Petition filed on : 27-04-2017

Petition registered on : 27-04-2017

Petition decided on : 22-08-2019

Duration	:	**Y**	**M**	**Days**
		2	**3**	**26**

<u>IN THE COURT OF HON'BLE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN), PATAN, AT PATAN</u>

(1) M.A.C.P.No.103/17,
(2) M.A.C.P.NO.104/17 &
(3) M.A.C.P.NO.105/17

<u>PETITIONERS IN M.A.C.P.NO.103/2017</u> **<u>*E*xh.23</u>**

Legal heirs of Late Thakor Prakashji Ramsangji

1. Thakor Savitaben Ramsangji
(Widow mother of deceased)
Aged about 45 years, Occupation : Household,

2. Thakor Jigneshbhai Ramsangji
(Brother of deceased)
Aged about 16 years, Occupation : Study,

3. Thakor Shantuji Mangaji
(Grandfather of deceased)
Aged about 70 years, Occupation : Retire,
All residing at Siddhpur, Ta.Siddhpur,
Dist.Patan.

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PETITIONERS IN M.A.C.P.NO.104/2017 ***E*xh.60**

Heirs of Late Ajayji Dineshji Thakor

1. Thakor Varshaben Dineshji
   Aged about 45 years,
   Occupation : Household work,
   (Mother of deceased)

2. Thakor Jigar Dineshji
   Aged about 18 years,
   Occupation : Study,
   (brother of deceased)

   Both residing at Siddhpur, Ta.Siddhpur,
   Dist. Patan.

******

PETITIONERS IN M.A.C.P.NO.105/2017 ***Exh.18***

Legal heirs of Late Thakor Rajuji Heduji

1. Thakor Heduji @ Hedaji Udaji
   Aged about 61 years, Occupation : Labourer,
   (Father of deceased)

2. Thakor Kamuben Heduji @ Hedaji
   Aged about 55 years, Occupation : Household,
   (Mother of deceased)

3. Thakor Bhikhuji Heduji @ Hedaji
   Aged about 28 years, Occupation : Labourer,
   (Brother of deceased)

   All residing at Siddhpur, Ta.Siddhpur,
   Dist.Patan.

V/s.

COMMON OPPONENTS IN M.A.C.P.Nos.103/17 to 105/17

1. **Owner of Jeep No.GJ-1/DY-2203:**
   Shah Anantkumar Ashokbhai

Aged about 45 years, Occupation : Business, R/o.Gundana, Ta.Balava, Dist.Ahmedabad.

2. **Insurance Company of Jeep No.GJ-1/DY-2203:**
Reliance General Insurance Co. Ltd.
Opp.45, Drivein road, Devbhumi Apartment,
Nr.Vijay Cross road, Navrangpura, Ahmedabad.

APPEARANCE :-

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Mr.B.G.Thakor, Ld. Advocate for Petitioners in M.A.C.P.No.103/17.

Mr.A.B.Raval, Ld. Advocate for Petitioners in M.A.C.P.Nos.104/17 & 105/17.

Mr.N.R.Bhavsar, Ld. Advocate for opponent No.2 in all MACPs.

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-: C O M M O N J U D G M E N T :-

1. All the claim petitions arise from one and same road accident, therefore I propose to decide them by this common judgment. In MACP NO.104/2017, applicants have filed application at Exh.18 to consolidate all the matters. As per order below Exh.18, MACP Nos.103/17, 104/17 & 105/17 were consolidated with each other and MACP NO.104/2017 treating as main MACP, whereupon entire evidence is recorded.

2. All the MACPs are filed u/s.166 of M.V.Act.

3. Facts of above three claim petitions are as

under in nutshell:

3.1. On 10-03-2017, Thakor Prakashji Ramsangji, Ajayji Dineshji Thakor and Rajuji Heduji Thakor went from Siddhpur to Vagdod to attend the 'Zem' ceremony of their relative by bike and activa and when they were returning at night after completing the ceremony, Thakor Ajayji and Thakor Prakashji were travelling on Motorcycle bearing RTO registration No.GJ-2/J-3295 and Thakor Rajuji was returning by Activa. At that time, petrol of Rajuji's Activa over and, therefore, he parked his Activa at Hotel situated on Vagdod high way, during that time period, Ajayji Dineshji and Thakor Prakashji were waiting a Thakor Rajuji at the road side and when Thakor Rajuji came and tried to sit on motorcycle of Ajayji Dineshji, at the relevant point of time, one jeep bearing RTO registration No.GJ-1/DY-2203 driven by its driver in very full speed and careless manner and dashed the said bike from behind, as a result, all three persons sustained grievous injuries. Therefore immediately they admitted in the Dharpur Civil Hospital where Ajayji Dineshji Thakor & Prakashji Ramsangji Thakor died during the treatment, whereas Thakor Rajuji Deduji Thakor succumbed to his injuries on 23/03/17 at Mehsana Astha Intensive Care Unit &

Hospital. Thus, the accident in question occurred due to driver of the jeep lost his control over the jeep.

4. According to applicants of M.A.C.P.No. 103/2017, at the time of accident, deceased Prakashji was 18 years old and earned Rs.8,000/- per month out of doing masonry work and if he was not succumbed to his injuries on account of vehicular accident, he would have earned better in the future and, thus, on account of accident resulted into the death of deceased, applicants have suffered dependency loss of future income.

4.1 It is also avered that, on account of death of the deceased Prakashji at young age, applicant Nos.1 & 2 being a widow mother and brother of deceased and applicant No.3 being a grandfather of deceased have felt pain to see death of Prakashji during their lifetime and that was an unbearable and painful situation causing trauma to applicants.

4.2 On account of different loss like dependency loss, loss of parental and filial consortium, loss to estate and funeral expenses, applicants have claimed compensation of Rs.15,00,000/- from opponents jointly and severally.

5. According to applicants of M.A.C.P.No. 104/2017, at the time of accident, deceased Ajayji was 22 years old and earned Rs.7,000/- per month out of doing labour work and if he was not succumbed to his injuries on account of vehicular accident, he would have earned better in the future and, thus, on account of accident resulted into the death of deceased, applicants have suffered dependency loss of future income.

5.1 It is the case of the applicants that, on account of death of the deceased at young age, applicant Nos.1 & 2 being widow mother and brother of deceased have felt pain to see death of Ajayji and that was an unbearable and painful situation causing trauma to applicants.

5.2 On account of different loss like dependency loss, loss of parental and filial consortium, loss to estate and funeral expenses, applicants have claimed compensation of Rs.14,00,000/- from opponents jointly and severally.

6. According to applicants of M.A.C.P.No. 105/2017, at the time of accident, deceased Rajuji was 21 years old and earned Rs.7,000/- per month out of doing scenting work and masonry work, if he was not succumbed to his injuries on

account of vehicular accident, he would have earned better in the future and, thus, on account of accident resulted into the death of deceased, applicants have suffered dependency loss of future income.

6.1 It is the case of the applicants that, on account of death of the deceased at young age, applicant Nos.1 to 3 being father, mother and brother of deceased have felt pain to see death of Rajuji and that was an unbearable and painful situation causing trauma to applicants.

6.2 On account of different loss like dependency loss, loss of parental and filial consortium, loss to estate and funeral expenses, applicants have claimed compensation of Rs.14,00,000/- from opponents jointly and severally.

7. After the executions of summons and notices, only opponent No.2 have been filed written statements in M.A.C.P.Nos.103/17 to 105/17 at Exhs.22, 54 & 17 and mainly denied averments made in the claim petitions including averments of income, age as well as driving licence. It is also contended that the driver of jeep was not holding valid and effective driving licence on

the date of accident and hence insurance company is not liable to pay compensation.

8. **ISSUES IN MACP NO.103/17, 104/17 & 105/17:**

The following common issues are raised for my determinations vide Exhs.19, 16 & 15.

[1] Whether the applicants prove that deceased died in the accident which occurred due to rash, careless and negligent driving of the driver of the motor vehicle involved in the accident?

[2] What amount of compensation the applicants are entitled to get and from whom and at what rate of interest?

[3] What order and award?

9. My findings on the above issues are as under:-

[1] In the affirmative.

[2] As per final order.

[3] As per final order.

10. The application u/s.170 of the M.V.Act has been came on file at Exh.26 at the instant of insurance company seeking permission of the tribunal to defend the claim petition like defence of driver and owner of the offending vehicle which was allowed on 07/02/19.

11. The applicants have produced oral as well as documentary evidence in support of their case.

12. **ORAL EVIDENCE**:-

In support of claim petitions, the claimants have produced testimonies in all petitions are as under :

Sr. No.	Name of applicant	MACP Nos.	Exh.
1	Thakor Savitaben Ramsangji	103/2017	23
2	Thakor Varshaben Dineshji	104/2017	24
3	Thakor Kamuben Heduji	105/2017	25

13. I have heard learned advocates for both the parties in all petitions. Mr.A.B.Raval, learned advocate for the applicants have produced written arguments vide Exhs.56 & 57. In support of his submission, he has referred to and relied upon the following case laws:

1. **Magma General Insurance Co. Ltd. V/s. Nanu Ram Alias Chuhru Ram & Ors.**, *reported in* ***2018 (O) AIJEL-SC 62739,***
2. ***National Insurance Co. Ltd. V/s. Jaswantsingh, S/o. Manjitsingh,*** R/First Appeal No.4154 of 2017, decided on 22/06/2018 (Hon'ble Gujarat High Court),
3. **Manager V/s. Tmt. Vimala,** CMA No.2119 of 2018, decided on 19/09/2018 (Hon'ble Madras High Court) &
4. **Gujarat State Road Transport Corporation V/s. Suryakantaben D. Acharya**, reported in **2001 ACJ 1645.**

-: R E A S O N S :-

ISSUE NO.1 IN MACP NO.122/15 & 123/15:

14. Reasons of these issues are interlinked so, to avoid multiplicity of them, I aim to decide both together.

15. In order to determine the issue of negligence, now let us see the evidence on record. Heirs of deceased Thakor Prakashji Ramsangji, Ajayji Dineshji Thakor and Rajuji Heduji Thakor have stated on oath vide Exhs.23, 24 & 25 that, on 10/03/2017, when their younger sons were returning by motorcycle and activa from Vagdod to Siddhpur by attending the 'Zem' ceremony of their relative after completing the 'Zem' ceremony, Thakor Ajayji and Thakor Prakashji were travelling on motorcycle and Thakor Rajuji was returning by Activa. At that time, petrol of Rajuji's Activa over and, therefore, he parked his Activa at Hotel situated on Vagdod high way, during that time period, Ajayji Dineshji and Thakor Prakashji were waiting a Thakor Rajuji at the road side and when Thakor Rajuji came and tried to sit on motorcycle of Ajayji Dineshji, at the relevant point of time, one jeep driven by its driver in rash and

negligent manner came from wrong side and dashed with the motorcycle from behind, as a result, Prakashji, Ajayji and Rajuji sustained fatal injuries body as a whole, therefore, they immediately admitted in the Dharpur Civil Hospital where Ajayji Dineshji Thakor & Prakashji Ramsangji Thakor died during the treatment, whereas Thakor Rajuji Deduji Thakor succumbed to his injuries on 23/03/17 at Mehsana Astha Intensive Care Unit & Hospital. The applicants have produced the copy of F.I.R, Panchanama of place, Inquest Panchnama & P.M.report of deceased Ajayji Dineshji Thakor vide Exh.27 to 30, Marnottar Panchnama & P.M.Report of deceased Thakor Prakashji Ramsingji at Exh.43 & 44, Inquest Panchnama & P.M.Report of deceased Thakor Rajuji Heduji at Exhs.46 & 47. After perusing oral and documentary evidence, facts of the accident having clearly established and proved by the applicants. Thus, all three deceased viz. Thakor Ajayji Dineshji, Thakor Prakashji Ramsingji and Thakor Rajuji Heduji injured in road accident and died during their treatment. Therefore, the facts of the accident as stated by the applicants are gone unchallenged. They have also produced the treatment papers and medical bills of deceased. They have produced the copy of Charge-sheet vide Exh.50 against the driver of the jeep.

16. Looking to the place of Panchnama, both vehicles in question were found at the place of incident in damage condition. Front glass of the jeep broken, vegetables (Chinese cucumber) spread here and there on the edge of kaccha road, brake marks also found on the road, one shoe and one slipper also found near the bike which itself speaks the negligent act on the part of the driver of the jeep who drove the bolero jeep in full speed and negligent manner at wee hours. Moreover, no any positive evidence having brought by the opponents to prove that, they have taken reasonable care and caution to avoid the accident. Being a driver of the jeep having not stepped into witness box to prove his defence. Therefore, taking adverse inference, I finally come to the conclusion that, the oral testimonies of the applicants supported with facts of the F.I.R and Panchnama clearly prove that, the accident in question was occurred due to sole negligent driving of jeep driver. Hence, I hold issue No.1 in affirmative.

ISSUE No.2 (IN MACP No.103 of 2017):

17. To decide just and fair compensation, Tribunal has to decide age of deceased and his income at the time of accident, future prospects of him, dependent members of the family to calculate the dependency and other aspects.

18. According to pleadings, at the time of accident age of the deceased was 18 years old. Applicants have produced the copy of School Leaving Certificate at Exh.52 wherein birth date of deceased Thakor Prakash Ramsing mentioned as 11/09/1999, after calculating with the date of accident i.e. 03/10/2017, deceased Prakashji was 18 years 22 days and I consider the same. Thus, multiplier of **18** would applicable as per guidelines set in case of **Sarla Verma V/s DTC 2009(6) SCC 121.**

19. As far as income of deceased is concerned, applicants have claimed that, at the time of accident deceased was earning Rs.8,000/- per month out of doing masonry labour work. In support of their submission, the applicants have not produced any co-gent evidence regarding income and, therefore, the tribunal inclined to accept monthly income of deceased at the age of 18 years as **Rs.6,500/-** per month.

20. For conventional compensation, the Hon'ble Supreme Court held in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** reported in **2017 ACJ 2700** that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below 40 years. The established income means the income minus the tax component.

21. Keeping in mind principle set in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** (supra) which is consistently followed in all later cases, I add 40% to the income of the deceased in his existing income as to calculate future dependency loss. After adding 40%, the figure arrived would be Rs.9,100/- [Rs.6,500+2600 (40%)] per month.

22. As deceased was bachelor at the time of accident and survived by widowed mother, younger brother and grandfather aged 70 years, in such circumstances, in absence of father, only deceased was earning member of his family and thus 1/3rd income is deducted towards personal and pocket expense as per case of **MAGMA GENERAL INSURANCE CO. LTD. V/S. NANU RAM ALIAS CHUHRU RAM & ORS,** ***reported in 2018 (0) AIJEL-SC 62739***, in

which *Hon'ble Supreme Court dealt with in para-32 of the judgment in* ***Sarla Verma (supra)*** *wherein Hon'ble Supreme Court took the view that where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third as contribution to the family will be taken as two-third*.

22.1 Mathematical calculation shows result as Rs.6,067/- [Rs.9100-Rs.3033(1/3rd)], the multiplicand could be applied for assessing future dependency loss. Now, if we imply this figure into the mathematical formula, derived future dependency loss would be Rs.6067/- monthly dependency loss X 12 months X 18 multiplier = **Rs.13,10,472/-** the amount of compensation which can be granted as future dependency loss.

23. In the case of **MAGMA GENERAL ISNURANCE CO. LTD.** ***(supra)*** that, in case where a parents have lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial consortium. Filial consortium is the right of the parents to compensation in the case of an

accidental death of a child, or unmarried son or daughter. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

24. In present case, applicant No.1 & 2 are the mother & brother of deceased, whereas applicant No.3 was the grandfather of deceased. In this circumstances, the Tribunal grant Rs.40,000/- towards Filial Consortium to applicant No.1 & Rs.20,000/- towards loss of love and affection to brother & grandfather - applicant No.2 & 3 each. In present case, deceased Prakashji was bachelor at the time of accident and, therefore, keeping in mind the above ratio, Rs.15,000/- towards Funeral expenses, Rs.15,000/- towards Loss of estate and the aforesaid amount should be enhanced at the rate of 10% in every three years as per quoted in **para 61 (Viii)** in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI (supra).**

25. Calculation of compensation is as per below table.

Sl.	**Heads**	**Calculation**

No.		
1	Compensation for Dependency loss	Rs.13,10,472
2	Loss of Filial Consortium to mother	Rs.40,000
3	Loss of Love and Affection towards brother	Rs.20,000
4	Loss of love and affection towards grandfather	Rs.20,000
5	Loss of Funeral Expenses	Rs.15,000
6	Loss of Estate	Rs.15,000
	Total amount of compensation awarded	**Rs.14,20,472**

26. In total, applicants would get compensation of **Rs.14,20,472/-.**

ISSUE No.2 (IN MACP No.104 of 2017):

27. According to pleadings, at the time of accident age of the deceased Ajayji was 22 years old. Applicants have produced the copy of School Leaving Certificate vide Exh.34 wherein birth date of deceased Thakor Ajayji Dineshji mentioned as 15/02/1993, after calculating with the date of accident i.e. 03/10/2017, deceased Ajayji was 24 years 7 months 18 days and I consider the same. Thus, multiplier of **18** would applicable as per guidelines set in case of **Sarla Verma (supra).**

28. As far as income of deceased is concerned, applicants have claimed that, at the time of accident deceased was earning Rs.7,000/- per month out of doing scenting & masonry labour work. In support of their submission, the

applicants have not produced any co-gent evidence regarding income and, therefore, looking to the type of work, the tribunal inclined to accept monthly income of deceased as **Rs.6,000/-** per month.

29. For conventional compensation, the Hon'ble Supreme Court held in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** reported in **2017 ACJ 2700** that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below 40 years. The established income means the income minus the tax component.

30. Keeping in mind principle set in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** (supra) which is consistently followed in all later cases, I add 40% to the income of the deceased in his existing income as to calculate future dependency loss. After adding 40%, the figure arrived would be Rs.8,400/- [Rs.6,000+2400 (40%)] per month. As deceased was bachelor at the time of accident and survived by widowed mother and younger brother, in such circumstances, in absence of father, only deceased was bread earner of his family and thus 1/3rd income is deducted

towards personal and pocket expense as per case of **MAGMA GENERAL ISNURANCE CO. LTD.** ***(supra)***. Mathematical calculation shows result as Rs.5,600/- [Rs.8,400-Rs.2,800(1/3rd)], the multiplicand could be applied for assessing future dependency loss. Now, if we imply this figure into the mathematical formula, derived future dependency loss would be Rs.5,600/- monthly dependency loss X 12 months X 18 multiplier = Rs.12,09,600/- the amount of compensation which can be granted as future dependency loss.

31. In the case of **MAGMA GENERAL ISNURANCE CO. LTD.** ***(supra)*** that, in case where a parents have lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial consortium. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child, or unmarried son or daughter. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

32. In present case, applicant No.1 & 2 are the

mother & brother of deceased. In this circumstances, the Tribunal grant Rs.40,000/- towards Filial Consortium to applicant No.1 and Rs.20,000/- towards loss of love and affection to brother-applicant No.2. In present case, deceased Ajayji was bachelor at the time of accident and, therefore, keeping in mind the above ratio, Rs.15,000/- towards Funeral expenses, Rs.15,000/- towards Loss of estate and the aforesaid amount should be enhanced at the rate of 10% in every three years as per quoted in **para 61 (Viii)** in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI (supra).**

33. Calculation of compensation is as per below table.

Sl. No.	Heads	Calculation
1	Compensation for Dependency loss	Rs.12,09,600
2	Loss of Filial Consortium to mother	Rs.40,000
3	Loss of Love and Affection towards brother	Rs.20,000
4	Loss of Funeral Expenses	Rs.15,000
5	Loss of Estate	Rs.15,000
	Total amount of compensation awarded	**Rs.12,99,600**

34. In total, applicants would get compensation of **Rs.12,99,600/-.**

ISSUE No.2 (IN MACP No.105 of 2017):

35. According to pleadings, at the time of

accident age of the deceased Rajuji was 21 years old. Applicants have produced the copy of School Leaving Certificate vide Exh.33 wherein birth date of deceased Thakor Rajuji Heduji mentioned as 10/09/1991, after calculating with the date of accident i.e. 03/10/2017, deceased Rajuji was 26 years 23 days and I consider the same. Thus, multiplier of **17** would applicable as per guidelines set in case of **Sarla Verma (supra).**

36. As far as income of deceased is concerned, applicants have claimed that, at the time of accident deceased Rajuji was earning Rs.7,000/- per month out of doing scenting & masonry labour work. In support of their submission, the applicants have not produced any co-gent evidence regarding income and, therefore, looking to the type of work, the tribunal inclined to accept monthly income of deceased as **Rs.6,000/-** per month.

37. For conventional compensation, the Hon'ble Supreme Court held in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** reported in **2017 ACJ 2700** that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below 40 years.

The established income means the income minus the tax component.

38. Keeping in mind principle set in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI,** (supra) which is consistently followed in all later cases, I add 40% to the income of the deceased in his existing income as to calculate future dependency loss. After adding 40%, the figure arrived would be Rs.8,400/- [Rs.6,000+2400 (40%)] per month.

38.1 As deceased was bachelor at the time of accident and survived by father, mother and younger brother, in such circumstances 1/2 income is deducted towards personal and pocket expense. Mathematical calculation shows result as Rs.4,200/- [Rs.8,400-Rs.4,200(1/2)], the multiplicand could be applied for assessing future dependency loss. Now, if we imply this figure into the mathematical formula, derived future dependency loss would be Rs.4,200/- monthly dependency loss X 12 months X 17 multiplier = **Rs.8,56,800/-** the amount of compensation which can be granted as future dependency loss.

39. In present case deceased Rajuji Heduji

Thakor alive near-about 13 days and during that time period he had initially taken treatment at Dharpur Hospital and thereafter admitted in Astha Intensive Care Unit (I.C.U.) & Hospital, Mehsana where he took the treatment from 11/03/17 to 23/03/17 as an indoor patient and died on 23/03/17 for head injury and multiple injuries body as a whole. The applicants have produced medical treatment papers & P.M.report vide Exhs.36 to 40, 42 & 47. They have also produced medical expense worth of Rs.1,15,169/- at Exh.41 and I grant round figure **Rs.1,15,170/-** towards the compensation for medical bills and other hospitalization charges. **Rs.30,000/-** is granted for pain, shock and suffering during the treatment as well as I grant **Rs.20,000/-** towards attendant charge, transportation and nutritious diet as compensation.

40. In the case of **MAGMA GENERAL ISNURANCE CO. LTD. V/S. NANU RAM ALIAS CHUHRU RAM & ORS,** ***reported in 2018 (0) AIJEL-SC 62739*** that, in case where a parents have lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial consortium. Filial consortium is the right of the parents to compensation in

the case of an accidental death of a child, or unmarried son or daughter. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

41. In present case, applicant No.1 to 3 are the mother, brother & grandfather of deceased. In this circumstances, the Tribunal grant **Rs.40,000/-** towards Filial Consortium to applicant No.1 and **Rs.20,000/-** towards loss of love and affection to brother and grandfather-applicant No.2 & 3 each. In present case, deceased Ajayji was bachelor at the time of accident and, therefore, keeping in mind the above ratio, **Rs.15,000/-** towards Funeral expenses, **Rs.15,000/-** towards Loss of estate and the aforesaid amount should be enhanced at the rate of 10% in every three years as per quoted in **para 61 (Viii)** in the case of **NATIONAL ISNURANCE CO. LTD. V/S. PRANAY SHETHI (supra).**

42. Calculation of compensation is as per below table.

Sl. No.	Heads	Calculation
1	Compensation for Dependency loss	Rs.8,56,800

2	Compensation for pain, shock and suffering	Rs.0,30,000
3	Compensation for medical expenses	Rs.1,15,170
4	Compensation for attendant, transportation & nutritious diet	Rs.0,20,000
5	Loss of Filial Consortium to mother	Rs.0,40,000
6	Loss of Love and Affection towards brother	Rs.0,20,000
7	Loss of Love and Affection towards grandfather	Rs.0,20,000
8	Loss of Funeral Expenses	Rs.0,15,000
9	Loss of Estate	Rs.0,15,000
	Total amount of compensation awarded	**Rs.11,31,970**

43. In total, applicants would get compensation of **Rs.11,31,970/-** from all the opponents jointly and severally and it is just and reasonable amount and I award to same.

LIABILITY :-

44. It is an admitted fact that Opponent No.1 is the owner of Jeep No.GJ-1/DY-2203, whereas Opponent No.2 is the insurance company of the jeep. The applicants have produced the copy of R.C.Book and Insurance Policy at Exhs.31 & 32. The insurance policy was commenced from 18/07/2016 to 17/07/2017. The incident took place on 10/03/2017 which is in the policy period of the offending vehicle.

44.1 As held in the issue No.1 the driver of the jeep was solely negligent to drive his vehicle and, therefore, being an owner of the jeep - opponent No.2 is also liable with the amount of interest at the rate of 9% p.a. from the date of application till realisation with costs and being insurance company of the jeep - Opponent No.2 is also liable to indemnify the said amount with interest and costs on behalf of its owner of the vehicle. Therefore, opponents Nos.1 & 2 are jointly and severally liable to pay the amount of compensation. Hence, I hold issue No.2 accordingly.

45. In view prevalent banking interest on FDR investment, I grant interest at the rate of 9% per annum on the awarded amount from the date of the petition till actual realization.

46. As a result of above discussions, issue No.1 proved in affirmative in favour of the applicants in all MACPS and for issues No.2 & 3, I pass following order.

-: O R D E R :-

1. All MACPs viz. **MACP Nos.103/17, 104/17 & 105/17** are hereby partly allowed.

2. The applicants of **MACP No.103/2017** do recover compensation of **Rs.14,20,472/-(Fourteen Lacs Twenty Thousand Four Hundred Seventy Two rupees only)** with interest & costs at the

rate of 9% annually on awarded amount from the date of claim petition till realization from the opponents.

3. The applicants of **MACP No.104/2017** do recover compensation of **Rs.12,99,600/-(Tweve Lacs Ninety Nine Thousand Six Hundred rupees only)** with interest & costs at the rate of 9% annually on awarded amount from the date of claim petition till realization from the opponents.

4. The applicant of **MACP No.105/2017** does recover compensation of **Rs.11,31,970/- (Eleven Lacs Thirty One Thousand Nine Hundred Seventy rupees only)** with interest and costs at the rate of 9% annually on awarded amount from the date of claim petition till realization from the opponents.

5. Opponents shall deposit awarded amount along with costs and interest @ 9% per annum from the date of institution till realisation in this Tribunal within one month from the date of this common judgment.

6. Court fee if recoverable shall be first change over the amount of compensation.

7. The opponent is directed to scrupulously follow the guidelines issued by the Hon'ble Gujarat High Court in the Judgment reported in **2007 ACJ 1897** in the case of ***Hansaguri Prafulchandra Ladhani & Others Vs. Oriental Insurance Co. Ltd., and others*** in respect of T.D.S.

8. The disbursement order shall be passed after deposit of the awarded amount.

9. Award be drawn accordingly.

10. Copy of this order be kept in M.A.C.P.Nos. 103/17 & 105/17.

Pronounced & signed in the open Court today on this **22nd** day of **August, 2019.**

Place: Patan.
Date : 22/08/2019.

[BHARAT S. UPADHYAY]
MACT (MAIN),PATAN
UID Code No.GJ00206

kpandey