

## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1585 of 1990

With

FIRST APPEAL No. 1584 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ? **-Yes.**

2 To be referred to the Reporter or not ? **-No.**

3 Whether their Lordships wish to see the fair copy  
of the judgment ? **-No.**

4 Whether this case involves a substantial question  
of law as to the interpretation of the  
constitution of India, 1950 or any order made  
thereunder ? **-No.**

5 Whether it is to be circulated to the civil judge  
? **-No.**

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FALGUNIBEN M GOR - Appellant(s)

Versus

NATHUSINH L THAKOR &amp; 2 - Defendant(s)

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Appearance :

MR PC MASTER FOR MR HB SHAH for Appellant(s) : 1,

RULE SERVED BY DS for Defendant(s) : 1,

MR PF MAKWANA for Defendant(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 16/05/2008

ORAL JUDGMENT

1. By way of these appeals, the appellants-original claimants have

challenged the common judgment and order dated 3/10/1989 passed by the Motor Accident Claims Tribunal (Auxiliary) Sabarkantha at Himmatnagar in the Motor Accident Claim Petition No.203 of 1986 and 200 of 1986 with other petitions whereby the Motor Accident Claims Tribunal has partly allowed all the petitions. The Tribunal has awarded the amount of compensation of Rs.10,000/- in MACP No.203 of 1986 and Rs.44,000/- in MACP No.200 of 1986, in both, with interest at the rate of 12% per annum from the date of application till the date of realization with proportionate costs.

2. The accident in question happened when one fiat-car No.GJE-6305 which was driven by Shri Gijubhai Hargovinddas rammed and collided with the stationary motor-truck No.GTK-2381 near Badam-Kampa on the High way going from Harsol-Rakhial on 28/2/1986 at about 4:00 a.m. Because of the said accident, all the claimants have sustained injuries and they all have claimed for compensation by way of various claim petitions including MACP Nos.200 and 203 of 1986.
3. On completion of the pleadings, the Tribunal has awarded the compensation of Rs.10,000/- in MACP No.203 of 1986 and Rs.44,000/- in MACP No.200 of 1986 as stated above. Hence, these appeals.

4. Heard the learned advocates for the respective parties. The Tribunal has considered all the aspects of the matter in detail. In paragraph-22 and 27, the Tribunal has discussed about the negligence part and from paragraph-28 onwards, the Tribunal discussed about the income part.

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5. In this case, the Tribunal has awarded a sum of Rs.10,000/- along with interest at the rate of 12% per annum. The Tribunal has held that the driver of the fiat car was responsible for the accident to the extent of 60% and the driver of the truck driver to the extent of 40%. As a result of hearing and perusal of the record, I am of the view that the Tribunal has correctly assessed the income and the award is just and proper. Nothing is pointed out to take a different view of the matter. The appeal is therefore, dismissed. No order as to costs.

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6. In connection with award of MACP No.200 of 1986 is concerned, learned advocate for the appellant submitted that the compensation is inadequate and the same is required to be enhanced. He also

submitted that the income is taken as Rs.1,800/- and in view of the decision of the Hon'ble Apex Court in the case of **U.P. State Road Transport Corporation and others vs. Trilok Chandra and others, reported in 1996 (3) GLR 136**, if the income is doubled, then added with present income, average comes to Rs.2,700/- as datum figure. Looking to the 26% disability, the loss of income would be Rs.702/- per month. This argument is required to be accepted. Therefore, annual datum figure will come to Rs.8,424/-. The Tribunal had applied 15 multiplier and therefore, applying the multiplier of 15, total loss of future income comes to Rs.1,26,360/-. The Tribunal has awarded only Rs.81,000/-. In that view of the matter, the appellant herein is required to be awarded additional amount of Rs.45,360/-.

4. First Appeal No.1584 of 1990 is partly allowed to the aforesaid extent. The claimant shall be entitled to additional amount of compensation of Rs.45,360/- along with interest at the rate of 7% from the date of application i.e. 22/5/1986. The award to be modified accordingly. No order as to costs.

**(K.S.Jhaveri, J.)**

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