NEUTRAL CITATION
2026:GUJHC:59794

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 636 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI ***Sd/-***

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Approved for Reporting	Yes	No
	Yes	

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RAKESHKUMAR NAVNITLAL SHAH
Versus
HIRENKUMAR KIRITKUMAR SHAH & ORS.

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Appearance:
MR.HIREN M MODI(3732) for the Appellant(s) No. 1
MR PALAK H THAKKAR(3455) for the Defendant(s) No. 3
RULE SERVED for the Defendant(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 16/09/2026

JUDGMENT

1. In this appeal at the instance of the original claimant, the limited issue involved is that, whether a multiplier of 5 would be applied in a case where claimant, after receiving the injury, continuing in the service or it should be an application of the regular multiplier, as directed in the case of ***National Insurance Company Ltd. v. Pranay Sethi [2017 (16) SCC 680].***

2. In the claimant's appeal under Section 173 of the

Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act'), the judgment and award passed in MACP No.1068 of 2005 by the learned Motor Accident Claims Tribunal & 6th (Ad-hoc) Additional District Judge, Vadodara is under challenge.

3. The factual aspects of the case are undisputed. The insurance company did not appeal against the impugned judgment and award, by which the driver, owner and insurance company were held liable to pay the compensation. Thereby, this Court doesn't burden the judgment by regurgating the facts as well as rewriting the reasons to earmark the liability of the driver, owner and insurer of the vehicle to pay the just and fair compensation to the claimants.

3.1 The claimant, who was about 35 years old as per the School Leaving Certificate (Mark-26/1), was serving with the Maghmani Organic Limited at the time of the road accident and was drawing the monthly salary of Rs.5,663/- (Mark-26/8) met with a road accident and sustained multiple injuries, which ultimately resulted into the 60% physical impairment. By putting a purshis at Exhibit-79, on volition, the claimant admitted that his functional abilities reduced by 30% for the body as a whole.

3.2 The insurance company did not object the acceptance of 30% functional disability of the body as a whole. In the aforesaid factual background, the learned Tribunal swayed away by the fact that the after recovering from the injury sustained from the road accident, claimant continued his service with Maghmani Organic Limited, and thereby, he has not suffered any future financial loss or loss of future prospects and thereby, the learned Tribunal remained abstained from granting the regular multiplier available to the claimant as per the judgment of the Hon'ble Supreme Court and adopted a unique method of applying the multiplier of 5 and calculated the compensation of Rs.3,26,795/- by adding some other heads.

3.3 Hence, this appeal at the instance of the claimant.

4. Heard learned advocates appearing for the respective parties.

5. Criticizing the adoption of applying the split multiplier, the Supreme Court recently in the case of ***Preetha krishnan & Ors. v. The United India Insurance Co. Ltd. & Ors.,*** reported in ***2025 INSC 1293*** in para 16 to 18 held as under:-

> *"16. It has been held time and again by this Court that a split multiplier is not to be adopted, as a matter of course, and is only to be used in the exceptional circumstances, with such circumstances being recorded. [See Sarla Verma and Ors. vs. DTC and Ors., (2009) 6 SCC 121] Reference may be made to N. Jayasree & Ors. v. Cholamandalam MS General Insurance Co. Ltd., (2022) 14 SCC 712, this Court held that the application of a split multiplier in a case involving a 52-year-old Assistant Professor of Mathematics was not justified. It was observed in reference to National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 that the Rule of Thumb of adding 15% of the salary as future prospects in cases where the deceased was between the age of 50 and 60 was not to be deviated from.*
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> *17. Superannuation from service hardly qualifies as such an exceptional circumstance, which would justify the use of split multiplier. It is only a natural progression that a person who enters service must also exit at some point in time. The same cannot be taken as a negative circumstance against*

the deceased person or a person injured severely, leading to incapacitation or permanent disability. The position, in our considered view, is evidently clear from what stood observed by this Court in Sumathi v. National Insurance Co. Ltd., 2021 SCC Online SC 3697, as under :

> *'....it is clear that in normal course, the compensation is to be calculated by applying the multiplier, as per the judgment of this Court Sarla Verma. Split multiplier cannot be applied unless specific reasons are recorded. The finding of the High Court that the deceased was having leftover service of only four years, cannot be construed as a special reason, for applying the split multiplier for the purpose of assessing the compensation. In normal course, compensation is to be assessed by applying multiplier as indicated by this Court in the judgment in Sarla Verma. As no other special reason is recorded for applying the split multiplier, judgment of the High Court is fit to be set aside by restoring the award of the Tribunal.'*

(Emphasis supplied)

18. The judgment referred to by the learned Single Judge in the impugned judgment, i.e., K.R. Madhusudhan v. Administrative Officer, (2011) 4 SCC 689 and Puttamma v. K.L. Narayana Reddy & Ors., (2013) 15 SCC 45, in our considered view, does not support the use of a split multiplier. In both these judgments, this Court has held that there have to be cogent reasons recorded for its use. As already observed above, retirement from service is not 'out of the ordinary', 'exceptional' and 'cogent' for the same to qualify. It is also, a matter of considerable difficulty to conceive what such cogent or exceptional circumstances may be. In any event, the Constitution Bench in Pranay Sethi (supra) had, in para 59.7 observed that the age of the deceased is the criterion to be utilized for multiplier. It does not provide for any other possibilities. This, in our considered view, does not even leave open the possibility of employment of split multiplier, whatsoever. As such, when dealing with a beneficial legislation which relies on just compensation as its bedrock, it is most prudent to tread the path of certainty, insofar as practicable. This is more so

> *important in the context of age which is the primary basis for computation of compensation. In other words, split multiplier is a concept foreign to the Motor Vehicles Act, 1988 and is not to be used by the Tribunal and/or Courts in calculation of the compensation."*

6. What is noticeable that, though after recovering from the accidental injury and having suffered 30% functional disability, claimant has joined the service of Maghmani Organic Limited, but one cannot deny the fact that claimant's function has been reduced by 30% and his capacity to earn is reduced by that much. He may be continued in his existing service, but his chance and ability to serve in some elsewhere employment has been diminished and this hard fact cannot be ignored or rather, employed to apply split multiplier.

7. The Supreme Court in the case of ***Mohd. Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation***, reported in ***2022 LiveLaw (SC) 1017***, after referring to the judgment of ***Sandeep Khanuja v. Atul Dande and Anr.***, reported in ***(2017) 3 SCC 351*** as well as in the case of ***Raj Kumar Vs Ajay Kumar and Anr.***, reported in ***(2011) 1 SCC 343***, in para 14 and 15 held as under:-

> *"14. To assess the quantum of compensation to be awarded, this Court has to assess whether the permanent disability caused has any adverse effect on the earning capacity of the Appellant, as held by this Court in the case of Sandeep Khanuja Vs. Atul Dande and Anr., (2017) 3 SCC 351. The relevant paragraph of the judgment is quoted hereunder :-*
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> > *"The crucial factor which has to be taken into consideration thus is to assess whether the permanent disability has any adverse effect on the earning*

capacity of the injured. We feel that the conclusion of the MACT on the application of aforesaid test is erroneous. A very myopic view is taken by the MACT in taking the view that 70% permanent disability suffered by the appellant would not impact the earning capacity of the appellant. The MACT thought that since the appellant is a chartered accountant he is supposed to do sitting work and therefore his working capacity is not impaired..... A person who is engaged and cannot freely move to attend to his duties may not be able to match the earning in comparison with the one who is healthy and bodily able. Movements of the appellant have been restricted to a large extent and that too at a young age."

15. This Court has also laid out in the case of Raj Kumar Vs Ajay Kumar and Anr., (2011) 1 SCC 343 that where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation for loss of future earnings would depend upon the impact and effect of the Permanent Disability on his earning capacity. This Court observed as under :-

"Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings, would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too

> *low or too high a compensation. What requires to be assessed by the Tribunal is the effect of the permanently disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation."*

8. In view of above, this Court finds fault with the learned Tribunal's finding to apply the multiplier of 5.

9. Mark-26/1, the School Leaving Certificate, produced by the claimant proves that on the age of the date of the accident, the claimant was 35 years old, which reflects the adoption of multiplier of 16 should be applied as per the judgment in case of ***Pranay Sethi (Supra)***.

10. There is no dispute in regards the monthly salary of the claimant at Rs.7,322/-. The law is quite settled on the granting of loss of future prospect would apply to the facts of the case, as claimant has received 30% functional disability. In absence of permanent sort of employment, he would be entitled to 40% of his actual income towards loss of future prospects.

11. The injury discernible from the injury and disability certificate indicates that the claimant was under the knife on the

right leg and on his right leg, five rings were inserted through *illizarov* procedure. In total, 16 rings were inserted on the right leg. He also suffered a fracture on the foot/sole of leg. The injury certificate on record indicates the following injuries:-

> *"**Details of Injuries/Clinical Features (Nature, Exact Situation, Dimension, Fresh/Healing)***
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> *open grade 3 fracture rt lower end femur*
>
> *open grade 3 multiple fracture foot with crush injury*
>
> *multiple rib fractures*
>
> ***Age of Injury :*** *fresh*
>
> ***Cause of Injury :*** *vehicular accident."*

12. All these aspects indicate that the claimant has suffered pain and trauma and was hospitalized for a long period. On these aspects, according to this Court, the learned Tribunal has committed serious error in granting the compensation by applying the multiplier of 5 and also not granting the compensation towards the loss of future prospects and on granting the compensation towards the head of pain, shock and suffering on a lower side.

13. The side-by-side breakup of compensation granted by the learned Tribunal and enhanced compensation granted by this Court is as under:-

Particulars	**Amount (Rs.) awarded by learned Tribunal**	**Amount (Rs.) re-worked by this Court**

Future Loss of Income	**Rs.7,322/-** x ***20%*** x 12 months = Rs.87,864/- (Less: 30% Disability) Rs.26,359/- x 5 multiplier = **Rs.1,31,795/-**	**Rs.7,322/- + 2,929 (Add: 40% Prospective Income)** x **3*0%*** = 3,075/- x 12 months = Rs.36,900/- x 16 multiplier = **Rs.5,90,400/-**
Actual Loss	Rs.30,000/-	Rs.30,000/-
Pain, Shock & Suffering	Rs.20,000/-	**Rs.50,000/-**
Special Diet, transportation, attendant charges, etc.	Rs.20,000/-	Rs.20,000/-
Medical Bills	Rs.1,25,000/-	Rs.1,25,000/-
Total...	**3,26,795/-**	**8,15,400/-**
Less: amount which is already awarded by learned Tribunal.		3,26,795/-
Additional amount which is awarded		**4,88,605/-**

14. Therefore, I hold that the claimant is entitled to get the total amount of additional compensation of Rs.**4,88,605/-**. Learned Tribunal has granted the interest at 7.5% per annum and same is continued to operate for the enhanced amount of compensation.

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

16. The appeal is ***allowed***.

17. Claimant would be entitled to additional amount of compensation or enhanced amount of the compensation of Rs.**4,88,605/-** at the rate of 7.5% per annum from the date of the petition till realization. The Insurance Company is directed to deposit the enhanced amount of compensation with accrued interest before the concerned Tribunal, within a period of 08 weeks from today.

18. Upon deposit of amount, the Tribunal concerned shall disburse the entire awarded amount lying in the FDR and/or with the Tribunal, with accrued interest thereon, if any, to the claimant/s, by account payee cheque / NEFT / RTGS, after proper verification and after following due procedure.

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

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

Sd/-
(J.C. DOSHI, J.)

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