.

7. Therefore, the total compensation payable to the claimants is calculated as under:

Heads of Compensation	**Awarded by the Tribunal**	**Reassessed by this Court**
Future Loss of Income	Rs.3,11,040/-	Rs. 6,25,968/-
Pain, Shock and Suffering	Rs.50,000/-	Rs. 75,000/-
Medical Expenses	Rs.3,76,010/-	Rs. 3,76,010/-
Actual Loss of Income (6 months)	Rs.24,000/-	Rs. 34,500/- (Rs.5,750/-x6)
Special Diet and Attendant Charges	Rs.20,000/-	Rs. 20,000/-
Total Compensation	**Rs.7,81,050/-**	**Rs. 11,31,478/-**
Less: 15% towards contributory negligence	Rs.1,17,157.5	Nil
Net Compensation	**Rs.6,63,892.50**	**Rs.11,31,478/-**
Less: Compensation already awarded by the learned Tribunal	-	Rs.6,63,892/-
Enhanced Compensation	**-**	**Rs.4,67,586/-**

8. Therefore, I hold that the claimant is entitled to enhanced compensation of Rs.4,67,586/- with interest at the rate of 9% per annum from the date of filing of the claim petition till realization.

9. For the reasons recorded above, the following order is passed:

a. The present appeal is partly allowed.

b. The insurance company is directed to deposit the enhanced amount of Rs.4,67,586/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realization, within a period of six weeks from the date of receipt of this order. The remaining directions issued by the learned Tribunal shall remain unchanged.

c. The learned Tribunal shall disburse the entire awarded amount, including the amount lying in fixed deposits and/or with the Tribunal, together with accrued

interest, if any, to the claimant by account-payee cheque or through NEFT/RTGS, after proper verification and following the prescribed procedure.

d. While making the payment, the learned Tribunal shall deduct the court fees, if any, remaining unpaid in accordance with the applicable rules.

e. The record and proceedings shall be sent back to the concerned Tribunal forthwith, and the award shall be drawn accordingly.

(L. S. PIRZADA, J)

STANCY GOMES

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: STANCY GOMES(HC02364), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 03/11/2026 16:15:54