

GJMH010045062023



M.A.C.P.No.324/2023 with 325/2023	
Filing Date :	14.12.2023
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Decided on:	19.06.2026
Duration :	Year-Month-Day
	02 - 06 - 05

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
(MAIN) MAHESANA.**

**JUDGEMENT PASSED IN
MOTOR ACCIDENT CLAIM PETITION NO.324 OF 2023
(MAIN) WITH
MOTOR ACCIDENT CLAIM PETITION NO.325 OF 2023**

Exhibit No.44

APPLICANT OF M.A.C.P.NO.324 OF 2023 (MAIN)

Minor Applicant namely Aaradhya Nileshkumar Nayi (Age about 3 years)

On behalf of Minor Applicant, Guardian / Father namely Nileshkumar Sendhabhai Nayi, Age;34 years, Occupation : Advocate, Residing at Modhera, Ta; Becharaji, Di;Mahesana.

APPLICANT OF M.A.C.P.NO.325 OF 2023 :

Nileshkumar Sendhabhai Nayi,
Age;34 years, Occupation : Advocate,

M.A.C.T (MAIN),
MAHESANA.

Residing at Modhera, Ta;Becharaji, Di;Mahesana.

VERSUS

- 1 : Driver-Owner of Amaze Car No.GJ-01-RN-6876,
Jitendrakumar Champaklal Shah,
Age ;52 years, Occuaption : Not known.
Residing at Jay Jinendra Tower, Opp. Ankur School, 8th Floor,
Fatepura, Paldi, Ahmedabad.
- 2 : Insurance Company of Amaze Car No.GJ-01-RN-6876,
ICICI Lombard General Insurance Company Ltd.,
Office : 3rd Floor, Landmark Building, Near Bird Circle, Race
Course, Baroda-390007.

SUBJECT : The applicant of M.A.C.P. No.324/2023 and
M.A.C.P. No.325/2023 have filed above claim
petitions under Section 166 of the Motor Vehicle
Act, 1988 for compensation of Rs.1,00,00,000/-, and
Rs.1,00,000/- respectively.

APPEARANCE :

L.A. Mr.M.S.Diyol for the Applicants of M.A.C.P No.324/2023
& M.A.C.P No.325/2023 .

L.A.Mr. S.I. Shah for the Opponent No.2 of M.A.C.P
No.324/2023 & M.A.C.P No.325/2023.

None for Opponent No. 1.

COMMON JUDGMENT

1. The claimant of Motor Accident Claim Petition
No.324/2023 has claimed for Rs.1,00,00,000/- (Rupees One
Crore Only) and the claimant of Motor Accident Claim
Petition No.325/2023 has claimed for Rs.1,00,000/- (Rupees
One Lac Only) respectively on account of accidental injury

caused to claimants in a vehicular accident, which occurred on 06.09.2021, near Ganeshpura Patia, on highway, leading from Mahesana to Modhera.

2. Both M.A.C.P Nos.324/2023 & M.A.C.P No.325/2023 are arising out of the same accident. Therefore, learned Advocate for applicants of M.A.C.P. No.324/2023 has moved an application below Exh.13, dated 11.2.2026 (in M.A.C.P. No.324/2023) and requested to consolidate both above referred four M.A.C.Ps and try together. To which learned Advocate/s for other side/s have endorsed. By order dated 11.02.2026 both above matters were consolidated and ordered that evidence be recorded in M.A.C.P. No.324/2023 as main case (Exh.13). Both claim petitions are disposed of by way of this common award.

M.A.C.P No.324/2023 :

3. The guardian, who is the father of minor applicant daughter has filed the present claim petition under the provision of Section 166 of M. V. Act (hereinafter referred as 'the Act') and have claimed compensation of Rs.1,00,00,000/- (Rupees One Crore Only) on account of injury sustained by his minor daughter Aaradhya, caused in a vehicular accident, which occurred on 06.09.2021, on the Mehsana-Modhera Road.
4. The factual matrix leading to the present M.A.C.P Case No.324/2023 are as under:
 - 4.1 It is the case of the claimant—the applicant father, his

wife Chhayaben, and their minor daughter Aaradhya that, on 06-09-2021, they were traveling from Mehsana toward the hospital of Dr. Dipakshah to administer a vaccination to their daughter. It is averred that, while they were traveling in their car at a moderate speed on the right side of the road at approximately 03:30 p.m., they had passed the Ganeshpura village patiya (signpost) and were about one kilometer away toward Vijapurda on the Mehsana-Modhera highway, at that time, a silver Honda Amaze car bearing registration number GJ 01 RN 6876, coming from the Modhera side, it's driver was driving with full speed, rash and negligent manner on the wrong side of the road, resulting in a heavily head-on collision with the claimants' vehicle. It is averred that due to heavy impact caused serious bodily injuries to the applicant, his wife, and most severely to their minor daughter, Aaradhya, who was only three and a half months old at the time and sustained grave injuries to her head and body. It is further averred that the minor was immediately admitted to the I.C.U. at Samved Hospital on the day of the accident and was subsequently shifted to Zydus Hospital in Ahmedabad, where she remained hospitalized as an indoor patient from 07-09-2021 to 07-10-2021. The claimant further averred that the minor was hospitalized for a total of 31 days and continues to undergo medical treatment for her injuries. It is further averred that the claimant has incurred expenses amounting to Rs.10,00,000 for medical bills and

an additional Rs.5,00,000 for special diet, attendance, and transportation. It is further averred that the accident was caused solely by the negligence and reckless driving on the part of driver-opponent, and therefore, the claimant seek total compensation of Rs.1,00,00,000/- along with interest at the rate of 18% per annum from the date of the application and the costs of the petition from the opponents.

5. The factual matrix leading to the present M.A.C.P Case No.325/2023 are as under:

5.1 It is the case of the claimant that on 06-09-2021, he was traveling in a car with his wife, Chhayaben, and their minor daughter, Aaradhya, from Mehsana toward the hospital of Dr. Dipakshah for the purpose of the child's vaccination. It is averred that at approximately 03:30 p.m. after passing the Ganeshpura village patiya (signboard) on the Mehsana-Modhera highway, about one kilometer toward Vijapurda, the claimant was driving his vehicle at a moderate speed on the correct side of the road. It is further averred that at that time and place, a silver Honda Amaze car bearing registration number GJ-01-RN-6876 approached from the Modhera side, it's driver was driving with full speed, rash and negligent manner on the wrong side of the road, resulting in a heavy head-on collision with the claimant's car. It is further averred that as a result of the collision, the claimant, who was 32 years of age and in good health at the time of the accident, sustained serious bodily injuries,

including injuries to his right leg, knee, and forehead. The claimant further averred that he was immediately taken for treatment to the hospital of Dr. Kamleshbhai Gurjar, where he remained as an indoor patient from 6-09-2021, to 07-09-2021. It is further averred that upon discharge, the claimant was advised to take complete bed rest for a period of 3 to 4 months, during which he was unable to perform his routine work. The claimant further averred that he has incurred expenses amounting to Rs. 35,000/- (Rupees Thirty-Five Thousand) for medical treatment and bills, and an additional Rs. 25,000/- (Rupees Twenty-Five Thousand) for special diet, attendance, and transportation. The claimant has averred that the accident was caused solely by the negligence and reckless driving of the opponent driver of the Honda Amaze car, and therefore, the claimant seeks a total compensation of Rs. 1,00,000/- (Rupees One Lakh). The claimant prays for an order directing the opponents to jointly and severally pay the said amount along with interest at the rate of 18% per annum from the date of filing of the claim petition till it's realization, along with the costs of the petition.

6. The summons of the claim petitions were served upon the opponents. The opponent No.1 chosen not to appear before the Tribunal. The learned Advocate Mr. S.I. Shah for opponent No.2 in both M.A.C.Ps and has filed an written statements vide Exh.9 & 8. It is contended that, both the

claim petitions as well as interim compensations (U/s. 140, M.V. Act), are legally untenable and deserve dismissal. It is further contended that there is no valid cause of action has arisen against them. It is contended that the claim petition is barred by the the non-joinder of necessary parties. It is submitted that while the claimant alleges the involvement of an Ertiga Car No.GJ-02-DE-2347, neither the owner nor the insurer of said vehicle has been impleaded, rendering the petition bad in law. Furthermore, the opponent seeks statutory protection under Sections 147, 149, and 64-V-B of the Insurance Act, maintaining that liability can only be "saddled" upon them if the claimant strictly proves that the insurance policy was valid, the premium was duly paid, and all terms and conditions were satisfied at the time of the accident. It is also submitted that the claimant has failed to comply with Rule 211 (5) of the Gujarat Motor Vehicle Rules, 1989, by failing to produce essential documentary evidence, and that the police authorities failed their statutory duty under Sec. 156(6) to forward relevant documents to the insurer within the prescribed 30 days.

6.1 It is submitted that the claimant has only provided a photocopy of the policy. It is submitted that the there is discrepancy in the policy where the name is of Kiritbhai Rasiklal Shah, whereas the petitioner falsely impleads Jitendrakumar Champaklal Shah as opponent No. 1. Consequently, it is contended that opponents No. 1 and 2

have been wrongly implicated. The Insurance Company further denies the occurrence, date, time, and the very involvement of the Amaze Car in the alleged accident, placing the absolute burden of proof on the claimant.

6.2 It is vehemently contended that the accident did not occur due to the rash or negligent driving of the Amaze Car's driver. On the contrary, the opponent contended that the driver of the Ertiga Car was solely responsible. It is contended that the accident occurred in broad daylight at 3:00 P.M. with clear visibility, and the Ertiga Car was being driven with full speed without taking due care. The opponent submitted that the driver of the Ertiga Car contributed solely to the incident, and therefore, the Insurance Company should be exonerated from any liability. Furthermore, it is contended that the driver of the Amaze Car did not hold a valid and effective driving license or the required fitness and permit certificates at the material time, violating Rule 3 of the Central Motor Vehicles Rules, 1989, which nullifies the insurer's liability.

6.3 It is further contended that the particulars of the deceased/injured, specifically prove by leading evidence age, income, and the nature of injuries. It is submitted that the claimed monthly income of Rs.50,000/- and the age is mentioned as 32-year-old and healthy individual which are denied. It is further contended that the interim claim, it is contended that the injuries do not result in permanent

disablement, making the application U/s. 140 not maintainable. It is contended that the interest rate of 18% is highly excessive and contrary to the Interest Act, 1978. Citing various High Court and Supreme Court precedents, it is submitted that the interest, if any, should not exceed 6% per annum, and no interest should be awarded on "future prospects" or non-pecuniary damages. Lastly, it is requested that taking into consideration the aforementioned contentions, it is prayed to dismiss the petitions

7. In support of the present claim petitions, the applicants have produced the following oral as well as documentary evidence.

ORAL EVIDENCE:

Sr. No.	Description of Oral Evidence	Exh.
1.	Deposition of applicant of M.A.C.P No.325/2023 namely Nileshbhai Sendhabhai Nayi under Order-18, Rule-4(1) of C.P.C.	16
2.	Deposition of applicant Aaradhya of M.A.C.P No.324/2023 Guardian/father Nileshbhai Sendhabhai Nayi namely, under Order-18, Rule-4(1) of C.P.C.	17

DOCUMENTARY EVIDENCES :

Sr. No.	Description of Documentary Evidence	Exhs.
1.	Copy of complaint	21
2.	True copy of Panachnama of place of an offence	22

3.	True copy of Spot Inspection Report	23
4.	Copy of R.C. Book of Amaze Car No. GJ-01-RN-6876	24
5.	Copy of Insurance Policy of Amaze Car No. GJ-01-RN-6876.	25
6.	Copy of D.L.of driver of Amaze Car No. GJ-01-RN-6876	26
7.	Copy of D.L.of driver of Ertiga No. GJ-02-DE-2347	27
8.	Copy of Injury Certificate of minor Aaradhya	28
9.	Copy of Medical Certificate of minor Aaradhya	29
10.	Copy of Chargesheet	30
11.	Copy of Aadhar Card of Nayi Nilesh	31
12.	Copy of Pan Card of Nilesh Nayi	32
13.	Copy of Bank Pass-book of applicant Nileshkumar Nayi	33
14.	Physiotherapy Certificate of Aaradhya issued by Dr. Krutika Sukhadiya, Paediatric Physiotherapist, Gandhinagar, Gujarat S.T. Bus Tickets and Medical bills (MACP No.324/2023).	34
15.	Copy of Injury Certificate of applicant Nileshbhai Sendhabhai Nayi (M.A.C.P No.325/2023).	35
16.	Disability Certificate of minor Aaradhya issued by Chief District Medical Officer, Mahesana	39
17.	Medical Receipt No.141	40
18.	Medical Receipt No.142	41
19.	Medical Receipt No.140	42

8. Learned Advocate for the opponent No.2 has filed application for permission vide Exh.18 to contest M.A.C.P Nos.324/2023 under Section-170 of the M.V.Act. and same has been allowed to contest the respective claim petitions.
9. After adducing and producing evidence from claimants side, this Tribunal has kept the matter for the evidence of opponents, but no evidence produce from opponents side. After adducing evidence from the parties, this Tribunal heard the oral arguments of the learned Advocates for the parties at length. The learned Advocate for opponent No.2 – Insurance Company has argued that mere occurrence of an accident does not create a presumption of negligence against the opponent. The legal burden lies entirely upon the applicant to prove with specific evidence, that the accident occurred solely due to the negligence on the part of driver-opponent. In this case, the applicant/s has/have failed to discharge the burden of proving the fact. It is argued that this is a case of contributory negligence. The evidence suggests that the applicant - Nileshbhai, was driving his Ertiga Car No.GJ-02-DH-2347 and had a clear view of the upcoming Honda Amaze car No. GJ-01-RN-0687 from a distance. Despite having ample time and visibility at around 2:30 p.m. the applicant made no effort to avoid the collision. Consequently, the accident was a result of the applicant's own full speed and lack of care. Therefore the opponent driver has not committed any tortious act, rather the

applicant's own negligence was the primary cause for the accident. It is argued that the injury sustained by minor which is curable not resulting in any permanent disability. During cross-examination, the applicant admitted that his income actually increased after the accident. It is argued that the applicant has not produced evidence of financial loss or diminished future earning capacity. It is further argued that the claim for the minor Aaradhya of Rs.1,00,00,000/- is absurd and beyond understanding. Medical opinions suggest the child only requires physiotherapy and is expected to recover fully. The applicant has not produced any cogent evidence or calculations to justify such a massive figure. It is requested that the court follow the guidelines set by the Hon'ble Supreme Court in the case of Master Mallikarjun v. National Insurance Co. Ltd. In the case of minor. Lastly, it is argued that since both claim petitions arise from the same accident where the applicant himself was negligent, the claims against opponent No.2 are not maintainable. It is prayed that the taking into consideration of factual submissions, the claim petitions of the claimants/applicants be dismissed against opponent No.2-Insurance Company.

10. To determination the claim petitions, following issues framed vide Exh.12:

I S S U E S

1. Whether claimant proves that the injured sustained injuries on account of

rashness/negligent driving on the part of the drivers of the vehicles involved in the accident ?

2. What amount, if the claimant is entitled to, by way of compensation and from which of the opponent ?

3. What order and award ?

11. My findings to the aforesaid issues are as under;

1. Issue No.1 : In affirmative.
2. Issue No.2 : Partly affirmative.
3. Issue No.3 : As per final order.

REASONS

12. Issue No.1:-

12.1 In these both claim petitions, the applicant of MACP No.324 of 2023 being a minor, on her behalf father/guardian namely –Nileshkumar Sendhabhai Nayi and M.A.C.P No.325/2023 filed by applicant Nileshkumar Sendhabhai Nayi and has produced his examination-in-chief on affidavit vide Exh.16 & 17,

12.2 In the examination-in-chief of M.A.C.P No.325/2023, claimant Nileshkumar Nayi has deposed that the driver of Amaze car No. GJ-01-RN-6876 drove his car with full speed, rash and negligent manner and came from opposite wrong side and collided with his car, hence he sustained injury at right knee and shin as well as whole bodily injury. Also his daughter sustained injuries to his left knee, his left

jaw and above his left eye. And his daughter Aaradhya sustained serious head injuries. The accident occurred due to the gross negligence on the part of driver of Honda Amaze car No. GJ-01-RN-6876.

12.3 Learned Advocate Mr. S.I. Shah for the opponent No.2 has cross-examined the said witness – applicant (MACP No.325/2023), wherein he has admitted that they were traveling on a road where construction work was going on, and many diversions had been provided. He has admitted that both vehicles collided head-on. He has deposed that at present he is practicing as Advocate. He has admitted that after the accident his income gradually increased. He has admitted that he can discharge his daily work. He has admitted that he has no permanent disablement. He has admitted that he has not produced evidence to the claim as he has claimed under different heads.

12.4 The applicant of M.A.C.P. No.324 of 2023 being a minor, on her behalf father/guardian namely – Nileshkumar Sendhabhai Nayi has produced his examination-in-chief on affidavit vide Exh.17. In his deposition he has deposed that accident occurred on 6.09.2021, due to gross negligence on the part of driver of Amaze Car No.GJ-01-RN-6876. At the time of accident his daughter was only three and a half months old, before the accident she was very healthy and active baby. Due to accident, Aadhya sustained serious head injuries and internal injuries all over her body. She was first

rushed to the ICU at Smaved Hospital. Later, she was shifted to Zydus Hospital in Ahmedabad, where she stayed as a patient for 31 days from dated 7.9.2021 to 10.10.2021, even now her medical treatment is still going on. So far expense of Rs.17,00,000/- for hospital bills, and another Rs.5,00,000/- on travel, special food, and other costs. For her pain, care and the medical needs for her future, claim of compensation Rs.1,00,00,000/- with interest to be recovered from the opponents.

12.5 Learned Advocate Mr. S.I. Shah for the opponent No.2 has cross-examined the said witness – applicant (MACP No.324/2023), wherein he has admitted that they were traveling on a road where construction work was going on, and many diversions had been provided. It is admitted that both vehicles collided head-on.

Negligence :

12.6 Bare reading of Complaint (FIR) (Exh.21), the factum of the case is that on 06-09.2021, the complainant, Nimeshbhai was driving his Maruti Ertiga No. GJ-02-DE-2311 from Mehsana toward Modhera with his family. The complainant states that near Ganeshpura, a silver Honda Amaze No. GJ-02-RN-6776 was coming from opposite direction with full speed and in a rash and negligent manner. The complainant specifically alleged that the opponent's vehicle lost control and struck his car head-on, causing serious injuries to himself, his wife and his two minor

children. From the complaint, it becomes very clear that the opponent failing to maintain a safe speed and proper lane control on a public highway.

12.7 Upon perusal of Panchanama of the scene of offence (Exh.22) wherein panch stated that the collusion occurred on the Modhera-Mehsana road, near the Ganeshpura village. The physical evidence at the scene shows that both vehicles sustained heavy damages to their front right portions, including broken headlights, damaged bumpers and shattered windshields. The positioning of the vehicles shows that the Honda Amaze car No. GJ-01-RN-6876 it's front side towards Mahesana and the car sustained severe impact damage on front right portion. The front bumper was completely broken and dislodged. The right side headlight assembly was totally broken. The bonnet was dented and pushed upward/inward due to the force of the collision. The right side A pillar and the front right wheel assembly showed structural deformation. The front windshield was shattered and creaked, particularly on the side of the impact. The Honda Amaze was positioned on the main asphalt road. According to the panchas, it was facing toward the Mehsana side but was located in a manner that indicated it had crossed towards or into the oncoming lane of the Maruti Ertiga. The vehicle was in a stationary, accidental condition, resting near the other involved vehicle-Ertiga. There was a glass shards plastic parts and fluids surrounding the front

right wheel of the Amaze. The car was found approximately 500 meters away from the 'modhera road' indicator board near the Gneshpura village. The specific damage to the front right of the Amaze and its rear side tyre is burst and its resting position which confirms a head – on collision. On the other the white colour Maruti Suzuki Ertiga No. GJ02-BE-4347, the air from the rear wheel has leaked out, the front bonnet and bumper severely pressed bent inside and dented. Front side glass broken. From the rear side road leaving divider about 7 feet, at around 25 feet there is mark of tyres, from the scene it appears that the vehicle is coming from it's proper lane. On the other, Amaze car surpass on divider. The panchas have believed and opinion that the loss of the vehicle Ertiga is estimated damages loss to the tune of Rs.2,00,000/- to 2.50,000/, whereas Amaze car estimated loss to tune of Rs.1,00,000/- to 2,00,000/-

12.8 From the combined perusal of the police complaint and the scene of panchnama, the factum of the case is that the accident occurred due to the sole negligence of the Honda Amaze driver. The complainant was driving his Maruti Ertiga with his family on the right side of the road, when the Honda Amaze was coming with full pseed and uncontrollable speed, veered out of its land. The description in the panchnama reveals that the collision was a front right to front right 'head-on collusion, which took place within the complainant's designated path near the Ganeshpura

village patia. The severity of the damage, including the bonnet, depolyed airbags, and the fact that the Ertiga's tyres and rims were dragged along the road surface, which confirms the high velocity of the offending vehicle.

12.9 The cumulative effect of the evidence shows that the driver of Honda Amaze failed to maintain lane discipline and not control over the speed, directly causing the collision. On the other, the complainant, who was transporting an infant and other family members was positioned appropriately on the road and had no opportunity to avoid the sudden encroachment by the opponent. Therefore, there is no evidence of contributory negligence on the part of the Ertiga driver. From the complaint and Panchnama which establish that the driver of Honda Amaze is 100% negligent for causing the above referred accident.

12.10 As per above discussions and available material facts on record, this Tribunal is of the view that the accident was occurred due to gross negligence on the part of driver of the Amaze car No. GJ-01-RN-6876. Therefore, I hold that the driver-owner/ opponent No.1 of the truck No. GJ-01-RN-6876 was sole negligent in causing the accident dated 06.09.2021. In view of the above, I decide issue No.1 in affirmative in both the above referred M.A.C.Ps.

13. Issue No.2 (Quantum of Compensation):

That so far as question of compensation is concerned, all the claim petitions are dealt with individually.

M.A.C.P No.324/2023 :

Age :

13.1 As per the claimant/applicant, at the time of accident, his daughter Aadhya was aged three month old healthy baby. However due to the injuries sustained in the accident and as per the disability certificate produced vide Exh.39, doctor has opined 100% multiple disability. she is unable to work as before, which will have great impact on his future earnings and living, which may be taken into consideration while determining the quantum of compensation. Therefore, this Tribunal is of the considering view that the disability of the claimant is to be considered as 100% body as a whole.

14. Now, looking to the facts and medical evidence and position of minor Aaradhya, ***Baby Sakshi Greola V/S Manzoor Ahmad Simon and another reported in 2024 INSC 963*** is required to be consider and followed.

14.1 Attendance Charges :

It is to be noted that applicant, applicant Aaradhya was 3 months old at the time of accident as a case of severance traumatic brain injury with right hemorrhage fracture for further management she has matic brain injury super *refrigeratory* status *epileptcus*. Minor Aaradhya has a multiple disability to extent of physical impairment disability her intelligence lecturer disability 100% of the brain and cerebral palsy 70% of multiple the said disabilities

certificate given by Chief Medical Officer. Aaradhya has taken a long treatment, looking to the discharge summary, it reveals that there is no material improvement. Looking to all the medical papers and disability certificate vide Exh.39, it reveals that Aaradhya has no sensibility, she is not been able to understand the person or things or anybody, it can be said that Aaradhya mentally fit and see has no control over the of passage of her urine. I have personally seen Aaradhya in the open Tribunal that, she is not physically and mentally fit to stand and understand as generally common person behave or act. She is not in a position to speak properly, she is not able to learn anything. Looking to the position of Aaradhya that she has required close supervision of attendance necessary for day to day her daily routine life. Now, considering the evidence and position of Aaradhya attendance charge is required to be granted. Now, considering the Minimum Wage of skilled person of Rs.9256/- (Rs.9256 per month a part time attendant) at present minor Aaradhya is 5 years old and applying of multiplier of 18. Looking to the physical and mental condition of Aaradhya, she would be dependent on attendant throughout her life and on a full time basis, as per judgment delivered in ***Baby Sakshi and Kajal (Supra)*** compensation of Rs.19,99,256 (Rs.9256/-per month x 12 months x 18 multiplier = 19,99,256/ towards attendance charges.

14.2 Loss of Marriage Prospects:

Looking to the disability certificate (Exh.39) and evidence of the applicant, the mental status of the Aaradhya would be same as that illiterate child and mantally disorder child. The minor Aaradhya has lost her childhood, but also lost her adult life, marriage is an integral part of natural life of human being. It is mere importance her to rear children and enjoy the simple pleasure of martial life. As per opinion of this Tribunal that this is the fit case where compensation awarded under the head of loss of marriage prospects of **Rs.1,00,000/-**.

14.3 Loss of Future Prospects & Earning Capacity :

Upon perusal of disability certificate as well as discharge Card and other evidence Aaradhya has suffered intellectual disability of 100% of brain and diagnoses of it performed intellectual disability and 70% *cerebral palsy* multiple disability. Aaradhya is suffering from above disability, she would not able to learn, minor Aaradhya has also severe empathy and no control over the passage of her urine or body. At present minor Aaradhya is 5 years old, as per the judgment of ***Baby Sakshi*** (supra), it would be proper to take notional income as per the Minimum Wages Act, monthly Rs.9256/- and 40% should be added for the future prospects and multiplier 18 would have to be applied . In view of age of minor Aaradhya therefore the compensation under the head of loss of income and earning due to disability would

be Rs.9256/- per month + 40% of future prospects Rs.3702/-
= Rs. 12958/- x 12 months x 18 multiplier= **Rs.27,98,928/-**
for future prospects & earning Capacity.

Now, considering the case of *K.S.Murliya, case of Kajal* (supra) and case of master Ayush and case of Baby Sakshi (supra). The claim can be awarded only once and claimant cannot come back to the Tribunal for enhancement at a later stage praying that something extra has been spent. In the present case, case of 100% disability where there is mental disability. Therefore, I believe that liberal view is required to be taken while awarding the compensation. The mental and physical loss cannot be contributed in terms of money, but there is no other way to compensate the victim except by payment of just compensation. Minor Aaradhya will dependent on another person for rest of her life, even though physical ill will increase, but mental ill will be that of child and she will remain small Baby.

14.4 Pain, Shock and Suffering :

Looking to the medical treatment, discharge summary and medical bills Rupees more than 17,00,000/- have been spent towards medical bills, treatment show, she bears a pain, shock and suffering. Therefore I would like to award **Rs.2,50,000/-** under the head of pain, shock and suffering.

14.5 Nutritious Food, Special Diet, Conveyance charges & Transportation :

Now considering the long treatment, medical bills, evidence of the applicant, it becomes very clear that minor child has

given nutritious food, special diet, not only that number of times visited hospital for treatment, therefore, the amount of conveyance and special diet is required to be granted. Considering over all evidence and papers of the case, expenses relating to transportation, nutritious food, special diet is required to be given hence I pass the award under the head of **nutritious food, special diet, conveyance, & transportation of Rs.2,50,000/-**, not only that in future further medical treatment is required for the purpose of visiting hospital and given the nutritious food, the said amount is awarded because of the present compensation granted in once.

14.6 Future Medical Treatment :

Looking to the medical certificate/s, overall evidence and age of the minor Aaradhya, the future medical treatment is necessary to minor Aaradhya, the minor has no sense and no control over the body, not only that she has no control over the passage of her urine and daily activities. In such circumstances, the minor Aaradhya required medical assistance from the medicines such as dyper etc. so as to live relatively comfortable life. The family of minor Aaradhya must have financial equipped to deal with medical expenses. Therefore, it would be just and proper to enhance the award amount towards medical treatment of **Rs.2,50,000/-**.

14.7 The parties to the claim petition has jointly passed a pursis vide Exh.36 and both have endorsed that they have no objection or dispute regarding medical bills of Rs.17,76,408/-. The medical bills and other bills and bus tickets produced vide Exh.34. Therefor, considering the injuries sustained by the minor, I deem it fit to award **Rs.17,76,408/-** under the **head of medical expenditure**.

14.8 Thus, in view of the ratio laid down by the Hon'ble Apex Court, the following just and reasonable amount of compensation arrived upon by this Tribunal on the basis of evidence produced on record :

Amount in (Rs.)	:	Description of Head/s.
Rs. 19,99,256=00	:	Under the head of Attendance Charges.
Rs. 1,00,000=00	:	Under the head of marriage prospects.
Rs. 27,98,928=00	:	Under the head of Future Prospects & Earning Capacity
Rs. 2,50,000=00	:	Under the head of Pain, Shock & Suffering.
Rs. 2,50,000=00	:	Under the head of Nutritious Food, Special Diet, Conveyance charges & Transportation.
Rs. 2,50,000=00	:	Under the head of Future Medical Treatment.
Rs. 17,76,408=00	:	Under the head of Medical Expenditure.
Rs. 74,24,592=00	:	Total awarded compensation.
(Rupees Seventy Four Lacs Twenty Four Thousand Five		

Hundred Ninety Two Only).

Thus, the minor claimant of M.A.C.P No.324/2023 is entitled to **Rs.74,24,592/- (Rupees Seventy Four Lacs Twenty Four Thousand Five Hundred Ninety Two Only)** and therefore the applicant/claimant is entitled to get the said amount of compensation.

15. M.A.C.P. NO.325 OF 2023 :

The claimant had claimed a sum of Rs.1,00,000/-. The applicant has produced injury certificates at Exh.35 (M.A.C.P No.325/2023), which shows that the claimant aged about 32 years sustained injuries in a road accident on 6.9.2021 near Modhera-Mehsana Road. After the accident, the claimant had a wound over the right knee. The injury certificate shows there was tenderness and swelling over the right ankle region along with a lacerated wound at right knee. On examination through

15.1 From the cross-examination of the claimant, it appears that applicant-Nileshbhai has no disability and his income has increased after accident and he does every work without any difficulties, therefore applicant is not entitled for actual loss or future loss.

15.2 Looking to the Exh.35 injury certificate of Nileshbhai, it appears that in the X-ray, it found injury around the medial malleolus/inner side of the ankle, but no fracture to the applicant. The applicant has not produced

medical bills and disability certificate. However, considering injury certificate (Exh.35), under the head of pain, shock and suffering and special diet and transportation is required to be granted in the matter. Therefore Rs.5,000 compensation is granted to the applicant towards pain shock and Suffering and special diet and transportation.

Rs.5,000/-	Total Compensation
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16. Liability :

So far the liability is concerned, as discussed above, opponent No.1-driver of Honda Amaze Car No. GJ-01-RN-6876 is held negligent in causing the above referred accident. But the learned Advocate for opponent has raised objection regarding discrepancy in the name of opponent No.1, in the policy where the name is of Kiritbhai Rasiklal Shah, whereas the petitioner falsely impleads Jitendrakumar Champaklal Shah as opponent No. 1. Consequently, it is contended that opponents No. 1 and 2 have been wrongly implicated.

16.1 The opponent-Insurance company has raised a contention that as per the R.C. Book, the name of the registered owner is Shown as Kiritbhai Rasiklal Shah, whereas in the claim petition the owner is described as Jitendra Kumar Champaklal Shah, and, therefore, the claim petition is defective and barred by the necessary party.

16.2 At the outset, it is pertinent to note that the Motor Vehicles Act is a beneficial and social welfare legislation, enacted with the object of granting just and reasonable compensation to victims of motor vehicle accidents. Technical objections should not defeat a legitimate claim.

16.3 It is well settled that for the purpose of fastening liability, the concept of 'owner' under Section 2(30) of the Motor Vehicles Act refers to the registered owner of the vehicle. Even assuming there is some discrepancy in the name mentioned in the claim petition, the same appears to be a clerical or inadvertent error, and such discrepancy cannot absolve the insurance company of its statutory liability.

16.4. In the present case, the involvement of the offending vehicle is duly established from the documentary evidence such as FIR and Panchnama. The insurance company has not disputed the existence of a valid insurance policy covering the said vehicle at the relevant time.

16.5 The Hon'ble Apex Court in ***Naveen Kumar v. Vijay Kumar & Ors*** (2018) 3 SCC 1, has categorically held that the registered owner of the vehicle is liable, irrespective of any internal arrangement or dispute regarding ownership. The liability of the insurer to indemnify the insured cannot be avoided on hyper - technical grounds.

16.6 Further, in ***Purnya Kala Devi v. State of Assam***, (2014) 14 SCC 142, it has been held that, technicalities

should not come in the way of awarding just compensation under the Motor Vehicles Act. Therefore, the contention raised by the insurance company regarding discrepancy in the name of the owner is not tenable in the eye of law, and the same deserves to be rejected. Accordingly, this Tribunal holds that such minor discrepancy in the name of the owner does not affect the merits of the claim petition, and the claimant is entitled to just compensation.

16.7 The claimant has produced insurance policy of the alleged vehicle No. GJ-01-RN-6876 at Exh.25, in which said vehicle was insured with the opponent No.2 and period of policy was commenced from 12-01-2021 to 12-01-2022 and the accident was occurred on 06-09-2021, therefore, the said policy is covered on the date of accident and therefore, the Insurance Company would be liable to indemnify the owner and in turn satisfy the award of this Tribunal. The claimant has produced driving license of driver of Amaze Car No. GJ-01-RN-6876 which was issued on 04-09-1998 valid up to 27-09-2026 which means at the time of accident driving license of opponent No.1 was effective. Therefore, the opponent Nos.1 & 2 are jointly and severally liable to pay the total amount of compensation of **Rs.74,24,592/- (Rupees Seventy Four Lacs Twenty Four Thousand Five Hundred Ninety Two Only)** to the minor applicant/claimant of M.A.C.P No.324/2023 and **Rs.5,000/- (Rupees Five Thousand Only)**

to the claimant/applicant of M.A.C.P No.325/2023. As the discussion made herein above, driver of offending vehicle held negligent for causing accident and as such, opponent Nos.1 & 2 are held liable to pay the compensation. As such answers for issue No.2 accordingly and for issue No.3 pass the following order.

ORDER

M.A.C.P No.324 / 2023 :

- I. Present Motor Accident Claim Petition No.324/2023 is hereby partly allowed.
- II. The minor applicant/claimant Aaradhya is entitled to get compensation of **Rs.74,24,592/- (Rupees Seventy Four Lacs Twenty Four Thousand Five Hundred Ninety Two Only)** from the opponent Nos.1 & 2, the opponent Nos.1 & 2 are jointly and severally liable to pay the compensation to minor claimant.
- III. The minor claimant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ rate of 7% per annum from the date of claim petition till its realization, along with cost of petition.
- IV. The opponent Nos.1 & 2 are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj*

Allianz General Insurance Company Ltd. V/s. Union of India and Ors.

V. The amount of compensation be deposited through RTGS/NEFT in the account maintained by the District and Session Court, Mahesana as per given following details:

Name of Bank : State Bank of India,
Specialized Government
Branch, Mahesana.
Account No. : 40751534495.
Branch Code : 13538.
Name of A/c Holder : DISTRICT AND SESSION
COURT MEHSANA.
IFS Code No. : SBIN0013538.
MICR No. : 384002005.

VI. The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.

VII. Interim amount, if any, paid to the claimant be adjusted at the time of final disbursement. The deficit Court fees, if any, be deducted from the awarded amount.

VIII. After above deductions, Out of the amount falling to the share of applicant, **100%** amount be deposited in the name of **minor applicant-Aaradhya** in any nationalized Bank of the choice of concerned applicant, for a period of **FIVE YEARS** or till the minor attain the age of majority whichever is later.

The concerned Bank is also directed to release the said amount to applicant, invested in the Fixed Deposit on the date of its maturity, without requiring any further orders from this Tribunal.

IX. The award be drawn accordingly.

M.A.C.P. NO.325 OF 2023 :

- I. The present Motor Accident Claim Petition No.325/2023 is hereby partly allowed.
- II. The applicant is entitled to get compensation of **Rs.5,000/-** (Rupees Five Thousand Only) from the the opponent Nos.1 & 2 are jointly and severally liable to pay the compensation to claimants.
- III. The claimants are is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ rate of 7% per annum from the date of claim petition till its realization, along with cost of petition.
- IV. The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors.*
- V. The opponent Nos.1 & 2 are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.

- VI. Interim amount, if any, paid to the claimant be adjusted at the time of final disbursement. The deficit Court fees, if any, be deducted from the awarded amount.
- VII. The amount is Rs.5,000/-, hence no order for fix deposit. The whole amount shall be paid to the claimant/s by A/c. Payee cheque, after due verification.
- VIII. The application vide Exh.9 & 10 filed by opponent in M.A.C.P Nos.325/2023 & 324/2023 are disposed of.
- IX. Award be drawn accordingly.
- X. Copy of judgment be placed in MACP No.324 of 2023 & MACP No.325 of 2023 respectively.

Signed and pronounced in open Tribunal on this 19th day of June, 2026.

Date :19.06.2026
Place: Mahesana

[Ambrish Laljibhai Vyas]
Motor Accident Claims
Tribunal (Main) Mahesana
UIC No. GJ00508