

Filed On	: 14.08.2012
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Decided On	: 10.04.2026
Duration	: YY : MM : DD : : :

Exhibit :

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**IN THE COURT OF 10TH ADDL. DISTRICT JUDGE &  
MACT (AUXI.) AHMEDABAD (RURAL)**

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**MOTOR ACCIDENT CLAIM PETITION NO. 1181 OF 2012**

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**Petitioner / Claimant :**

**Chetankumar Jayeshbhai Bagadiya (Jain)**

Age : 21 years,

Occu. : Business,

Residing at : Parekh Fali, At Post Dhandhuka,  
District Ahmedabad.

**V E R S U S**

**Opponents :**

1. Rajdeepsinh Viramdevsinh Chudasama  
Residing At : Darbargadh, Near Chora,  
At Dholera, Taluka Dhandhuka,  
District Ahmedabad.  
**(Driver of Chhota Hathi bearing No.GJ-4-V-7525)**
  
2. Harpalsinh Raghuvirsinh Gohil  
Residing At : Ishvariya, Taluka Gadhada,  
District Bhavnagar.  
**(Owner of Chhota Hathi bearing No.GJ-4-V-7525)**

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**Subject :-** Claim Petition for Compensation of  
₹2,00,000/- under section 166 of Motor  
Vehicles Act.

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**APPEARANCE :-**

Ld. Advocate Mr. M. S. Zala for the Petitioner.

Ld. Advocate Mr. G. V. Sharma for the Opponents.

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**JUDGMENT**

[1.0] The petitioner has filed present the claim petition under Section – 166 of the Motor Vehicles Act, 1988 seeking compensation ₹2,00,000/- from the opponents in their joint and several capacity on account of injuries sustained by him in a motor-vehicular accident, which took place on 13.08.2011.

[2.0] The brief facts of the present claim petition are as under :-

On 13.08.2011, the claimant along with his friends had gone to visit Butbhavani Mata Temple at Village Rojaka on Motorcycle bearing registration No.GJ-1-LM-1518 (for short “motorcycle”) and after visiting the temple, they were returning on the said motorcycle. The claimant was riding the said motorcycle at moderate speed, carefully and by following all the traffic rules. At around 11:30 am, he was taking turn at Sarmubarak Dargah on Dhandhuka – Dholera Highway, at that time, the opponent no.1 came driving Chhota Hathi bearing registration No.GJ-4-V-7525 (hereinafter referred to as “the offending vehicle”) in full speed, in rash and negligent manner and without following the traffic rules and dashed with motorcycle. Due to which, the claimant and his friends fell down on the road and suffered injuries. It has been averred that the accident occurred due to rash and negligent driving of the offending vehicle by the opponent no.1 and crime regarding the

accident was registered against him Dhandhuka Police Station vide I-C.R.No.60 of 2011.

**[2.1]** It has been averred that at the time of accident the claimant was hale and healthy person without any disease. He was studying in T. Y. Bcom course and apart from this, he was doing business and was earning ₹5,000/- per month. It has been further averred that he suffered serious injuries in the motor-vehicular accident and he was admitted in RMS Hospital. Due to the injuries, he became permanently disabled resulting in incapability of doing even casual and routine work. A huge sum of money on his treatment, hospitalization, medicines, investigation, etc. has been incurred by him, as such compensation of ₹2,00,000/- has been claimed on account of pecuniary loss, permanent disablement, physical pains, mental agony and shock, loss of earning capacity, expenditure and treatment and future treatment, services rendered by attendant and family members, loss of future earning, loss of amenities of life etc.

**[3.0]** Upon service of summons, the opponents put in their appearance through their Ld. Advocate. The opponents were afforded sufficient opportunities to submit their reply, but, they have not filed any reply against the claim petition. Therefore, the Ld. Predecessor Tribunal was pleased to close the right of the opponents to file reply vide order dated 28.08.2014 passed below Exhibit:11.

**[4.0]** Based upon the available pleadings and

documentary evidence, following issues have been framed by the Ld. Predecessor Tribunal vide Exhibit:15 to adjudicate the matter on merit:-

- (1) Whether the petitioner/(s) proves that he/she sustained injuries because of the rash and negligent driving of the driver of the vehicle involved in the accident?
- (2) Whether the petitioner is entitled to compensation? If yes what amount? and who is liable to pay the compensation ?
- (3) What order and award?

[5.1] My findings of the above noted issues are as under :-

- (1) In Affirmative.
- (2) As per final order.
- (3) As per final order.

[6.0] In order to prove the case, the petitioner has produced the following oral as well as documentary evidences:-

**-:: Oral Evidence ::-**

Sr.No.	Particulars	Exh.
1	An Affidavit of Examination-in-chief of the petitioner.	19

**-:: Documentary Evidence ::-**

Sr.No.	Particulars	Exh./ Mark
1	Disability Certificate	25
2	Copy of complaint.	26

3	Copy of panchnama.	27
4	Medical Certificate of Fracture and Orthopaedic Hospital.	28
5	Discharge Card of Fracture and Orthopaedic Hospital.	29
6	X-ray examination report.	30
7	Certificate of Consultant Orthopaedic and Trauma Surgeon.	31
8	Medical Case Papers of Consultant Orthopaedic and Trauma Surgeon.	32
9	Medical Bills.	33

[7.0] Despite given sufficient opportunities, the opponents have not adduced any evidence. As such, right to adduce evidence of the opponents was closed vide order dated 03.02.2026.

[8.0] Learned Advocates for the claimant has argued as per the pleadings and evidence. It is worthwhile to mention here that no one has appeared on behalf of the opponents for submission of the arguments.

[8.1] I have considered the argument advanced by the learned Advocate for the claimant and perused the documentary as well as oral evidence submitted by the parties.

**- :: REASONS :: -**

[9.0] **Issue No. 1 (Negligence):-**

[9.1] The Ld. Advocate for the claimant has submitted that at the time of accident, the offending vehicle was driven in

rash and negligent manner by the opponent no.1 and, therefore, the opponent no.1 was sole negligent for causing the accident. In support of his case, the claimant has produced evidence by way of his examination-in-chief affidavit at Exhibit:13 reiterating the averments of the claim petition. In his cross-examination by the Ld. Advocate for the opponents, he stated that he has not produced in context of his age and income. He admitted that at the time of accident, he was riding motorcycle. He admitted that two persons were seated behind him on motorcycle. He admitted that accident took place on turning. He admitted that as there was turning, but, the opponents came on wrong side and in full speed. He admitted that at the relevant time he was having learning licence. He denied that he has filed a false claim petition for getting more compensation.

[9.2] Over and above affidavit of examination in chief, the claimant side has produced copy of the complaint at Exhibit:26, which was lodged by one Nileshbhai Bagadiya (Jain) against the driver of the offending vehicle. The claimant has also produced a copy of panchnama at Exhibit:27. Place of panchnama of accident depicts that Motorcycle bearing registration No.GJ-1-LM-1518 was lying on the edge of the road; brake peddle and steel back guard were twisted side cover took box was broken. One Chhota Hathi bearing registration No.GJ-4-V-7525 was lying facing eastern direction. Right side glass of headlight and right side fiber body of vehicle were broken and there was also dent on the vehicle. Glass particles and plastic pieces were scattered on the road. From the oral as well as

documentary evidence placed before this Tribunal, it can be inferred that there was curve on the road and the claimant who was riding motorcycle was avoiding curve, at that time, the accident had taken place. The claimant who was riding motorcycle has clearly deposed that at the curve on the road, the opponent no.1 came driving the offending vehicle in full speed and on the wrong side. Although the opponents have appeared before this Tribunal through their Ld. Advocate, yet, the opponents have not adduced any evidence nor the opponent no.1 i.e. the driver of the offending vehicle has not entered into the witness box to controvert the allegations levelled against him and, therefore, adverse inference is required to be drawn against the driver of the offending vehicle. Considering overall facts and circumstances of the present case, this Tribunal is of the opinion that the opponent no.1 who was driving of the offending vehicle had failed to exercise reasonable care and caution while plying his vehicle on the road. The claimant has brought on record medical case papers pertaining to his treatment vide Exhibits:28 to 32, which clearly establishes that the claimant has suffered injuries in the motor-vehicular accident. Therefore, considering these factual aspects, this Tribunal comes to the conclusion that the claimant has proved that, the accident took place due to rash and negligent driving of Chhota Hathi bearing registration No.GJ-4-V-7525 by the opponent no.1. Therefore, my answer to Issue No.1 is in affirmative.

**[10.0]        ISSUE NO.2 :-**

**[10.1]        As the issue No.1 is decided in affirmative, 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."*

[10.2] As settled legal proposition factors to be considered for deciding quantum of compensation in a claim petition wherein the claimant had suffered permanent disability in a motor vehicular accident are, age of claimant to ascertain proper multiplier, income of the claimant at the time of accident, percentage of permanent disablement of body as a whole, actual loss of income due to injuries sustained, medical expenses (already incurred and future medical expenses), expenses incurred for attendant, transportation and special diet, non-pecuniary loss (pain, shock and sufferings) and the appropriate rate of interest on the calculated compensation amount.

[11.0] **Quantum** :

[11.1] **Income** :

The claimant has submitted that at the time of accident, he undergoing study in Third Year B.Com course and apart from undergoing study, he was doing business, out of which, he was earning ₹5,000/- per month therefrom. The

claimant in his cross-examination has clearly admitted that he has not produced any evidence in context of his income. Admittedly, in this case, no cogent and trustworthy evidence is available on the record of this case in context of income of the claimant. Thus, considering the ratio laid down by the Hon'ble Apex Court in the cases of **Govind Yadav V/s National Insurance Com. Ltd.** reported in **2012 ACJ 28 (SC)** and **Sanjay Kumar v/s Ashok Kumar**, reported in **2014 (5) SCC 330**, it has been held that when there is no proof of income, income of the deceased or injured claimant shall be decided by taking into consideration prevalence minimum wages. Further, in the case of **Gurpreet Kaur v. United India Insurance Company**, **2022 LiveLaw (SC) 821**, the Hon'ble Apex Court has held that the Notification of Minimum Wages Act can be a guiding factor only in a case where there is no clue available to evaluate monthly income of the deceased. Therefore, considering the above ratio of law laid down by the Hon'ble Apex Court and looking the nature of work of the claimant at the time of accident, to determine income of the claimant, it is just and proper to consider the minimum wages for prevalent at time of accident i.e. 13.08.2011. Hence, considering the same, it is just and proper to consider income of ₹4,000/- per month as monthly income of the claimant for computing loss of income and the same would not be exaggerated in view of this Tribunal.

**[11.2] Age & Multiplier :**

It is the case of the claimant that he was 21 years old at the time of accident. The claimant has not produced any specific evidence with regard to his age. The claimant has

produced discharge card of Consultant Orthopaedic and Trauma Surgeon vide Exhibit:29, wherein, age of the claimant is depicted as 21 years. Therefore, in absence of contrary evidence, this Tribunal holds that at the time of accident, the claimant was aged around 21 years. As per the Yard-stick laid down in the Hon'ble Apex Court's judgment of "**Sarla Verma and Others Vs. Delhi Transport Corporation and Another**" AIR 2009 (SC) 3014", the multiplier of 15 is suggested between the age group of 21 to 25 years and therefore, the claimant is entitled for **multiplier of 18** for the calculation of future loss of income.

**[11.3]      Disability :**

So far as sustaining serious injuries resulting permanent disablement due to accident is concerned, the claimant has produced disability certificate issued by Dr. A. I. Upadhyay vide Exhibit:25 who has assessed disability suffered by the claimant as 28% in context of whole body. However, in the instant case, vide pursis at Exhibit:24, both the parties have amicably decided to consider permanent disability of the claimant as 22% of whole body. Hence, considering the said factual aspect on record and evidence in support of the same, this Tribunal is of the view that claimant sustained serious injuries resulting permanent disablement in the alleged incident and it is just and proper to consider 22% permanent disability of body as a whole to the claimant for computing future loss of income.

**[11.4]      Loss of Income:**

Considering the above decided income, age,

multiplier and disability, the Future Loss of Income would become ₹1,90,080/- [ $₹4,000/-$  (monthly income) X 22/100 (disability) = 880 x 12 x 18 (Multiplier)].

**[11.5] Actual loss of income :**

According to the claimant, he could not work for very long time due to the injuries sustained to him in the alleged vehicular accident. As per the medical case papers produced on record, the claimant remained admitted in Consultant Orthopedic and Trauma Surgeon from 13.08.2011 to 23.08.2011 and, thereafter, according to the claimant, he had taken conservative treatment for longer period. Therefore, looking to the nature of injuries sustained by the claimant and period of hospitalization, it can fairly be concluded that the the claimant could not work for 2 months and, therefore, he is entitled for **₹8,000/- (₹4,000 X 2 months) for actual loss of income.**

**[11.6] Medical Expenses :**

The claimant has brought on record medical bills amounting to ₹80,473/- on his treatment, hospitalization, investigation, medicines, etc. vide Exhibit:32. Hence, a sum of **₹80,500/-** is awarded to the claimant under the head of Medical Expenses.

**[11.7] Special diet, Attendant Charges & Transportation :**

Though there is no supporting documentary evidence to show that the claimant had taken service of attendant, spent on transportation for treatment or had taken special diet to recover from the injuries sustained in the accident, yet, looking to

the disability certificate, injury certificate, period of hospitalization, this tribunal is of the view that the claimant must have incurred some expenses on the transportation, special diet & nourishment. Further, during the medical treatment of the claimant, a family member would have had to attend him to look after him. Hence, in view of above discussion, the claimant is also entitled to get compensation of ₹10,000/- under the head of Special diet, Attendant Charges & Transportation, which is just and reasonable.

**[11.8] Pain, Shock and Suffering :**

The claimant has sustained serious injuries in the accident and due to that injuries, a permanent disability is also caused to him and due to that he definitely have undergone severe pain, shock and suffering for considerable period. Further, due to permanent disability, he is facing several difficulties in his routine and other work. The claimant would have to suffer these difficulties till his entire life span. Therefore, the claimant is entitled to get compensation of ₹10,000/- under the head of non-pecuniary loss i.e, pain, shock and sufferings.

**[11.9]** Now, it is well settled principle of law that the just compensation should be awarded to the victim. Now, considering the above noted facts and foregoing reasons and keeping in mind the concept of the 'just compensation', this Tribunal has inclined to grant the following quantum :-

1	Future Loss of income	₹1,90,080/-
2	Actual Loss of income	₹8,000/-

3	Medical Expenses	₹80,500/-
4	Special diet, Attendant charges, and Transportation	₹10,000/-
5	Pain, Shock and Suffering.	₹10,000/-
<b>Total Compensation ...</b>		<b>₹2,98,580/-</b>

[11.9.1] In all, the claimants are found entitled to a sum of **₹2,98,580/-** on the all the above count as just compensation. In the present claim petition, the claimant has sought compensation of ₹2,00,000/- from the opponents in their joint and several capacity, whereas, on appreciation and careful assessment, this Tribunal has arrived at a conclusion that just and reasonable compensation amount is ₹2,98,580/-. Therefore, in view of judgment of Hon'ble Apex Court in case of *Nagappa Vs. Gurudayal Singh : (2003) 2 SCC 274*, the petitioner is entitled to get a sum of **₹2,98,580/-** as just compensation. Therefore, the petitioner is entitled to get more compensation than he has assessed in his claim petition.

[12.0] **Liability to satisfy the award:-**

[12.1] As discussed above, accident dated 13.08.2011 had occurred purely on account of rash and negligent driving of Chhota Hathi bearing registration No.GJ-4-V-7525 by the opponent no.1. The opponent no.1 was driver of the offending vehicle and the opponent no.2 is the owner of the offending vehicle at the time of accident. Hence, the opponent no.2 being owner of the offending vehicle is vicariously liable for the tortuous act of the driver of the offending vehicle. Hence, the opponents no.1 and 2 opponent being driver and owner of Chhota

Hathi bearing registration No.GJ-4-V-7525 are in their joint and several capacity liable to pay awarded compensation amount to the claimant with proportionate cost and interest.

[13.0]        **INTEREST ON AWARDED AMOUNT:**

[13.1]        The claimant submitted that he should be awarded interest at the rate of 12% on the awarded amount. I have considered and perused the records. It shows that the accident took place on 13.08.2011 and the claim petition was filed in the year 2012. Thus, having regards to the facts and circumstances of the present case, in the light of the law laid down by the Hon'ble Supreme Court of India in the case of "*M.C.D. - versus – Association of Victim of Uphaar Tragedy*", reported in *2012 ACJ 48 (Supreme Court)* as well as in the case of "*National Insurance Company Ltd. Vs. Pranay Sethi and others*" reported in *2017 ACJ 2700*, it would be just and proper to award the simple interest at the rate of 9% p.a.. Accordingly, the claimant is entitled to get simple interest at the rate of 9% per annum on the awarded amount of claim from the date of filing of claim petition till realization of awarded amount.

[14.0]        In view of above referred discussion, the claimant is entitled for compensation of ₹2,98,580/- and therefore, my answer to issue No.2 partly in affirmative and for issue No.3, I pass the following final order in the interest of justice :-

**:ORDER:-**

- (1) The above referred claim petition is hereby partly allowed.
- (2) The petitioner is entitled to recover compensation of

**₹2,98,580/- (Rs. Two Lakh Ninety Eight Thousand Five Hundred Eighty Only)** along with the simple interest at the rate of **9% per annum**, from the date of claim petition till its realization with proportionate cost, from the opponents, who are jointly and severally liable to pay the compensation to the petitioner.

- (3) The opponents are hereby directed to transfer awarded amount through RTGS/NEFT within 30 days from the date of this order.
- (4) Deficit Court Fee Stamp, if any, be recovered first from the awarded amount and interim amount if paid be adjusted.
- (5) On the remaining payable amount, 70% amount shall be deposited in any Nationalized Bank for a period of 5 years in FDR in the name of petitioner with a condition that the petitioner shall not be entitled to borrow loan or create any encumbrance on the said deposit and the remaining 30% amount shall be paid to the petitioner through RTGS / NEFT after due verification.
- (6) **The petitioner is directed to submit the following details within one week from today:-**
  1. Name of the petitioner with address.
  2. Name of the Bank & Branch, Bank IFSC Code, Account Number of the petitioner.
  3. The first page of the bank pass-book, which will compulsorily contain the photograph of the petitioner, duly attested by the Bank concerned,

should be made available.

4. Wherever the petitioner is impleaded as Respondents, before the claims tribunal, their account details, as above, will have to be furnished.

(7) The insurance companies / transport corporations and such other entities shall deposit the amount as directed in Circular No.08/2022 dated 01/02/2022, by way of Direct Bank Transfer to Bank Account of MACT Tribunal (Main) District Court, Ahmedabad (Rural), details of which are as follows.

**Bank Name : State Bank of India, Bhadra Branch, Lal Darwaja-380001.**

**Account Name : Principal District Judge, Ahmedabad (Rural) MACP,**

**Account No. : 00000040722625356,**

**IFSC Code: SBIN0000301**

**Bank MICR Code : 380002002**

and on such deposits being made, the insurance companies/transport corporations and such other entities shall submit a letter to the Registry of District Court, Ahmedabad (Rural) enclosing a copy of the said bank advice, in prescribed format as above, as per which the deposit was made to the bank account of the Claims Tribunal, to enable the Claims Tribunal to keep tab on the deposits made and the MACPs for which they were made, which is a fundamental need for a smooth implementation. The Payment advice for remittance of

compensation is as under:-

**PAYMENT ADVICE FOR REMITTANCE OF  
COMPENSATION From:**

..... **Bank** .....

**To:**

..... **Court** .....

**We confirm remittance of compensation as follows on  
instructions of ..... (insurance  
company/transport corporation):-**

- 1. MACP Number :**
- 2. On the file of (Claims Tribunal Name) :**
- 3. Name of Petitioner/s :**
- 4. Place :**
- 5. Date of award :**
- 6. Amount Deposited :**
- 7. Name of the Bank who deposit the amount :**
- 8. Income Tax Deduction at Source, if any Unique  
Transaction Reference (UTR) No. :**

- (8)** The Insurance Companies, Transport Corporations and such other entities making such deposit, shall also send a copy of the payment advice in the aforesaid Clause to the Claims Tribunal concerned and serve a copy of the same on the petitioner/s or their counsel as the case may be.
- (9)** The opponents shall follow guidelines given in the case of "The Oriental Insurance Co. Ltd. Vs. Chief Commissioner of Income-tax (TDS), R/SCA/4800/2021" decided on 05.04.2022 by the Hon'ble High Court of

Gujarat with regard to the deduction of Income tax.

- (10) Award be drawn accordingly in the above claim petition and file be consigned to record room after due compliance.

*Signed & Pronounced in the open court on this 10<sup>th</sup> day of April, 2026.*

Date : 10.04.2026.  
Place: Ahmedabad.

**[Hardik R. Shah]**  
MAC Tribunal (Aux.) &  
10<sup>th</sup> Additional District Judge,  
Ahmedabad (Rural) at Navrangpura.  
Judge Code No.GJ00851