



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 55 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No

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VASUDEV KANTILAL MAHESURIYA & ORS.

Versus

MOHANLAL JETHALAL PUROHIT & ORS.

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Appearance:

MR RATHIN P RAVAL(5013) for the Appellant(s) No. 1,2,3

MR YOGI K GADHIA(5913) for the Defendant(s) No. 2

MR. ALKESH N SHAH(3749) for the Defendant(s) No. 4

NOTICE SERVED for the Defendant(s) No. 3

NOTICE UNSERVED for the Defendant(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 21/04/2026

JUDGMENT

1. The captioned appeal is filed against the impugned judgment and award dated 30.09.2024 passed by the learned Motor Accident Claims Tribunal (Main), Banaskantha at Palanpur in MACP No.99/2017, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.34,53,120/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till its realization.



2. The succinct facts leading to file the captioned appeal are that on 02.04.2017, at about 05:00 p.m., the deceased-Vasantkumar was travelling in a Chevrolet car bearing registration no.GJ-08-AE-2552. When he reached at the place of accident, the driver of a truck bearing registration no.GJ-02-VV-3233 came by driving his truck at an excessive speed, in a rash and negligent manner, without observing traffic rules and without blowing the horn and dashed with the said car, on which the deceased was travelling. Due to the impact of the said accident, the deceased sustained serious injuries and succumbed to the injuries. It is also the case of the original claimants/appellants herein that at the time of accident, the deceased was aged about 25 years and was doing the business of grocery under the name and style of M/s. Shri Mahaveer Traders and thereby earning a sum of Rs.30,000/- per month. Therefore, the claim petition for seeking the compensation of Rs.68,33,000/- came to be filed.

3. On being served, the respondent nos.2 and 4/insurance companies filed their respective written statements and thereby denying all the averments made in the claim petition and prayed for rejection of the claim petition.

4. Having considered the pleadings, evidence led by the respective parties and the submissions canvassed by the respective parties, the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.34,53,120/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till its realization.



5. Being aggrieved and dissatisfied with the impugned judgment and award, the original claimants/appellants herein challenged the impugned judgment and award on the ground of quantum.

6. Heard learned counsels for the parties.

7. Mr. Rathin P. Raval, learned counsel appearing on behalf of appellants/claimants vehemently submitted that at the time of accident the deceased was aged about 25 years and he was doing the business of grocery under the name and style of M/s. Shri Mahaveer Traders, Deesa. He submitted that the income tax returns for the assessment years 2015-2016, 2016-2017 and 2017-2018 were proved on record, but the learned Tribunal had not considered the income tax return filed for the assessment year 2017-2018 on the ground that the said income tax return was filed after two months from the death of the deceased. He submitted that the learned Tribunal has committed grave error in not considering the income tax return filed for the assessment year 2017-2018. In support of his contention, learned counsel for the appellants placed the reliance upon the judgment rendered by the Hon'ble Apex Court in ***SLP (C) No.24501/2025, titled as Sayar & Others Vs. Ramkaran & Others***, wherein the Hon'ble Apex Court has considered the income tax return, which was filed posthumously. He further submitted that the learned Tribunal ought to have considered the income tax return filed for the assessment year 2017-2018. He further submitted that though the deceased was survived by his parents and brother; however, the learned Tribunal had not awarded any amount of compensation under the head of loss of consortium. He further submitted that the learned Tribunal had awarded the meagre amount of compensation under the heads of loss of estate and funeral expenses.

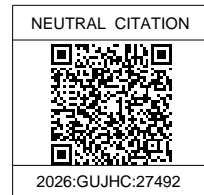


In support of his contention, learned counsel for the appellants placed the reliance upon the judgment rendered by the Hon'ble Apex Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi***, reported in 2017 (16) SCC 680 and ***Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and Ors.***, reported in 2018 (18) SCC 130. Having placed the reliance upon the aforesaid judgments, learned counsel for the appellants prayed for enhancement of compensation.

8. Per contra, Mr. Yogi K. Gadhia, learned counsel appearing on behalf of respondent no.2/insurance company vehemently submitted that the learned Tribunal has rightly not considered the income tax return filed for the assessment year 2017-2018 as the same was filed on 19.06.2017 i.e. after the demise of deceased-Vasantkumar. He further submitted that the learned Tribunal has awarded just compensation, therefore, the captioned appeal is liable to be dismissed.

9. Mr. Alkesh N. Shah, learned counsel appearing on behalf of respondent no.4/insurance company submitted that the respondent no.4 has already been exonerated from satisfying the award. He submitted that no liability can be fastened upon the respondent no.4/insurance company. He further submitted that the learned Tribunal has awarded just compensation, therefore, the captioned appeal is liable to be dismissed.

10. Having considered the submissions of the learned counsels for the parties and having gone through the record, it is to be noted that the appellants/claimants have challenged the impugned judgment and award on the ground of quantum.



11. So far as the quantum is concerned, the learned Tribunal had considered the average income of income tax returns filed for the assessment years 2015-2016 and 2016-2017; however, the learned Tribunal has not considered the income tax return filed for the assessment year 2017-2018. Perusal of the income tax return placed on record would show that the income tax return for the assessment year 2017-2018 was filed posthumously. Perusal of the income tax return would further show that the deceased has filed the income tax returns for the assessment years 2015-2016, 2016-2017 and 2017-2018 for the income of Rs.2,63,909/-, Rs.2,78,196/- and Rs.3,10,536/-. The income tax returns would show that there is consistent rise in the income of the deceased. Further, it shows that there is no inordinate rise in the income of the deceased, therefore, the learned Tribunal ought to have considered the income as reflected in the income tax return filed for the assessment year 2017-2018. In case of Sayar & Others (supra), the Hon'ble Apex Court in para 12, has observed as under:-

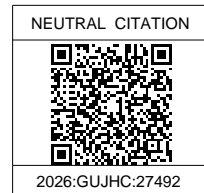
“12 What flows from Nidhi Bhargava (supra) is that the Income Tax Returns filed after the accident/death can also be taken into consideration for calculation of income to award compensation. However, having due regard for the Tribunal's well-placed doubts, in so far as returns filed for the relevant year, we take a different approach. In the instant case, it cannot be simply assumed that there is no profit accruing from the business of the deceased at the time of the accident. To adopt such a presumption would be contrary to the settled principles guiding the assessment of compensation. Rather, the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits



are seldom static and often exhibit a progressive growth trajectory. The exercise thus calls for a fair and reasonable assessment, grounded in available evidence, of the financial benefits that the deceased would have justifiably earned but for the untimely accident. In our considered view, in order to award just and fair compensation, the annual income of the deceased is re-assessed at Rs.1,00,000/- per annum. The claimant-appellant(s) are also entitled to compensation under other heads in accordance with the settled principles of law.”

12. Thus, considering the ratio laid down by the Hon'ble Apex Court in Sayar & Others (supra), the income of the deceased is reassessed as per income tax return filed for the assessment year 2017-2018. Hence accordingly, the income of the deceased is reassessed at Rs.3,10,536/- per annum, which comes to Rs.25,878/- per month. It is not in dispute that at the time of accident, the deceased was aged about 25 years, therefore, 40% of the income is added on account of future prospects of the deceased. Thus, after adding 40% to the monthly notional income, the monthly income would come to Rs.36,229/- i.e. (25,878+25,878X40%). At the time of accident, the deceased was the bachelor, therefore, 1/2 of the income is deducted on account of personal expenses of the deceased. Thus, after deducting 1/2 of the monthly income on account of personal expenses of the deceased, the monthly income would come to Rs.18,115/- i.e. (36,229-36,229X1/2) for calculating the loss of dependency. Thus, applying the multiplier of 18 as per age of the deceased, the future loss of dependency would come to Rs.39,12,840/- i.e. (18,115X18X12).

13. The learned Tribunal has awarded a meager amount of compensation under the heads of loss of estate and funeral expenses. The compensation awarded under these heads is enhanced to



Rs.18,150/- under each head.

14. The learned Tribunal has not awarded any amount of compensation under the head of loss of consortium, though the deceased was survived by his both parents. Thus, in view of the ratio laid down by the Hon'ble Apex Court in the case of Nanu Ram @ Chuhru Ram (supra), a sum of Rs.96,800/- i.e. (48,400X2) is awarded under the head of loss of consortium.

15. Thus, in view of the above discussion, the appellants/claimants shall be entitled for the following amount of compensation under the following heads:-

Sr. No.	Particular	Amount
1.	Loss of dependency	39,12,840/-
2.	Loss of estate	18,150/-
3.	Funeral expenses	18,150/-
4.	Loss of consortium	96,800/-
	Total	40,45,940/-

16. The learned Tribunal has already awarded a sum of Rs.34,53,120/- as a compensation, therefore, the original claimants/appellants shall be entitled for additional compensation of Rs.5,92,820/- i.e. (40,45,940-34,53,120). The learned Tribunal has awarded the interest at the rate of 9% per annum, therefore, the original claimants/appellants shall be entitled for the same rate of interest on additional amount of compensation from the date of filing of claim petition till its realization.

17. In view of the above discussion, the captioned appeal stands



allowed partly and the impugned judgment and award is to be modified to the aforesaid extent. The respondent no.2/insurance company shall deposit the additional amount of compensation along with interest within a period of 6 weeks from the date of receipt of copy of this order.

18. Upon depositing of the said amount of compensation, the learned Tribunal shall disburse the entire amount of compensation along with interest to the original claimants/appellants herein after deducting deficit of Court fee, if any, after due verification. The amount, if any, lying deposited with the registry of this Court, the same shall be transmitted to the learned Tribunal concerned. No order as to costs.

19. Record & Proceedings, if any, be sent back to the learned Tribunal concerned.

HARSHIT

(MOOL CHAND TYAGI, J)