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DURATION : Y.- M.-D.

EXH.

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUX) & 9th ADDL.
DISTRICT JUDGE, AT AHMEDABAD (RURAL)**

M.A.C.P. No. 1133 of 2013

Rohit Dineshbhai Pattani,

Aged 23 years, Occu : Nill,

R/o. Ramnagari, B/h. Old Railway Station, Bhuj.

At present R/o. Popat Ratna's Chapra,

Opp.New Building, Omnagar,

Asarva, Ahmedabad.

.....**Claimant**

VERSUS

1. Bharatbhai Laljibhai Vorani, (Deleted)

Aged- Adult, Occu : Tractor Driving,

R/o. Village-Garodiya, Ta- Sanand, Dist. Ahmedabad.

2. Chief Officer

Bhuj Nagarpalika, Bhuj.

3. The Oriental Insurance Co.

"HUB" Third Floor, Navdeep Building, Income Tax Circle,

Aashram Road, Ahmedabad.

Dt.20/04/2012 to Dt.19/04/2013.

.....Opponents

APPEARANCE

Mr. M.A. RANA, Learned Advocate for the claimant.

Mr. M.M. SONI for the opponent No. 2.

Mr. Y.N.SHAH for the opponent No. 3.

**Claim petition for compensation of Rs. 7,00,000/-
under Section 166 of M. V. Act.**

.....

// J U D G M E N T //

- [1] The claimant has filed the present claim petition against the opponents, claiming compensation of **Rs. 7,00,000/-** under Sec.166 of the M. V. Act, 1988 on account of injuries sustained by him resulting into permanent/partial disablement in a vehicular accident dated **06-07-2012**.
- [2] The brief facts of the present case is that on **06-07-2012** when the claimant was standing on the road side at Suralbhit- Sonapuri Road, Nr.Bavaji na Wada, at about 10:30 a.m. Tractor NO. GJ-12-G-6069 came in a rash and negligent manner in a full speed and dashed with the claimant. As a result thereof the applicant sustained serious injuries on the different parts of the body resulting into permanent disability. Therefore, this claim petition has been filed for getting compensation under the head of future loss of income, actual loss of income, medical treatment expenses, pain, shock and suffering, transportation charges and nutritious food etc. to the tune of **Rs.7,00,000/-** with interest and costs from the opponents.

- [3] The summons was served upon the opponents and in response to the same, Opponent No. 2 & 3 have appeared. Opponent no.2 has failed to file reply and therefore matter has been proceeded ex-party against opponent no. 1 and 2 . Opponent no. 3 has filed a written statement and denied contents of the claim petition.
- [4] In support of his case, the applicant has produced the following oral as well as documentary evidence.

// ORAL EVIDENCE //

Sr. No.	Name of the witness	Exh. No.
1	Deposition of Applicant- Rohit Dineshbhai Pattani.	26
2	Deposition of Applicant- Dr. Kanubhai Shambhubhai Patel	45

// DOCUMENTARY EVIDENCE //

Sr. No.	Particulars of Document	Exh. No.
1	Copy of complaint	48
2	Copy of Panchnama	49
3	Discharge Card	50
4	MLC Certificate	51
5	Medical Treatment Papers	52 to 67
6	Disability Certificate	46
7	Copy of School Leaving Certificate	68
8	Medical Bills	69
9	Copy of Insurance Policy	47

- [5] I have heard learned advocates for the respective parties. Ld. Advocate for the claimant has submitted that date, time and place of the accident has been proved. The involvement of vehicle is also proved. Income of

the claimant is proved and therefore, necessary order of compensation should be made. It is submitted that this claim petition should be allowed as prayed for.

- [6] Per contra, Ld. Advocate for the opponent no. 3 has submitted that the claimant has failed to prove his case. It is also submitted that claimant is himself responsible for the injury sustained by him. It is submitted that income of the injured is not proved and therefore it is submitted that the present petition should be dismissed.
- [7] In view of the above facts, the this Tribunal has framed the following issues.

ISSUES

- (1) Whether the petitioner proves that he sustained injuries because of rash and negligent driving of the vehicle involved in the accident ?
 - (2) Whether the petitioner is entitled to get compensation ? If yes, what amount ? and who is liable to pay the compensation ?
 - (3) What order and award ?
- [8] My findings on the above issues are as under:
- (1) In the affirmative.
 - (2) As per discussion.
 - (3) As per final order.

- [9] The reasons for arriving at the aforesaid conclusions are as under,

// R E A S O N S //

ISSUE NO.1 & 2 :

- [10] At this juncture, reference needs to be made toward the judgment of the Honourable 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 our 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".

- [11] 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.

(Negligency)

- [12] So far as the question of negligence is concerned, the claimant namely; **Rohit Dineshbhai Pattani** has filed affidavit of examination-in chief at **Exh.26**, in which he has reiterated the facts of the petition. The claimant was cross-examined by learned advocate for the opponent no. 3 wherein he has admitted that no fracture was occurred due to accident. He has admitted that the alleged accident took place by the driver of the Tractor. Looking to the aforesaid cross examination, nothing contrary has been elicited therefrom. It is pertinent to note that claimant has produced complaint, panchnama and injury certificate. Considering the complaint it is borne out that the **Vehicle No. GJ-12-G-6069** had dashed with the claimant wherein the claimant has sustained injuries. The panchnama of the scene of offence suggests that alleged accident took place as narrated by the claimant. Looking to the aforesaid FIR and panchnama

coupled with the oral evidence of the claimant it is proved that the aforesaid offending vehicle is the sole negligent for the alleged accident.

[13] Moreover, the applicant has produced medical papers and disability certificate. The aforesaid documents show that the applicant has sustained various injuries resulting into permanent disability. Furthermore, police complaint was filed by the complainant against the driver of the offending vehicle. Thus, considering the above documents, it appears that accident has happened due to sole negligence on the part of driver of offending vehicle.

[14] 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."

[15] As per the settled legal proposition, factors to be considered for deciding quantum of compensation in a claim petition wherein the applicant had suffered permanent disability in a motor vehicular accident are, age of applicant to ascertain proper multiplier, income of applicant 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.

Quantum :**[15.1] Income :**

The applicant has submitted that at the time of accident, he was minor and therefore, the claimant had no independent income of his own. At this juncture Tribunal is empowered to presume the monthly income of the applicant. It is also cardinal principle of law that when there is no proof of income of victim of the motor accident, his/her monthly income can be assessed on the basis of the prevailing minimum wages.

[15.2] At the same time when the claimant is a minor at the time of alleged accident, only because the minor had no his own independent income, the Tribunal is under obligation to consider appropriate income and fair and just compensation is required to be awarded.

[15.3] So far as quantum is concerned, according to ratio laid down by the Hon'ble Supreme Court in the case of **Master Mallikarjun V/s. Divisional Manager, The National Insurance Co. Ltd., 2014(0) AIR (SC) 736** it is held as under :

“12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs. 3 lakhs; upto 60%, Rs. 4 lakhs, upto 90%, Rs. 5 lakhs and above 90%, it should be Rs. 6 lakhs . For permanent disability upto 10%, it should be 1 lakh, unless there are exceptional circumstances to take different yardstick.”

[16] Claimant has produced disability certificate vide Exh 46. In order to prove the disability suffered by the claimant, he has examined Dr.Kanubhai Shambhubhai Patel vide Exh 45. Looking to the evidence of the doctor, he has stated that he had examined the injured and assessed bodily injury and has come to the conclusion that the injured had suffered disability of 40% body as a whole. This witness has been cross-examined

by the Ld. Advocate for the opponent no. 3. Having regard to the entire cross-examination it is transpired that nothing contrary has been elicited therefrom. Hence, considering the injury caused to the minor it would be just to consider 40 % disability for body as a whole. In view of above referred discussions, and looking to the ratio laid down by the Hon'ble Apex court in case of Master Mallikarjun (supra) claimant is entitled total **Rs.4,00,000/-** as compensation under the head of Future Loss and Loss of Amenities, except actual expenses of Medical expenses.

[17] Medical expenses :

The claimant has produced the medical bill and submitted that he has paid the aforesaid medical bill for his medical treatment. Looking to the medical bills and considering the oral evidence of the claimant coupled with the bills produced on record, this Tribunal is of the opinion that Rs.40,000/- has been spent against the medical treatment. Hence, he is entitled to get the aforesaid amount.

[18] Special diet, Attendant Charges & Transportation :

Though there is no supporting documentary evidence to show that the applicant has taken service of attendant, spent on transportation for treatment or has 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 applicant 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 her to look after her. Hence, in view of above discussion, the claimant is also entitled to get compensation of **Rs.10,000/-** under the head of Special diet, Attendant Charges & Transportation, which is just and reasonable.

[19] Pain, Shock and Suffering :

The applicant has sustained serious injuries in the accident and due to that injuries, a permanent disability is also caused to her and due to

that she definitely have undergone severe pain, shock and suffering for considerable period. Further, due to permanent disability, she is facing several difficulties in her routine and other work. The applicant would have to suffer these difficulties till his entire life span. Hence, this Tribunal is of the opinion that if the applicant is compensated with **Rs.10,000/-** under the head of pain, shock and suffering it would meet the ends of justice.

[20] As per above discussion claimant is entitled for following amount of compensation.

No.	Particular	Amount (Rs.)
1	Under future economic loss and other head	4,00,000/-
2	Medical Expenses	40,000/-
3	Special diet, Attendant charges, and Transportation	10,000/-
4	Pain, Shock and Suffering.	10,000/-
	TOTAL AMOUNT	4,60,000/-

[21] INTEREST ON AWARDED AMOUNT:

The applicant submitted that he should be awarded interest at the rate of 15% on the awarded amount. I have considered and perused the records. It shows that the accident took place in 2020 and the claim petition was filed thereafter. 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 (SC)**, it would be just and proper to award the simple interest at the rate of 9% p.a.. Accordingly, the applicant is entitled to get simple interest at the rate of **9% p.a.** on the awarded amount of claim from the date of filing of

claim petition till realization of awarded amount. Hence, issue no. 3 is answered accordingly.

LIABILITY :

[22]. As discussed in the aforesaid Issues the driver of offending vehicle No. GJ-12-G-6069 was negligent for occurrence of accident. In the case on hand, it is proved that it was insured by the opponent no.3. Copy of the policy has been produced vide Exh.47 which shows that it is belonging to opponent no. 2. The risk had been covered for the period of 20/04/2012 to 19/04/2013 and alleged accident took place on 06/07/2012. Hence, at the time of accident, insurance policy was in force. In view of the aforesaid discussions all the opponents are held jointly and severally responsible to pay compensation and as opponent no. 3 has indemnified the insured opponent no. 2, the opponent no. 3 insurance company is liable to pay the compensation. Therefore, issue No. 1, & 2 are answered accordingly.

[23] ISSUE NO. 3

In view of above referred discussion, applicant is entitled for the just and fair compensation as discussed herein above and I pass the following final order in the interest of justice :-

:ORDER:-

- (1) The above referred claim petition is hereby **partly allowed**.
- (2) The Applicant is entitled to recover compensation of **Rs.4,60,000/- (Rupees Four Lakh Sixty Thousand only)** along with the simple interest at the rate of **9% per annum**, from the date of claim petition till it's realization, with proportionate cost, from the opponents who are jointly and severally liable to pay the awarded compensation to the applicant.
- (3) The Opponent No. 3 is 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.

- (4) Deficit Court Fee Stamp, if any, be recovered first from the awarded amount and interim amount if paid be adjusted.
- (5) On realization of the amount, 70% amount shall be deposited in any Nationalized Bank for a period of 5 years in FDR in the name of applicant with a condition that the applicant 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 applicant through RTGS / NEFT after due verification.
- (6) **The applicant is directed to submit the following details within one week from today:-**
1. Name of the applicant with address.
 2. Name of the Bank & Branch, Bank IFSC Code, Account Number of the applicant.
 3. The first page of the bank pass-book, which will compulsorily contain the photograph of the applicant, duly attested by the Bank concerned, should be made available.
 4. Wherever the applicants are impleaded as Respondents, before the claims tribunal, their account details, as above, will have to be furnished.
- (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.
- (11) 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 applicants/s or their counsel as the case may be.
- (12). File be consigned to record room after due compliance.

Signed and Pronounced in the open court today on this 30th day of April, 2026.

Ahmedabad
Date : 30-04-2026

[Sanjaykumar Chhaganbhai Makvana]
M.A.C. Tribunal (Aux) &
9th Additional District Judge
Ahmedabad (Rural)
UID Code GJ00920