

Received On	06/05/2017
Registered On	06/05/2017
Decided On	16/03/2026
Duration	Y. M. D.

EXHIBIT-

**IN THE COURT OF 9th ADDITIONAL DISTRICT JUDGE
(M.A.C.P. Auxi.), AT AHMEDABAD (RURAL)**

=====

M.A.C. Petition No. 334 / 2017

➤ **Legal heirs and representatives of deceased Chetankumar Bhikhabhai Patel**

1.	Wife	Vibhaben Wd/o. Chetankumar Patel Age : 27 Years, Occu. : Household work,
2.	Son	Minor Mishva Chetankumar Patel Applicant No. 1 is as legal guardian Age: 7 years, Occu. --
3.	Mother	Jashodaben Bhikhabhai Patel Age : 58 years, Occu. Household work

All residing at : R/501, Vishwas city-2, Opp. Shayona City, Ghatlodiya, Ahmedabad.

.....Claimants

VERSUS

1.		Shivabhai Mashrubhai Bharvad R/o. Sagaligam, Tal. Chotila, Dist. Surendranagar.
2.		Harendrasinh Balvantsinh Zala R/o. Plot No. 13/C, NU-4, Sapananagar, Gandhidham, Dist. Kutchh,

3.	Insurance Co.	The New India Assurance Co. Ltd. Add.: Hub, Popular House, Opp. Sales India, Ashramroad, Ahmedabad.
4.		Mahendrasinh Hukamsinh Vaghela R/o. B/104, Devash Flora, B/h. GEB, Mu. Tal. Bavla, Dist. Ahmedabad.

.....Opponents

Sub. : Claim under Section 166 of Motor Vehicle Act, 1988 to get the amount of compensation of Rs. 50,00,000/- on account of accidental death of Deceased Chetankumar Bhikhabhai Patel

➤ **Appearance :**

1.	Ld. Advocate Mr.B.S. Solanki for the Claimants
2.	Ld. Advocate Mr. M.T. Gadhavi for the Opponent No.1
3.	Ld. Advocate Mr. A.O. Chudgar for the Opponent No.3
4.	Ld. Advocate K.B. Parmar for the Opponent No. 4
5.	Ex-parte against Opponent No.2

: J U D G M E N T :

- The claimants who are heirs and legal representatives of deceased **Chetankumar Bhikhabhai Patel** have preferred the present claim petition under Section 166 of Motor Vehicle Act, seeking the amount of compensation of **Rs.50,00,000/-** with interest @ **12 % p.a.** and costs of the claim petition from the opponents on account death of the deceased, in a motor vehicular accident took place on **30/07/2016**.
- Brief facts leading to the present Claim Petition are as under;**
That on 30/07/2016, husband of the claimant No. 1 i.e. deceased **Chetankumar Bhikhabhai Patel** was going to Telav village along with his friends by Car No. GJ-18-AA-

1123. On dt. 31.07.2016 at about 1:30 midnight when they were returning to Ahmedabad one Truck No. GJ-12-AY-0875 came with full speed and in rash and negligent manner and without any signal applied brake suddenly hence, the truck was diverted on right side of the road and the car in which deceased was traveling came to be dashed with the truck. In such vehicular accident, deceased sustained fatal injuries and succumbed to such injuries. As per the allegation made in the FIR, it is stated that the aforesaid accident was taken place due to rash and negligent driving of the driver of the aforesaid vehicle. FIR was registered with Police Station. Pursuant thereto present claim petition has been filed.

3. The opponents were duly served. The Opponent No.1 was appeared through his Advocate.
- 3.1 Opponent No. 3 insurance company has filed written statement vide **Exh. 15** and denied the contents of claim petition in **ToTo**. It is inter-alia contended that this application is not maintainable and not legally tenable. It is specifically contended that driver of car No. GJ-18-AA-1123 was solely negligent for the accident in question. It is further contended that the driver of truck NO. GJ-12-AY-0875 has not been proved to have valid driving license and therefore, the Insurance company could not be held responsible until the aforesaid fact is proved. It is also contended that the claimant is not entitled to get compensation as prayed for. Hence, it is contended that, Insurance company is not liable to pay any amount as prayed for. With the said submissions, it has prayed to dismissed the present claim petition.
- 3.2 Opponent No. 4 has filed his written statement vide Exh. 24 wherein he stated that the driver of Car No. GJ-18-AA-1123 was being driven in moderate speed with proper care and caution and the accident was occurred due to sole

negligence on the part of the driver of Truck No. GJ-12-AY-0875 and the police complaint was filed against the opponent No. 1. Hence, this opponent is not liable to pay any compensation to the claimants.

4. On behalf of the claimants the following oral as well as documentary evidence are produced :-

ORAL EVIDENCE :

Sr. No.	Exhibit No.	Particulars of document.
1.	31	Deposition of claimant No. 1 Vibhaben Chetankumar Patel

DOCUMENTARY EVIDENCE :

Sr. No.	Exhibit No.	Particulars of document.
1.	43 & 49	Certified copy of Complaint
2.	44 & 50	Certified copy of Panchnama of place of incident
3.	45 & 51	Copy of Inquest Panchnama
4.	46	Copy of PM Report
5.	39	Identity card of the authorised person of Income-tax department
6.	40	Acknowledgment of Assessment year 2012-13
7.	41	Income-tax return of Assessment year 2013-14
8.	42	Income-tax return of Assessment year 2014-15
9.	52	Copy of charge-sheet
10.	53	Closing pursis

- 4.1 The Opponents have not produced any documentary as well as oral evidence and opponent No. 3 has filed closing pursis vide Exh. 54.
5. I have heard Ld. Advocates for the respective parties and taken into consideration the oral as well as documentary evidence produced on record. Ld. Advocate for the applicant

has submitted written arguments vide Exh. 55. I have gone through the written arguments.

6. *Per contra*, Ld. Advocate for the opponent No. 3 has also filed written arguments vide Exh. 57. Ld. Advocate for the Insurance company has submitted that the accident was not taken place due to rash and negligent driving of the offending vehicle. It is submitted that the driver of the Car No. GJ-18-AA-1123 was the sole negligent for the alleged accident because he had dashed with the running truck. It is further submitted that facts of the claimant's case are not proved. It is further submitted that the Insurance co. is not liable to pay compensation as prayed for and therefore, it is submitted that applicant's application should be dismissed with cost.
7. In view of the above, for determination of present claim petition, my Ld. Predecessor has framed following issues.

ISSUES

1. Whether the petitioner/ petitioners prove/ proves that the deceased died because of the rash and negligent driving of the vehicle involved in the accident ?
 2. Whether the petitioner/ petitioners prove/ proves that he/she/they are/is entitled to compensation ? If yes, what amount and who is liable to pay the compensation ?
 3. What order and award ?
8. My finding to the above stated issues, for the reasons stated below are as under:-
- 1.** In the affirmative.
 - 2.** As per discussion.
 - 3.** As per final order.

REASONS

ISSUE NO.1

9. At this juncture, reference needs to be made toward the judgment of the Hon'ble Gujarat High Court in the case **Shaktabhai Ramabhai Patel v. Meghabhai Bhemabhai Patel 2023(0) JX (Guj) 1138** it was held in para 3.4 as under,

"3.4 In Mangla Ram Vs. Oriental Insurance Company Limited And ors. (supra), the Apex Court has explained the concept of negligence in connection with the claim compensation cases in the motor vehicular accident. The relevant observation is as under:

"Negligence is only one of the species for compensation in respect of the accident arising out of the use of motor vehicles. There are other premises for such cause of action. Even if there is no negligence on the part of the driver or owner of the motor vehicle, but accident happens while the vehicle was in use. should not the owner be made liable for damages to the person who suffered on account of such accidents? This question depends upon how far the rule in Fletcher, (19680 LR 3 HL 330 can apply in motor accident cases. Like any other common law principle, which is acceptable to out jurisprudence, the rule in Rylands case can be followed at least until any other new principle which excels the former can be evolved, or until legislation provides differently. Hence, said rule is adopted in claims for compensation made in respect of motor accidents".

10. In view of the aforesaid dictum of law, while deciding cases arising out of motor vehicular accidents, the standard of proof to be borne in mind by the MAC Tribunal must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.
11. So far as the issue of negligence is concerned, the claimant has filed affidavit of examination-in-chief and reiterated the

contents of the claim petition and in support of his claim petition he has produced the copies of F.I.R., and Panchnama of Place of accident, P.M. Report etc. respectively as described herein above.

12. The said claimant has been cross-examined by the Ld. Adv. for the Opponent No.3 - Ins. Co. wherein she has stated that she has no personal knowledge about the accident. Further, she has admitted that she has not produced age proof of the deceased. She further admitted that yearly income of the deceased is true. Looking to the entire cross-examination it is seen that nothing contrary has been elicited therefrom.
13. The F.I.R. transpires that the accident was taken between two vehicles. FIR Exh. 43 further transpires that the offending truck was running on the road and the alleged car in which the deceased was traveling was running behind the aforesaid truck and as per the allegations made in the FIR as the truck driver had applied brake all of a sudden and therefore, truck deviated from its track and came on the right side and therefore, the car which was followed the truck hit with the truck with the rear part. The aforesaid facts have been corroborated by the panchnama of the scene of offence. Panchnama goes to show that the truck was lying on the road towards Sarkhej and its back side one car was lying in a damaged condition. Moreover, the P.M. Note of the deceased also reveals that the deceased sustained bodily internal and external injuries due to vehicular accident. Thus, from the conjoint reading of the aforesaid documents it is proved that; on the alleged date, an accident occurred at the place mentioned in claim petition involving alleged vehicles in which deceased sustained injuries and succumbed to the said accidental injuries.

14. Having regard to the allegations made in the FIR coupled with the recitals of the Panchnama of place of offence it is proved that the preceding truck was not in a stationed situation but it was a running truck. It is also borne out that the car which was followed the truck dashed with the rear part of the truck. At this juncture, the arguments advanced by the Ld. Advocate of the Insurance co. is considered, Ld. Advocate has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **Nishan Singh vs. Oriental Insurance Co. Ltd. 2018 ACJ 1466** and submitted that the driver of the car who had dashed the car with the truck from the backside of the truck is only responsible for the alleged accident and therefore, the truck driver should be exonerated from any negligency and therefore Insurance company is not responsible to pay the compensation. I have gone through the aforesaid authority. Having regard to the facts of the authority it was proved before the Tribunal that distance of 10 to 15 feet between the Truck and Maruti Car was certainly not a safe distance for which the driver of the Maruti car must take the blame. Hon'ble Supreme Court in the peculiar facts and circumstances of the case held the driver of the Maruti car liable for having driven his vehicle rashly and negligently. So far as the facts before this Tribunal are distinguishable and therefore, this Tribunal is of the opinion that the same has no application to the facts of the present case. At the same time this court has taken into consideration the Regulation 23 of the Rules of the Road Regulations, 1989 which reads as follows.

"23. Distance from vehicles in front ; - The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision keep the vehicle in front should suddenly slow down or stop."

15. In view of the aforesaid provisions of law, if the evidence on record is considered then it is proved that the truck driver had suddenly applied brake and thereby the same was brought in the right side of the road as a result of which the Swift car collided with the truck from the back. Having regard to the entire evidence nothing has been brought on record that how much distance was there between the truck and the Swift car. In absence of such evidence the facts mentioned in the FIR and Panchnama are required to be accepted as it is then also it is clearly borne out that their might be not sufficient distance between the two vehicles collided with each other. It is also required to be noted that both the drivers have been impleaded as respondent No. 1 & 4 respectively but interestingly none has stepped into the witness box and has failed to offer evidence in regard to the alleged accident.
16. In view of the aforesaid discussion and evidence on record, when the Maruti car came to be dashed with the rear part of the truck which was going ahead, it is duty of the driver of the Maruti car to keep the safe distance to avoid the collision if the vehicle in front should suddenly slow down or stop. Herein this case, this Tribunal is of the opinion that though the driver of the Maruti car has been joined as opponent No. 4 has not chosen to offer the evidence. Such conduct on the part of the opponent No. 4 suggests that if he had kept sufficient distance between the car and the offending truck the accident would have definitely avoided. It is also well settled principle of law that only because the FIR and charge-sheet is filed against the offending vehicle the same cannot be the sole criteria to be relied upon. Only on the basis of such FIR and charge-sheet the driver of the offending vehicle cannot be held responsible solely for the alleged accident. But the other circumstances are also to be looked into by the

Tribunal in order to arriving at the conclusion that who is responsible for the accident. Considering the over all evidence, this Tribunal comes to the conclusion that driver of both the vehicles are equally responsible.

17. As per the doctrine of *dominus litis* the claimant is the master of the suit or proceedings and therefore, he is free to bring the legal action as per his choice. At this juncture reference needs to be made towards the judgment of Hon'ble Gujarat High Court in the case of **Gujarat Road Transport Corporation vs. Hemlata Shitalbhai Salat** wherein Hon'ble High Court has observed in para-8 as under :

"8. Be that as it may, undisputedly, the deceased was pillion rider and accident took place between the motorcycle and ST Bus. There are two wrong doers viz. the driver of the ST Bus and motorcycle, but the deceased has not contributed any negligency causing road accident to the driver of the motorcycle and therefore, even if the driver of the motorcycle is considered, the deceased who was pillion seated cannot be held vicariously liable for the contributory negligence of the driver of the motorcycle. The issue has been recently addressed by the Hon'ble Apex Court in case of Sushma vs. Nitin Ganpati Rangole [2024 (0) AIR (SC) 4627] wherein in para-19 it has been observed as under :

19. It is clear from the ratio of the above judgment that the contributory negligence on the part of driver of the vehicle involved in the accident cannot be vicariously attached to the passengers so as to reduce the compensation awarded to the passengers or their legal heirs as the case may be.

9. The terms negligence has been thoroughly discussed and explained by the Apex Court in case of T.O. Anthony vs. Karvaman [2008 (3) SCC 748] wherein in para-6 & 7 it has been observed as under :

6. 'Composite negligence' refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrong doers, it is said that the person was injured on account of the composite negligence of those wrong doers. In such a case, each wrong doers is jointly and severally liable to the

injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. **In such a case the injured need not establish the extend of responsibility of each wrong doer separately, nor is it necessary for the court to determine the extend of liability of each wrong doer separately.**

18. In the aforesaid judgment Hon'ble High Court of Gujarat has further observed in para-10 as under :

“10. In Khenyei (supra) the Hon'ble Apex Court has put the issue to the rest by observing in para-12 as under :

12. A full bench of Madhya Pradesh High Court, in Smt. Sushila Bhadoriya & Ors. V.M.P. State Road Tarnsport Corp. 7 Anr. [2005 (1) MPLJ 372] has also laid down that in case of composite negligence, the liability is joint and several and it is open to impead the driver, owner and the insure one of the vehicles to recover the whole amount from one of the joint tort feasors. As to apportionment also, it has been observed that both the vehicles will be jointly and severally liable to pay the compensation. Once the negligence and compensation is determined, it is not permissible to apportion the compensation between the two as it is difficult to determine the apportionment in the absence of the drivers of both the vehicles appearing in the witness box. Therefore, there cannot be apportionment of the claim between the joint tort feasors.”

19. Under the circumstances, when the present case involves composite negligence the **opponent No. 1 and opponent No. 4 are held 50%-50%** negligent for the alleged accident. Hence, Issue No.1 is answered accordingly.

ISSUE NO.2 & 3 :

**QUANTUM OF COMPENSATION:
INCOME OF DECEASED :**

20. Now it is the duty of the Tribunal to award just, equitable and fair compensation to petitioner. The expression 'compensation' is comprehensive term which includes a claim for the damages. Hon'ble Apex Court in "**Sarla Verma and**

Others Vs. Delhi Transport Corporation and Another"

reported in **AIR 2009 (SC) 3014** has discussed as under:-

".....just compensation is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit."

21. This Court has taken into consideration the ratio laid down by the Hon'ble Supreme Court in the case of **Malarvizhi and others v/s United India Insurance Co. Ltd. 2020 ACJ 526**, wherein, in Para-10 of the judgment it is inter-alia held as under:

"The tax return indicated an annual income of Rs. 2,11,131/- in the relevant assessment year. Mr. Jayanth Muth Raj, Learned Senior Counsel appearing on behalf of the appellants, contended that other documents were marked which reflected the income of the deceased. We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income return is a statutory document on which reliance may be placed to determine the annual income of the deceased. To the benefits of the appellants, the High Court has proceeded on the basis of the income return for the assessment year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased."

22. At this juncture this court deems it fit to refer recent pronouncement of the Hon'ble Gujarat High Court in the case of **ICICI Lombard General Insurance Co. Ltd. vs. Vallabhbai Nathabhai Bhalani reported in 2026(0) GUJ HC 8553** wherein it is inter alia held para-13 as under :

"13. This court is of considered view that there is no rule in all cases that court has to consider average income. There is no any gradually increase in the income and there is no bar to consider the last return which is already inspired confidence and was filed prior to the accident. In this regard, reference may be made to the decision of the Hon'ble Supreme Court in Malavizhi & Ors. vs. United India

Insurance Company Ltd. & Anr. reported in 2020 ACJ 526 (SC) wherein it has been held that income-tax returns are statutory documents and the income of the deceased ought to be considered as per the IRTs. Once the Tribunal has accepted that increase in income is but natural, question does not arise to refuse the income as per the latest income tax return filed.”

23. Having regard to the aforesaid principle of law, the highest income of the deceased prior to his death has to be acted upon. So far as the quantum of compensation is concerned, the Claimant has deposed on oath that; at the time of accident deceased was earning Rs.2,89,195/- per year by doing business. The claimant has produced acknowledgment and income-tax returns for the Assessment years 2012-13, 2013-14 & 2014-15 vide Exh. 40, 41 & 42 respectively. It is clear that accident took place on 31.07.2016. So far as the income of the assessment year 2014-15 is concerned gross total income of the deceased was Rs. 2,89,195/- and after deduction of tax payable of Rs.1830/- the net pay of the deceased comes to **Rs.2,87,365/-**. It is transpired that the aforesaid income-tax return at Exh. 42 came to be filed by the deceased on 31.03.2016 i.e. prior to the alleged accident. Under the circumstances, the aforesaid income being the highest income of the deceased is required to be relied upon. Hence, if the aforesaid yearly income is considered for calculation of the just and fair compensation it would render substantial justice.

AGE :

24. The Claimant has stated that, at the time of accident deceased was aged about 33 years. The claimant has produced Income-tax return vide Exh. 41 & 42 wherein his date of birth is mentioned as 01.04.1983. Being the public document the same is required to be taken into consideration.

Hence, at the time of accident the deceased was 33 years old hence, it falls within the age group of **31-35 years**. Hence, **as per the ratio laid down by the Hon'ble Apex Court in "Sarla Verma & Ors. V/s. Delhi Transport Corporation & Anr." reported in "2009 A.C.J. 1298"**, the claimants are entitled to get multiplier of "**16**"

PROSPECTIVE INCOME :

25. As discussed in forgoing para of this judgment, on the date of accident and death of the deceased, he was aged about 33 years and fall within the age group of 31-35 years. So, as *per ratio laid down by the Hon'ble Supreme Court of India, in case of National Insurance Company Ltd. Vs. Pranay Sethi and Ors. SLP(Civil) No.25590/2014, dtd. 31.10.2017, in Para-61*, treating that deceased was a self employee. Hence, it can be said that deceased was having **self employment** and therefore, **40%** amount is required to be added in a yearly income of deceased which comes to **Rs. 4,02,311 /-** (Rs. **2,87,365/-** + 40% i.e. Rs. 1,14,946/-)

DEPENDENCY :

26. It is admitted position that; deceased was married and having three dependents. Hence, in view of the ratio laid down by Hon'ble Apex Court in case of "**Sarla Verma & Ors. V/s. Delhi Transport Corporation & Anr.**" reported in "**2009 A.C.J. 1298**", 1/3 amount is required to be deducted for personal expenses of deceased. Hence, after deducting **1/3** amount of Rs. 4,02,311/- it comes to Rs. 1,34,103/- is required to be deducted from the income of the deceased. The net amount of dependency loss which falls in the share of Claimants comes to **Rs.2,68,208/-** per annum (Rs.4,02,311/- minus Rs.1,34,103/-).

27. Further, discussed earlier the claimants are entitled to get multiplier of “**16**” years. Hence, claimants are entitled for following amount under the head of future loss of income :
(Rs. 2,68,208/- x 16 multiplier) = Rs.42,91,328/-.
28. As regards consortium, in view of the judgment of **Hon’ble supreme Court of India in C.A. Nos. 2410-2412/2013 in case of Shri Ram General Ins. Co. Ltd. V/s. Bhagat Singh Rawat & Ors**, relying upon the judgment of *the Hon’ble Supreme Court of India, in case of National Insurance Company Ltd. Vs. Pranay Sethi and Ors. SLP(Civil) No.25590/2014, dtd. 31.10.2017* Magma Gen. Ins. Co. V/s. Nanu Ram 2018 ACJ, 2782, the Hon’ble Apex Court has observed as under :
- “61(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years”.*
29. Therefore, the claimants who are dependents of the deceased are also granted Rs.40,000/- (with 30% increase i.e. Rs. 40,000 + 12,000/-) Total Rs. 52,000/- under the head of consortium to each of the claimants that is **52,000/- X 3 = 1,56,000/-** and a sum of Rs.19,500/- (With 30% increase) towards loss of estate and Rs.19,500/- (With 30% increase) towards funeral expenses.
30. Thus, in view of the above referred discussions, claimants are entitled for the following amount as just and fair compensation, which would serve substantial justice to the parties:-

Future loss of dependency	Rs.42,91,328/-
Consortium	Rs. 1,56,000/-

Loss of estate	Rs. 19,500/-
Funeral expenses	Rs. 19,500/-
Medical expenses	--
Total	Rs. 44,86,328/-

INTEREST :

31. In the aforesaid Claim Petitions, the claimants side have claimed interest at the rate of **18% per annum**. But, considering the case of **Jyotiben Bharatbhai Shah v.Mansingh Padamsingh Rajput, reported ACJ 2019 page No:1107** the Hon'ble High Court has allowed **9%** interest, and considering fact & circumstances of this case, I award simple interest at the rate of **9%** per annum from the date of the application till realization.

LIABILITY :

32. As discussed in the Issue No.1, the driver of both the vehicles have been held equally responsible i.e. **50%-50%** for the alleged accident as both the aforesaid drivers have attributed 50%-50% negligency but as the deceased was a third party, the deceased cannot be blamed with contributory negligency. Under the circumstances being the joint tortfeasors both the aforesaid drivers i.e. opponent No. 1 & 4 are held responsible as discussed herein above. Hence, all the opponents are jointly and severally responsible to pay the compensation. So far as the opponent No. 1, 2 & 3 are concerned, in the case on hand, the R. C. Book & Ins. Policy of aforesaid vehicle No. GJ-12-AY-0875 has been produced. The Insurance policy has not been denied by the opponent No. 3 and it is mentioned in the written arguments at Exh. 57 that the accident, time place involvement of Truck No. GJ-12-AY-0875, its ownership and

its insurance are not disputed. From the perusal of the said documents, particularly the copy of insurance policy, it appears that; on the date of accident, the Opponent No.2 was registered owner of aforesaid vehicle and the said vehicle was insured with Opponent No.3 - Ins. Co. for the period from **23/02/2016 to 22/02/2017**. The accident took place on **30/07/2016**. Therefore, on the date of accident the Ins. Policy was in force. Hence, as discussed herein above, Insurance Company is liable to indemnify the amount of compensation to the owner opponent No. 2 of the alleged vehicle. In view of the aforesaid discussion and legal and factual aspect of the case, all the opponents are held jointly and severally liable to pay the compensation to the claimants. Hence, the Issue No. 2 is answered accordingly.

Issue No. 3 :

33. In view of the above discussions and factual and legal position of the case, this Tribunal deems it fit to pass the following final order.

: ORDER :

1. The present claim petition is hereby **partly allowed** and the Claimants are entitled to get the amount of compensation **Rs.44,86,328/- (Rupees Forty Four Lakhs Eighty Six Thousand Three Hundred and Twenty Eight Only)** with the proportionate cost and interest at the rate of **9%** per annum, from the date of the claim petition till its realization from the opponents, who are held jointly and/or severally liable to pay the said compensation amount to the claimants.
2. The Opponents are hereby directed to deposit in the Office of this Tribunal the above amount of award, after deducting the

amount of interim compensation, if any, paid u/s.140 of Motor Vehicle Act, within 30 days from the date of this order.

3. Deficit Court Fees stamp, if any, be recovered from the awarded amount.
4. The awarded amount would be distributed in equal proportion amongst all the applicants. Thereafter, 30% amount is ordered to be paid to the **claimants No. 1 & 3** as directed herein above by way of account payee cheque or RTGS after due verification and remaining 70% amount shall be invested in FDR in the name of applicants No. 1 & 3 in any Nationalized Bank of their choice for a period of 5 years.
5. **It is further directed that the entire amount as awarded to the claimant No.2, i.e. minor applicant (in proportion) shall be invested in FDR in the name of claimant No.2 in any Nationalized Bank of his choice for the period until he attains majority or for the period of 5 years whichever is later. The applicant No.1 is hereby appointed as guardian of applicant No. 2 accordingly.**
6. The concerned Bank is directed not to grant any loan, advances or withdrawal against the aforesaid all FDRs without obtaining prior permission of this Tribunal. However, the claimants will be at liberty to withdraw the periodical interest accrued on the said FDRs except applicant No.2. Further, on completion of the aforesaid F.D. period, the bank is directed to release the F.D. amount without any order of this Tribunal.
7. The opponents shall follow the guidelines of Hon'ble Gujarat High Court given in R/Special Civil Application No. 4800 of 2021 in case of The Oriental Insurance Co. Ltd., V/s. Chief Commissioner of Income Tax (TDS), decided on 05/04/2022, with regard to the Income Tax Liability.
8. The amount shall be deposited through NEFT or RTGS in the Bank Account with below mentioned details :

Bank Account Name : "PRINCIPAL DIST JUDGE ABAD
RURAL MACP"
Account No. : 00000040722625356.
IFSC Code : SBIN0000301.

9. Award be drawn accordingly.
10. If any application/s is/are pending for disposal is/are hereby disposed off in terms of the above observations accordingly.

**Signed and pronounced in the Open Court today on this 16th
day of March, 2026.**

Place : Ahmedabad
Date : 16/03/2026.

(Sanjaykumar Chhaganbhai Makvana)
M.A.C.T. (Aux) &
9TH ADDL. DISTRICT JUDGE,
AHMEDABAD (RURAL).
[Code No :GJ00920]