

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL No. 1343 of 2002**

**With**

**FIRST APPEAL No. 1353 of 2002**

**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 ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy  
of the judgment ?

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 ?

5 Whether it is to be circulated to the civil judge  
?

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**NARAYAN PANCHURAM MINA - Appellant(s)**

**Versus**

**JORAJI RUPAJI VAGHELA & 4 - Defendant(s)**

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**Appearance :**

MR BC DAVE for Appellant(s) : 1,

None for Defendant(s) : 1,

SERVED BY AFFIX.-(R) for Defendant(s) : 2, 4,

RULE SERVED for Defendant(s) : 3, 5,

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**CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**

**Date : 31/01/2012**

**ORAL JUDGMENT**

1. Heard learned advocate for the appellants and perused

the papers on record.

2. The appellants herein have challenged the award dated 09.10.2001 passed by the Motor Accident Claims Tribunal (Main), Mehsana in Motor Accident Claims Petition No. 1599 & 1579 of 1989 so far as the Tribunal awarded only Rs. 21800/- & Rs. 35000/- as compensation respectively with interest at 9% per annum.

3. It is the case of the appellants that on 02.04.1989 while the appellants were travelling as driver and cleaner of truck bearing registration no. GTE 7025, a taxi being driven by the original opponent no. 1 in a rash and negligent manner collided with the right side wheel of the truck and therefore the truck driver lost control of the vehicle and finally the truck turned turtle. The driver and cleaner sustained injuries on various parts of the bodies. The appellants therefore filed claim petitions seeking compensation. However, during pendency of the claim petition no. 1579 of 1989, the applicant died and the legal heirs were permitted to be joined as parties. The Tribunal after hearing the parties passed the aforesaid award.

4. Mr. Dave, learned advocate appearing for the appellants submitted that the Tribunal failed to take into consideration the entire facts of the case and evidence on record and thereby erred in awarding adequate amount under various heads. He submitted that the Tribunal has wrongly assessed the income of the appellants and the disability sustained by them.

5. As a result of hearing and perusal of records, this court is of the view that considering the evidence on record and the facts and circumstances of the case, the Tribunal came to the conclusion that the appellants sustained injuries as a result of the rash and negligent driving of the original opponent no. 1. The Tribunal has assessed the disability of the whole body at 5% in case of applicant of Motor Accident Claims Petition No. 1599 of 1989. The Tribunal also assessed the monthly income of the appellant of Motor Accident Claims Petition No. 1599 of 1989 at Rs. 800/- . Nothing is pointed out before this Court to take a contrary view. As far as claimants of Motor Accident Claims Petition No. 1579 of 1989 are concerned, the Tribunal awarded amount of Rs. 35000/- which included medical expenses and amount for pain shock and suffering. This court is in complete agreement with the reasonings adopted and findings arrived at by the Tribunal and therefore do not see any reason for causing interference.

6. In the premises aforesaid, appeals are dismissed. No costs.

(K.S. JHAVERI, J.)

Divya//