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**IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (AUX-VI) AT
AHMEDABAD**

MOTOR ACCIDENT CLAIM PETITION NO.18 OF 2019

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EXH.

Jeliben Narsinhhai Parmar (Amended vide order below Exh.13)
legal guardian of Chandrakantbhai Narsinhbhai Parmar
 R/o. Nana Ubhada, Tal: Mandal,
 Dist.: Ahmedabad

.... Claimant

Versus

[Owner of Vehicle No.GJ-01-DX-1282]

(1) Jashvantbhai I. Patel
Proprietor of Sarswati Builders
 Age : Adult, Occup.: Business
 R/o. Survey No.162, Nr. Ram Chhapri Hotel,
 Khengariya, Tal.: Viramgam, Dist. : Ahmedabad

[Insurer of Vehicle No.GJ-01-DX-1282]

(2) The New India General Insurance Co. Ltd.
 Office : 3rd Floor, Popular House,
 Ashram Road, Ahmedabad

.... Respondents

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Appearance :

Ld. Adv. for the claimants	: Mr. S. R. Thakor
For the Respondent No.1	: Ex-parte
For the Respondent No.2	: Mr. P. G. Trivedi

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

1. The claimant has filed this petition for getting compensation of Rs.30,00,000/- under the provisions of Section 166 of the Motor Vehicle Act, 1988 (Hereinafter referred in short as “the M. V. Act”) for the bodily injuries sustained to Chandrakantbhai Parmar in the vehicular accident occurred on 01.11.2018.

2. The factual matrix of the claim petition are that,

On 01.11.2018, Chandrakantbhai who is son of the claimant and his friend were going to Mandal from Nana Ubhada by riding motorcycle No.GJ-38-AA-4079. The said motorcycle was riding by the son of claimant in moderate speed, on proper side of the road by following all the traffic rules. Around 10:40 a.m. when the applicant was passing from Mandal-Navagam Patiya at that time on dumper bearing registration No.GJ-01-DX-1282 came from Mandal side in rash and negligent manner by not following all the traffic rules and dashed with the motorcycle of the son of applicant. Thus, the son of claimant and his friend both fell down and sustained serious bodily injuries. It is further submitted that the complaint regarding the accident was lodged at Mandal Police Station. It is submitted that the claimant was earning Rs.10,000/- per month at the time of accident and due to the accident he is unable to earn. Hence, present claim petition is filed for getting compensation of Rs.4,00,000/- from the respondents.

3. The Notices were issued to respondents and duly served upon all Respondents. The respondent No.1 neither appeared nor filed any reply. The Opponent No.2 - insurance company appeared through its advocate and filed its reply vide Exh.17.
4. The respondent No.2 insurance company has in its filed reply vide Exh.17 stated that the present petition has been filed by the father of Chandrakantbhai who was injured during the accident as the guardian of the claimant. The claimant has not produced any evidence before the Hon'ble Court which shows that the claimant himself is not competent to file the case. So, the guardian of claimant is entitled to file the present case. Therefore, the present case of the claimant will be dismissed with costs. Further, the IO has stated in his report that the owner of the vehicle has not produced the permit and fitness of the vehicle in the police paper. The owner of the vehicle did not have the permit and fitness of the vehicle at the time of the accident. So, the insurance company is not liable to pay compensation to the claimant. Further, at the time of accident claimant Chandrakant was driving the motorcycle and he has to prove that he was holding valid and effective licence at the time of accident. Further, the claimant has not furnished a certified copy of the insurance policy to prove that vehicle was duly insured with the opponent no.2. It is further submitted that the claimant has filed false petition before this court. It is denied that the driver of offending vehicle was driving the vehicle in rash and negligent manner and in excessive speed or without observing traffic rules.

Further, they denied the age, income and injury sustained to the claimant. Hence, the respondent no.2 is not liable to pay any compensation.

5. The Ld. Advocate for the claimant has filed his written arguments vide Exh.51 which is considered by this Court. Also, Ld. Advocate for the claimant has relied upon the judgments of Hon'ble Apex Court which are as under :

(1) Sharad Singh (dead) Through LR. Vs. H. D. Narang & Anr.

(B) Ranjeet & Anr. Vs. Abdul Kayam Neb & Anr.

Also, heard the Ld. Advocate for the respondent no.2 at length. He has mainly argued that the claimant is not entitled for claim as prayed for, hence, the petition is required to be rejected.

6. In view of the above facts of the case, the following issues have been framed vide Exh.18.

::: I S S U E S :::

1. Whether it is proved that the petitioner sustained injuries on account of rashness and negligence in driving on the part of the driver involved in the accident?
2. What amount, if any, the claimant is entitled to by way of compensation and from which of the opponents?
3. What order and award?

7. The findings of the aforesaid points are as under.

1. In the Affirmative.
2. As per final order.
3. As per final order.

8. In order to prove their case, the applicants / claimants have produced the following oral as well as documentary evidences:-

Claimant's Evidence

Oral Evidence

Sr. No.	Particulars	Exh.
1	Examination in Chief affidavit of claimant	19

Documentary Evidence

Sr. No.	Particulars	Exh.
1	Copy of FIR	27
2	Medical bills of Sanjivani Hospital	28
3	Medical bills of Shiv Hospital	29
4	CT-Scan & MRI Report	30
5	Medical bills	31 to 35
6	Disability reduce pursis	36
7	Certificate of petition writer	25
8	Copy of panchnama	39
9	Statement of witness Somabhai Parmar	40
10	Statement of witness Jasvantbhai Patel	41
11	Discharge summary of Sanjivani Hospital	42
12	Discharge card of Hope Hospital	43

13	Discharge card of Hope Hospital	44
14	Medical bills of Hope Hospital	45 & 46
15	Discharge card of Sanjivani Hospital	47
16	Medical bills of Dr.Vijay Sheth	48
17	Medical bills of Bhagyoday Hospital	49
18	Medical bills of Sanjivani Hospital	50

REASONS

9. Issue No.1 (Negligency)

It is pertinent to note that the parties have not examined the driver of offending vehicle i.e. opponent no.1 and therefore, we have to rely upon the evidence of claimant and the aforesaid respondent no.2 and upon conjoint reading thereof, it is apparent that the driver of vehicle had dashed his vehicle with the motorcycle of claimant. From perusal of panchnama of scene of offence Exh.39, it is apparent that the accident occurred on the right side of the Mandal-Navagam Patiya road. The motorcycle was lying on the road west facing. The offending vehicle dumper was lying 50 mtr. away from the place of accident facing south. Thus, it is clear that the accident was caused due to sole negligence of the opponent no.1. Hence, I answer the issue No. 1 in the affirmative.

10. **Issue No. 2 (Quantum):-**

10.1 Age : The claimant Chandrakantbhai has mentioned his age in his petition as 30 years at the time of accident. Looking to the cause title of the petition age of the claimant is shown 30 years at the time of accident. To prove his age, the claimant has not produced any evidence. In the affidavit of chief examination, the guardian of claimant has mentioned the age of the claimant is as 29 years at the time of accident. Further, in her cross-examination, she has admitted that they have not produced any documentary evidence to show the age of the claimant. Further, looking to the record, the applicant has produced xerox copy of driving licence. In that driving licence the date of birth of Chandrakant is mentioned as 10.01.1989 and the accident was occurred on 01.11.2018 therefore, on the day of accident, the claimant was aged about 29 years 9 Months i.e. approx 30 years. Therefore, the age of the claimant is considered as 30 years. Therefore, looking to the age of the claimant, multiplier of 17 will be applicable.

10.2 Income : The claimant stated that claimant working as petitioner writer at Sub Divisional Magistrate, Viramgam Prant,

Viramgam at the time of accident. He has produced certificate of petition writer vide Exh.25. He submitted that he was earning Rs.10,000/- p.m. at the time of accident. This fact is also mentioned by the guardian of claimant in her cross-examination that they have not produced any documentary evidence showing the actual monthly income of claimant. Further, looking to the age of the claimant at the time of accident and the work which he as narrated, was doing at the time of accident and considering the various judgments of the Hon'ble Apex Court and ratio laid down which narrates to consider the nature of work of claimant and the year of accident which is 2018 in the present case, it would be just and appropriate to consider the income of the Claimant at Rs.7,000/- per month.

10.3 Future Loss of Income : The claimant has produced disability which shows 56% disability body as a whole. Afterwards by filing pursis both the parties have agreed to reduce disability and consider 40% instead of 56%. In his medical papers like discharge summary of Sanjivani Hospital, Hope Hospital and Bhagyoday Hospital and disability certificate, it is mentioned that claimant was treated and operated and admitted as indoor patient for the period

from 01.11.2018 to 06.12.2018 at Sanjivani Hospital, 12.12.2018 to 18.12.2018 at Shiv Hospital, 06.12.2018 to 12.12.2018 at Civil Hospital and also admitted as indoor patient from 18.12.2018 to 02.01.2019. However, other than suggestion that it was so obtained to get disability certificate showing higher disability which the claimant has denied, apparently serious objection has been raised by respondent no.2. Thus, considering age and nature of injury as shown in medical papers, 40% disability body as a whole is considered for the calculation of the claim. Therefore, looking to the nature of injury, claimant is entitled to get future loss of income Rs.5,71,200/-(7000x 40%x 12x 17). So, Rs.5,71,200/- is to be awarded to the claimant under the head of future loss of income.

10.4 Actual Loss of Income : The claimant was admitted at as indoor patient for the period from 01.11.2018 to 06.12.2018 at Sanjivani Hospital, 12.12.2018 to 18.12.2018 at Shiv Hospital, 06.12.2018 to 12.12.2018 at Civil Hospital and also admitted as indoor patient from 18.12.2018 to 02.01.2019. Considering the injuries sustained by the claimant and treatment taken by the claimant, the claimant/victim might have taken bed rest for at least 6 months. Therefore, accepting the monthly income of the claimant

at Rs.7,000/-, so, an amount of Rs.42,000/- (7,000 x 6 months) is awarded as per his actual loss.

10.5 Medical Treatment & Medicine : The Claimant has produced medical bills of Rs.4,50,376/- at Exh.31 to 35, 45, 46, 48 to 50 to prove medical expenses occurred to him. Looking to the medical bills produced on record, the claimant is entitled to get Rs.4,50,376/- towards medical expenses which is borne by him under this head.

10.6 Attendant, Transportation and Special Diet : The claimant has submitted in his petition and in his affidavit that he was admitted as indoor patient. Looking to the disability certificate and injury certificate, I am of the view that due to accident, he sustained injuries as alleged and he has taken medical treatment. Therefore, it can be said that the claimant has also incurred expenses on transportation, food and nourishment during the treatment. Further, during the medical treatment of the claimant, a family member must have been required to attend him. Hence, in view of above discussion, the claimant is also entitled to get compensation of Rs.10,000/- under this head which is just and reasonable.

10.7 Pain, Shock and Suffering : Due to accidental injuries, the claimant has sustained injuries as per claim petition and due to accidental injuries, a permanent disability is also caused to him. Due to permanent disability, he is facing several difficulties in his routine and other work and the claimant would have definitely undergone pain, shock and suffering. Therefore, the Tribunal thinks it just and proper to award Rs.10,000/- compensation towards pain, shock and suffering and Rs.10,000/- towards loss of amenities.

Thus, in view of the above discussions, the claimants is entitled for the following amount on account of the different heads as under:

Sr. No.	Particulars	Amount (Rs.)
1	Future Loss of Income	5,71,200/-
2	Actual Loss of income	42,000/-
3	Medical Bills	4,50,376/-
4	Attendant, Special Diet, Transportation	10,000/-
5	Pain, Shock & Suffering	10,000/-
	Total	10,83,576/-

Thus, the claimant is entitled to get a sum of Rs.10,83,576/- as compensation.

11. Liability:-

As discussed above, in the case on hand, the alleged accident was the outcome of negligency of driver of dumper bearing No.GJ-01-DX-1282. Hence, the respondents No.1 & 2 being owner and insurance company of dumper No.GJ-01-DX-1282 are jointly and severally liable to pay compensation to the claimant.

12. Interest:-

The claimant has claimed to award interest 9% p.a. from the date of application till realization of the amount. The awarding of interest is the discretion of this Tribunal and looking to the recent judgments of the Hon'ble Apex Court, interest at the rate of 9% is granted on the amount of compensation.

13. In view of above referred discussion, claimant is entitled for Rs.10,83,576/- (Rs.Ten Lacs Eighty Three Thousand Five Hundred Seventy Six Only) and, therefore, my answer to issue No.1 is in the affirmative and for issue No.2 and 3, I pass the following order:-

ORDER

1. The above referred claim petition is hereby partly allowed. The claimant is entitled to recover compensation of Rs.10,83,576/- (Rs.Ten Lacs Eighty Three Thousand Five Hundred Seventy Six

Only) along with the interest at the rate of 9% per annum, from the date of claim petition till its realization from the respondents who are liable to pay the compensation to the claimant.

2. The respondents are hereby directed to transfer awarded amount through RTGS/NEFT within 30 days from the date of this order.
3. Deficit Court Fee Stamp, if any, be recovered from the awarded amount and interim amount if paid be adjusted.
4. On depositing the amount of compensation by respondents be disbursed to the claimants equally, out of their respective share 70% amount shall be deposited in any Nationalized Bank for a period of 5 years in FDR in the name of respective claimant with a condition that the claimants will not be entitled to borrow loan or create any encumbrance on the said deposit and the remaining 30% amount of respective claimant shall be paid through RTGS/NEFT after due verification.

Bank Name. : State Bank of India, Viramgam

Bank Account Name. : M A C Tribunal (Auxiliary),
Viramgam

Bank Account No. : 42402204520

Bank IFSC Code. : SBIN0000497

Bank MICR Code. : 380002185

5. Further, after deposit of the awarded amount, the Respondents are instructed to ensure that deposit of the awarded amount, along with payment advice by way of direct bank transfer to the above said Bank Account in compliance of the Award passed by the Tribunal is

accomplished by furnishing the following information in the format prescribed herein below to the Nazir Department of this Tribunal for maintaining the account MACP Deposits by the Court, and also inform to the claimants herein.

MACP No. :

On the file of :

(Claims Tribunal Name)

Name of the claimant/s. :

Date of Award. :

Compensation Amount. :

Name of the bank who

Deposit the amount. :

Income Tax Deduction at

Source. :

Bank Transaction Ref. No.

Unique Transaction Ref.

No. (UTR) No. :

6. 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 claimants or their counsel as the case may be.
7. In so far as tax deduction at source is concerned, Form 16-A of the Income Tax Act should be provided to the claimant /victim on

whose behalf the deduction has been made so as to enable him to seek refund of tax deducted.

8. Award be drawn accordingly in the above claim petition.

Pronounced in the open Court on 30th day of April, 2026.

Date : 30/04/2026

Place : Viramgam.

[H. A. Upadhyay]

Motor Accident Claims Tribunal
6th Additional District Judge,
Ahmedabad [Rural] at Viramgam.
[UIC No. GJ00635]