

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(Spl.) AT ANAND
MAC RESTORATION APPLICATION NO. 466 OF 2024**

Exh.--

Appellants :- Legal heirs of Late Ramilaben Samsubhai

1. Samsubhai Ramanbhai Mohaniya

Age: 50 years, Occupation: Labour Work

2. Vikesh Samsubhai Mohaniya

Age: 30 years, Occupation: Labour Work

3. Surika Samsubhai Mohaniya

Age: 27 years, Occupation: Labour Work

All are Residing at: Body Khedi, At Nani
Kharaj, Ta. Dahod.

VERSUS

Respondents of Bus No. GJ-7-W-9838

1. Adambhai I. Shaikh

Age: Adult, Occupation: Business

Residing at: Rajipuri Darwaja,

At. Balasinor, Dist. Kheda.

2.The Oriental Insurance Co. Ltd.

Add: Trimurti Complex, Station Road,
Nadiad.

Respondents of Truck No. GJ-7-UU-5349

3. Hajarudin Mahamadbhai Shaikh

Age: Adult, Occupation: Business

Residing at: Parmar Vas, Behind Diwan Court,
At. Dholka, Ta. Ahmedabad.

4. The New India Insurance Co. Ltd.

Add: Virgo Complex, Santram Road, Nadiad.

Appearance:

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Mr. S. K. Dave Ld. Counsel for the Appellants.

Mr. R. A. Shah Ld. Counsel for the Respondent Nos. 1 and 2.

Mr. H. J. Patel Ld. Counsel for the Respondent Nos. 3 and 4.

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-::JUDGMENT::-

1. The present application has been filed for restoration of M.A.C.P. No. 218/2006 (Old No. 293/2004) which was dismissed for non-prosecution vide order dated 12/10/2015. The present application was filed on 11/09/2024 with the delay of more than 8 years and 10 months.

2. It is submitted by the Ld. Counsel for the applicant that M.A.C.P. petition was filed to claim compensation for accident occurred on 28/09/2004. However, on 12/10/2015 as applicants were not present at the time when the matter was called out, their appearance was not recorded and the claim petition was dismissed for non prosecution. It is submitted that the applicants are old aged persons and the compensation was sought regarding the death caused to their son in the accident and they have no other source of income and keeping in view the objective of the Motors Vehicle Act, which is benevolent, a lenient view may be taken and the matter be restored to its original number. Ld. Counsel has further submitted that the applicants will regularly

appear in the matter if the matter will be restored.

3. On the other hand, Ld. Counsel appearing for the Insurance Company has submitted that the applicants were not appearing in the matter and as the matter was not proceeded with, the claim petition was dismissed for default. It is submitted that the interest for the period during which the matter remained dismissed in default may not be paid to the applicants, otherwise the applicants will suffer irreparable loss and injury on account of payment of interest for the period for which the opponents have no fault for delay.

4. Heard, Ld. Advocates for the parties. Looking to the facts, the matter was dismissed in default on 12/10/2015. The application has been filed on affidavit and further the claim petition was filed under beneficial legislation and as such liberal view has to be taken while dealing with the restoration application. In view of the reasons assigned by the applicant in the restoration application and the fact that the rights of the parties should not be affected on technicalities, I deem it appropriate to exercise the discretion in favour of the applicant. However, as the restoration application has been filed with the delay of more than 8 years and 10 months, the interest between the period from the date of dismissal for default and the restoration will not be awarded to the applicants. Thus, following order is passed:

::- ORDER -::

The present restoration application is allowed. M.A.C.P. No. 218/2006 (Old No. 293/2004) is hereby ordered to be restored to its original number, however, the applicant shall not be entitled for any interest between the date of dismissal for default of the petition till the restoration of the same.

Pronounced in open court today on this 31st day of August, 2026.

Date: 31/08/2026

(PRASHANT JAIN)
M.A.C. (Spl.) Tribunal, Anand
UID Code: GJ01507

V. H. Dave
Eng. Steno Gr. II