`GJBH010004662019	Filing No MACP/65/2019 Filed On 11/02/2019 Decided On 18/07/2026 Duration **7Y-5M-7D**

Before the 2nd Additional District and Sessions Judge cum Motor Accident Claim Tribunal (Auxiliary) at Bharuch.

MAC PETITION No.65 of 2019

Exh. ______

Claimants:-

1	**Nishudevi Vinodbhai Sharma** Age: 25 years, Occupation: House hold work,
2	**Minor Saloni** Age: 7 years, Occupation: Study,
3	**Minor Dhruv** Age : 02 Years, Occupation - Nothing,
4	**Minor Daksh** Age : 02 Years, Occupation – Nothing,
5	**Ramcharan Ramsjivan Sharma** Age : 59 Years, Occupation – Service,
6	**Mithileshben Ramcharan Sharma** Age : 50 Years, Occupation – House hold work,
	(Claimant nos 2 to 4 represented through their legal guardian claimant no.1)
	All are residing at : Ganesh Sugar Colony, Room No. C-36, Vataria, Ta. Valia, Dist. Bharuch.

Versus

Opponents:-

1.	**Kishorbhai Natwarlal Parmar** Age : Adult, Occupation: Driving, **Residing at:** Thunthani wadi, Canal road, Opp. School of Bariya Pati, At & Po. Morbi, Ta. & Dist. Morbi.
2.	**Mehulbhai Ramabhai Bharwad** Age : 40 Years, Occu. : Owner, **Residing at:** 305, Rabariwas, Makansar, Ta. & Dist. Morbi.
3.	**Reliance General Insurance Co.** **Office functional at:** Ajay Bungalows, 4th Floor, Opp. HDFC House, Mithakhali Six Road, Navrangpura, Ahmedabad.

CLAIM PETITION FILED UNDER SECTION - 166 OF THE MOTOR VEHICLE ACT, 1988, CLAIMING COMPENSATION TO THE TUNE OF Rs.50,00,000/- ALONG-WITH INTEREST AT THE RATE OF 18% PER ANNUM.

Appearance:

Learned Advocate Mr.A.I. Gandhi, appearing for and on behalf of claimants.
Learned Advocate Mr. .B.N.Parmar, appearing for and on behalf of the opponent nos. 1 & 2.
Learned Advocate Mr. P.G. Shah, appearing for and on behalf of the opponent no.3 – Insurance Company.

:: JUDGMENT ::

1. The claimants being legal representatives of deceased **Vinodbhai Ramcharan Sharma** (hereinafter referred to as the 'deceased' for short) who died in a road accident, have preferred the present claim petition under Section 166 of the Motor Vehicles Act, 1988 for seeking compensation of Rs.50,00,000/- from the opponents.

2. The brief facts of this claim petition in nutshell are that, on 20.12.2018 at about 9:00 p.m., deceased was travelling in maruti-van bearing registration no. GJ-02-BD-0714 towards ankleshwar. At that time, the driver i.e. Opponent no. 1 came by driving his Truck No. GJ-36-T-1295 at an excessive speed and in a rash and negligent manner and collided with maruti-van, causing the accident. Due to the accident, the deceased died on the spot. Before the accident, the deceased had studied up to Diploma Mechanical Engineer & he was serving in Dutt Engi Con Company, Amod and was earning Rs. 25,000/- per month. Further, it is stated that the deceased was husband of the claimant no.1, father of the claimant nos. 2 to 4 & son of the claimant nos. 5 & 6. Thus, the claimants being legal representatives of deceased had sought compensation from the opponents under different heads.

3. Upon the petition being admitted, notices were issued to the opponents and they have been duly served. **The opponent**

nos. 1 & 2 have appeared through their advocate Mr. B. N. Parmar and submitted written reply **vide Exh.19** and contended that the claim is based on false statements and suppression of material facts with the intention of obtaining compensation. Further, the opponents have not disputed to the fact that the accident occurred due to the collision, but they deny any negligence on their part. According to them, on 20.12.2018, the truck bearing registration no. GJ-36-T-1295 was traveling from Ankleshwar to Morbi on the correct side of the road at a normal speed when the maruti-van bearing registration no. GJ-02-BD-0714, allegedly being driven at high speed, overtook another vehicle, came onto the wrong side of the road, and collided head-on with the truck. They assert that the accident was caused entirely by the negligence of the van driver, who allegedly did not possess a valid driving licence, and that the van owner and driver were not made parties to the claim. Therefore, they argued that the compensation claim should be dismissed. Alternatively, if the Court finds them liable, they submit that liability should fall upon Opponent No. 3, the insurer of the truck, as the vehicle was duly insured at the time of the accident.

3.1 The opponent No.3 – **The Reliance General Insurance Company Ltd.** has appeared through their advocate Mr. P. G. Shah who filed written statement **vide Exh.31** inter-alia contending that the claim petition is false, frivolous, exaggerated, and not maintainable either on facts or in law.

The insurer argues that all legal heirs of the deceased have not been joined as parties and that the Tribunal lacks jurisdiction to entertain the claim. It also states that the claimants have failed to produce necessary documents such as the PAN card and sufficient proof regarding the deceased's age, income, employment, dependency, and other material facts. The insurer further submits that since the claim petition was filed in December 2018 but notice was served on the insurer after several years, it should not be held liable to pay interest for the delayed period. Further, the insurer alleges breach of policy conditions by the insured. It contends that the driver of Truck No. GJ-36-T-1295 did not possess a valid and effective driving licence at the time of the accident, was not qualified to hold such licence, and that the truck allegedly did not have a valid fitness certificate and permit. Therefore, according to the insurer, the owner and driver violated the provisions of the Motor Vehicles Act and the terms of the insurance policy. The insurer seeks protection under Sections 147 and 149 of the Motor Vehicles Act. Regarding the accident, the insurer denies the allegations that the truck driver was negligent or responsible for the collision. It disputes the claimants' version of events and asserts that the deceased himself was negligent and was driving the maruti-van without a valid driving licence. The insurer also argues that the owner and insurer of the maruti-van are necessary parties to the proceedings and should have been impleaded in the claim petition. Although it admits that Truck No. GJ-36-T-

1295 was insured with Reliance General Insurance under a valid policy covering the period from 04.06.2018 to 03.06.2019, it denies liability on the ground of alleged breaches of policy conditions. The insurer alleges that Hardik Engineering is owned by claimant no. 1 and is a family business, and that the salary certificate has been created only to inflate the compensation claim. According to the insurer, the deceased had not proved the income, the claimants have failed to establish dependency, and the compensation claimed under various heads such as loss of dependency, consortium, estate, funeral expenses, and future prospects is highly excessive and unsupported by evidence. It further contends that, being parents of the deceased, the claimants would be entitled to only 50% dependency even if compensation were awarded. With respect to interest, the insurer opposes the claim for 18% interest on Rs. 50,00,000/- and submits that interest, if awarded, should be at a reasonable rate based on prevailing bank deposit rates and judicial precedents, generally around 6% per annum. It also argues that interest should not be awarded on future loss components and should only be granted in accordance with applicable law and Supreme Court decisions. Finally, the insurer seeks permission under Section 170 of the Motor Vehicles Act to contest the claim on all grounds available to the owner and driver because, according to it, they are not properly defending the case. Thus, the insurer seeks dismissal of the claim petition with costs. Alternatively, if compensation is awarded, it requests that its liability be determined strictly in accordance with the provisions of the Motor Vehicles Act and the terms of the insurance policy.

4. I have heard Learned Advocate Mr. A. I. Gandhi for the claimants as well as Learned Advocates Mr. P. G. Shah for the opponent No.3 on the points of negligence and quantum. I have gone through the written arguments submitted by Ld. Advocate for the claimants vide **Exh.35**, whereas, Ld. Advocate for the opponent No.3 vide **Exh.37.**

5. The claimants have adduced and produced following oral as well as documentary evidences:

Sr. No.	**Nature of Documents**	**Exh.**
	Oral Evidence	
1	Nishudevi Vinodbhai Sharma	**22**
	Documentary Evidences	
1	A copy of Income Tax Return of the deceased for the A Y 2016-2017	**27**
2	A copy of Income Tax Return of the deceased for the A Y 2017-2018	**28**
3	A copy of FIR	**39**
4	A copy of Panchnama of scene of occurrence	**40**
5	A copy of P. M. Note of the deceased	**41**
6	A copy of insurance policy of the truck	**42**

7	A copy of Driving License of opponent no.1	**45**
8	A copy of R.C.Book of offending vehicle i.e. Truck No. GJ 46 T 1295.	**46**

6. It is pertinent to note that, there is no any other evidence produced on behalf of parties other than aforesaid oral as well as documentary evidence. On completion of evidence, Ld. Advocate for the claimants have submitted closing pursis vide **Exh.47,** Ld. Advocate for the opponent no. 3 has submitted closing pursis vide **Exh.35** and Ld. Advocate for the opponent nos. 1 & 2 have submitted their closing pursis vide **Exh.36**.

7. The following issues were framed at **Exh.20** by my predecessor for determination:

1. Whether petitioners prove that, deceased died on account of rashness and negligent in driving on the part of the driver of the vehicle involved in the accident ?

2. What amount, if any, the claimants are entitled to by way of compensation and from which of the opponents?

3. What order ?

8. My findings on the aforesaid issues, for the reasons stated below are as under:

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

REASONS

Issue No.1

9. It is settled legal position of law that the claim tribunal has to decide the negligence on the touchstone of preponderance of probability. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. Further, the Tribunal has to hold an inquiry to determine compensation which must appears to it to be just.

10. So far as the question of negligence is concerned, the claimant No.1 – **Nishudevi Vinodbhai Sharma,** who is the widow/wife of the deceased has submitted her affidavit of examination-in-chief at **Exh.22** and has narrated the same facts as mentioned in her claim petition. During her cross- examination, she has admitted that she was not the eye witness of the accident and she did not lodged the complaint about the accident and SHE don't know who complained about this accident. She has not produced any documentary evidence regarding income & age of her deceased husband.

The above named claimant is cross-examined by Ld. Advocate Mr. P.G.Shah for the opponent no.3 –

Insurance Company, wherein, she has admitted that she was not the eye witness of the accident. She has denied that the accident happened due to negligence of the driver of the maruti van. She has willingly stated that if the income tax return regarding the income of the deceased is received, then it will be produced. It is pertinent to note that, nothing would be emerged from the cross-examination of advocate Mr. P. G. Shah as regards the accident in question.

10.1 Ld. Advocate for the claimants have submitted written arguments vide **Exh.35** , in which they have reiterated the facts of the claim petition and to avoid repetition of facts, this court do not reiterate it as a whole. Further, they have submitted a calculation of quantum, in which, the claimants have argued that they are entitled to receive total compensation of Rs.48,39,586/- and prayed that the same be granted.

10.2 Ld. Advocate for the opponent No.3 has submitted in written arguments vide **Exh.37**, whereby it has argued that the quantum of compensation has been calculated at Rs. 14,81,200/- with 6% interest by considering the deceased as a 32-year-old and taking into account the parents of the deceased as claimants, despite there being no proof of income on record.

10.3 Having heard the arguments of both the side, upon going through the FIR **vide Exh.39** which has been lodged by

Gauravkumar Manubhai Patel on 21/12/2018, it clearly transpires that on the night of 20/12/2018, the deceased Pinkal Rajendrabhai Patel was driving maruti-van bearing registration no. GJ-02-BD-0714 towards Amod to Bharuch and at that time, a truck bearing registration No. GJ-36-T-1295 was traveling from Bharuch to Amod, allegedly being driven at high speed, collided head-on with the maruti-van No. GJ 02 BD 0714 and the accident had occurred. Due to the accident, the driver of the maruti-van had sustained severe injuries and died on the spot. Moreover, it transpires that the body of the deceased Pinkalbhai & Vinodbhai were lying on the spot of accident and driver of the Truck fled away from the spot of accident. Thus, prima facie, involvement of the offending vehicles is duly proved and established & it is established that, both the drivers of the vehicles were involved in the accident are liable for accident.

11. The panchnama of place of offence is produced on record at **Exh.40**. From the perusal of the panchnama, it appears that the accident occurred on the double track paved asphalt road from Bharuch to Jambusar & there is one Truck No. GJ 36 T 1295 & one Car No. GJ 02 BD 0714 were lying in the accidental condition. It appears from panchnama that damage was caused to the front side & guard of the truck & guard of the Maruti van is stuck with the guard of the truck & part of the radiator of the truck was crushed & damage caused to the driver side of the truck & said truck was lying on the road towards Jambusar.

It also appears from the spot panchanama that, one Car is also lying on the spot of accident and there was damage caused to the front side of the car & steering, tool box were broken & stuck with the seat of the driver. The roof of the said van was bent, causing the carrier attached to it to break and fall down & doors of the drivers were also bent. There damage caused to the Truck was approximately Rs.77,000/- & the Car was approximately Rs. 70,000/-. The Police has not recovered any materials / things from the place of accident.

11.1 Further, the claimants have also produced the copy of P.M. Report vide **Exh.41,** wherein it clearly reveals that the cause of death of deceased is due to heamorrhagic shock due to head injury & various type of injury.

11.2 As discussed, and as per evidence on record, both the drivers i.e. deceased - Driver of Car No. GJ 02 BD 0714 & Driver of Truck No. GJ-36-T-1295 i.e. opponent no.1 have collided head-on. Herein this claim the deceased was traveling in the Car No. GJ 02 BD 0714 along with the deceased – Pinkalbhai, who was driving the said car. This tribunal has decided MACP No. 496/2018, arising out of same incident wherein the negligence of the deceased – Pinkalbhai Rajendrabhai Patel (driver of the Maruti Van) and the Opponent No.1 – Kishorbhai Natwarlal Parmar has been decided 20% & 80% respectively. This is case of composite negligence as the deceased was travelling in Van. Hence, issue No. 1 is decided accordingly.

Issue No.2

12. It is settled legal position of law that award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimants to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner.

13. According to say of the claimants, deceased was 32 years old at the time of accident. On perusing the P.M. Report at **Exh.40**, it appears that age of the deceased is 33 years has been mentioned. The claimants have not produced any documentary evidence like Aadhar card & School Leaving Certificate of deceased. Therefore, the P.M. Report is best & reliable evidence to consider the age of the deceased at the time of accident. Hence, at the time of accident deceased was 33 years old. Therefore, age of the deceased can be considered as 33 years for awarding just compensation. Thus, considering the decision in the case of **Sarla Varma v/s Delhi Transport Corporation & Ors. [2009 ACJ 1298]**, multiplier of **16** is applicable.

14. Claimant no.1 has, in her petition as well as in her oral evidence stated that her deceased was serving in Dutt Engi Con Company, Amod and was earning Rs. 25,000/- per month.

14.1 So far the income of the deceased is concerned, the claimants have produced income-tax returns at **Exh.26 & 27.** On perusing the income-tax returns at **Exh.26 & 27,** it appears that the gross total income was Rs.2,57,120/- in AY 2016-17 & Rs.2,38,796/- in AY 2017-18, and the said returns were filed prior to the date of accident.

14.2 It is fruitful to refer the decision in the case of **Vijayalaxmi @Roopa v. Shenoy & Anr. v. National Insurance Co. Ltd.& Ors.** in Civil Appeal No.2320/2025, the Hon'ble Apex Court has held in **para-7** as under:-

> ***7.*** *We have heard the learned counsel for the parties. We are unable to agree with the view taken by the Tribunal and High Court on the income of the deceased. It has been clarified in* ***Malarvizhi & Ors. v. United India Insurance Co. Ltd. & Ors.*** *that the determination of income must proceed on the basis of Income Tax Return when available, being a statutory document. More recently, this Court in* ***New India Assurance Co. Ltd. v. Sonigra Juhi Uttamchand*** *while determining the income of the deceased therein had observed:*
>
> "8. Monthly income could be fixed taking into account the tax returns only if the details of payment of tax are appropriately

brought into evidence so as to enable the Tribunal/Court to calculate the income in accordance with law."

14.3 Therefore, in view of the aforesaid decision, the income of the deceased can be assessed on the basis of income-tax returns, which are statutory documents. In the present case, the claimants have produced income-tax returns of the deceased at Exhs.26 & 27. These documents are from Income tax department, no evidence is produced for disbelieving the same, its not a case of any opponent that the income tax returns are concocted or forged. Hence, the said income-tax returns deserve due consideration for determining the income of the deceased. On perusal of the income-tax returns at Exhs.26 & 27, it is evident that the income of the deceased was Rs.2,57,120/- in Assessment Year 2016-17 & Rs. 2,38,796/- in Assessment Year 2017-18. Therefore, taking the average income for two years, the annual income of the deceased is considered as Rs.4,13,446/ per annum (Rs.2,57,120 + Rs. 2,38,796/- = Rs.4,95,916 divided by 2 = Rs.2,47,958.). Thus, the total annual income of the deceased is assessed at **Rs.2,47,958/- per annum.**

14.4 The deceased was 32 years old and not having permanent job, and therefore as per the decision reported in the case **National Insurance Co. Vs. Pranay Sethi** reported in ***2017 (16) SCC 680,*** the income of the deceased is required to be increased by 40**%** i.e. **Rs.99,183/- [Rs.2,47,958/- p.a. income x 40%**

future prospects]. Hence, deceased’s yearly income at the time of accident including future prospect is considered as Rs.2,47,958/- + Rs.99,183/- = **Rs.3,47,141/-**.

15. As there are total six dependent family members of the deceased, therefore, **1/4th** amount is required to be deducted towards the personal and living expenses of the deceased to arrive at just compensation.

16. After deduction of personal living expenses of the deceased, dependency loss would be Rs.3,47,141/- p.a. income – Rs.86,785 /- (1/4th of total income Rs.3,47,141/-) = Rs.2,60,356/- x 16 multiplier = Rs. 41,65,696/-. Therefore, it is just and proper to award sum of **Rs. 41,65,696/- under the head of loss of dependency.**

17. As held in ***Para No. 61 (viii) of Pranay Sethi's case*** that 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. As six years have been passed from the date of pronouncement of the ***Pranay Sethi (supra)***, therefore, this Tribunal deems fit to enhance the amount to be paid under the conventional head at the rate of 10%. The date of judgment of ***Pranay Sethi's case*** is 31.10.2017 and therefore, 10% amount under loss of estate would be ***Rs.16,500/-,*** loss of consortium would be ***Rs.44,000/-*** and funeral expenses would be ***Rs.16,500/-*** after 01.11.2020. Now after 01.11.2023, further 10% is required to be enhanced. Therefore, the amount under loss of estate would be ***Rs.18,150/-***, loss of consortium would be ***Rs.48,400/-*** and funeral expenses would be ***Rs.18,150/-***. Therefore, as per the directions of the Hon'ble Supreme Court in ***Pranay Sethi (supra)***, the claimants are entitled to ***Rs.18,150/- towards Loss of Estate*** and ***Rs.18,150/- towards Funeral Expenses***.

17.1 Further, so far as the grant of consortium to the claimants are concerned, the Hon'ble Supreme Court in the case of New India Insurance Company Ltd. Vs. Somwati 2020 SCC Online SC 720, United Insurance Co. Ltd. Vs. Satinder Kaun 2020 SCC Online SC 410, Joginder Singh Vs. ICICI Lombard General Insurance Company 2019 SCC Online SC 1029, *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram reported in* 2018 (0) AIJEL-SC 62739 has categorically held that in addition to spouse, the children are entitled to parental consortium in the case of death of the parents and parents are entitled to filial consortium in the case of death of their child and the amount to be awarded for Loss of Consortium will be as per the amount fixed in ***Pranay Sethi (supra)***. It is held by the Hon’ble Supreme Court in the case of ***Magma General Insurance Co. Ltd. (supra)*** at **para 8.7** to **para-8.7.8** that, *8.7 A Constitution Bench of this Court in Pranay Sethi (supra) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.*

8.7.1 In legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.

8.7.2 The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. (Rajesh and Ors. vs. Rajbir Singh and Ors.[JT 2013 (8) SC 288].

8.7.3 Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, affection, aid the other in every conjugal relation."

8.7.4 Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

8.7.5 Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

8.7.6 Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

8.7.7 The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine *claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.*

8.7.8 Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

18. Therefore, the claimant No.1 who is the wife/widow of the deceased is entitled to get **Rs.48,400/- towards Spousal Consortium,** claimant Nos. 2 to 4 are the children of the deceased is entitled to get **Rs.48,400/- each towards Parental Consortium** and claimant Nos. 5 & 6 are the parents of the deceased are also entitled to get **Rs.48,400/- towards Filial Consortium.**

Future loss of income/dependency	Rs. 41,65,696=00
Loss of Spousal, Parental & Filial consortium	Rs. 2,90,400=00 (Rs.48,400 x 6)
Loss of estate	Rs. 18,150=00
Funeral expenses	Rs. 18,150=00
Total	**Rs.44,92,396=00**

19. In view of the above referred discussion, total compensation arrives at **<u>Rs. 44,92,396/- (Rupees Forty Four Lacs Ninety Two Thousand Three Hundred Ninety Six Only).</u>**

:: Liability ::

20. So far as composite negligence of drivers is concerned, this Tribunal is conversant with the judgment of the Hon'ble Gujarat High court in the case of ***Reliance General Insurance Co. Ltd. V/s Riyajbhai Sirajbhai Vora*** reported in ***2018(0) AIJEL-HC 239680***, wherein, the Hon'ble Gujarat High Court by relying upon the ratio of the full bench of the Hon'ble Supreme Court in ***Khneyei v/s New India Assurance Co. Ltd.*** *reported in* ***2015(0) AIJEL-SC 56606*** has observed and held that the claimant to recover whole damages from any of tortfeasor is though permissible in case of such composite negligence when Court / Tribunal can have determined inter-se liability with the extent of composite negligence of their drivers, determination of the extent of negligence between joint tortfeasor may be only for the purpose of their inter-se liability but it is also for the purpose that one may recover the sum from other after making the whole of payment to claimant/plaintiff to extent it has satisfied liability of other. Therefore, the right of the claimant to receive compensation from either of the tortfeasors is different than the inter-se liability of both tortfeasors which certainly arises when the main judgment or award is confirming inter-se negligence amongst two tortfeasors and, therefore, as soon as competent authority fix inter se liability between two tort feasors, both of them have got inherent right to recover the amount if they have to pay the excess to their liability which is fixed by the Tribunal by the same judgment. For recovery of such amount, the permission of the Court or Tribunal is not required. Since there is more than one tortfeasor and since their negligence is composite, the claimant can recover a full set of compensation from any of them without fixing inter-se liability amongst different tortfeasors. Fixing such inter-se liability in percentage is mainly for the purpose of confirming the right of all such tort feasor to recover the amount which they are supposed to pay beyond their liability from another tortfeasor.

21. In view of the above discussion, the present accident had occurred because of **negligence on the part of driver of the both the vehicles.** This tribunal has considered the evidence. In the case on hand, the deceased was travelling in the car, and thus he falls within the definition of third party, therefore, irrespective of negligence of the driver of the errant vehicles involved in the accident, he is entitled to claim compensation from any one of them or from all jointly and severally.

21a. Driving Licence of the opponent no.1 is on record at **Exh.45.** At the relevant time, the opponent No.2 was the owner of the offending Truck No. GJ 36 T 1295, at the relevant time; this fact is also clearly derived from the certificate of registration of the offending Truck No. GJ 36 T 1295 at **Exh.46.** Further, on perusing insurance policy of Truck No. GJ 36 T 1295 **at Ex.42,** it transpires that the subject vehicle i.e. Truck was insured with the opponent No.3 for the period from to 04/06/2018 to 03/06/2019. Thus, it was valid insurance contract on 20/12/2018 i.e., the date of accident. Thus, the opponents are held liable to pay amount of compensation to the claimant, together with proportionate costs and interest @ 9% p.a. from the date of claim petition till realization.

22. Hence, I answer Issue No.2 in the 'affirmative' accordingly and as the claimant succeeds in the matter, she is entitled to get following reliefs and award, and therefore, in the result, in reply to Issue No.3, I propose to pass the final order as follows :-

:: O R D E R ::

1.	This petition stands partly allowed.
2.	Claimants are entitled for the compensation of **Rs. 44,92,396/- (Rupees Forty Four Lacs Ninety Two Thousand Three Hundred Ninety Six Only) with interest at the rate of 9% per annum** from the date of application till final realization from **opponent Nos. 1, 2 and 3 who are liable to pay jointly and severally**.
3.	Opponent Nos. **1, 2 and 3** jointly and severally, are hereby ordered to deposit **Rs. 44,92,396/- (Rupees Forty Four Lacs Ninety Two Thousand Three Hundred Ninety Six Only)** as compensation with awarded rate of interest within 30 days from the date of this order.
4.	The opponents are directed to follow the ratio laid down in the judgment of **Hansaguri P. Ladhani Vs. Oriental Insu. Co. Ltd.** reported in **2007(2) GLH 291** as far as the TDS is concerned.
5	The interim amount of compensation, if any, paid or

<table>
<tr><td></td><td>deposited under the principle of No Fault Liability, will be adjusted from the aforesaid amount of compensation awarded in this final adjudication.</td></tr>
<tr><td>6</td><td>The claimant No.1 shall get 50% share, claimant Nos.2 to 4 shall get 10% each & Claimant Nos.5 & 6 shall get 10% each share in the awarded amount.</td></tr>
<tr><td>7</td><td>As per the award, the opponents are directed to transfer the amount of court fees through RTGS or NEFT mode in the account of Additional District Judge, Bharuch, the details of account are as under:
<table>
<tr><td>A/c. Name</td><td>Additional District Judge, Bharuch</td></tr>
<tr><td>Branch Name</td><td>State Bank of India,
Muktinagar Branch, Bharuch</td></tr>
<tr><td>A/c. No.</td><td>40759978524</td></tr>
<tr><td>IFSC Code</td><td>SBIN0008278</td></tr>
<tr><td>MICR</td><td>392002002</td></tr>
</table></td></tr>
<tr><td>8</td><td>After depositing the amount of court fees in the account of Additional District Judge, Bharuch, the opponent Nos.1 to 3 shall inform with full details, such as, MACP Number, Date of Award, Transfer of Court Fee Amount and Date of Transfer to this Tribunal on e-mail I.D. <u>mactbha@gmail.com</u>.</td></tr>
<tr><td>9</td><td>The claimants are hereby directed to furnish the details of their bank account along with first page of the Passbook showing Account Number, Name of the Account Holder, IFSC Code and other required details duly supported by an affidavit before this Tribunal. Upon receipt of the aforesaid bank details, as per the decision of the Hon’ble Apex Court in the case Paraminder Singh v. Honey Goyal & Ors. in Civil</td></tr>
</table>

	Appeal arising out of SLP (C) No.4484 of 2020, the opponents are directed to transfer the awarded amount into bank account of **concern claimants** as per their share within 30 days. Before transferring the amount in to the bank account of the concerned claimant the concerned opponents shall inform the concerned bank of the claimants well in advance regarding the transfer of awarded amount, so that the concerned bank is able to give effect to the direction of the tribunal regarding, depositing of respective amount in fix deposit.
10	Out of the amount deposited by the opponents, out of the amount coming to the share of claimant Nos.1, 5 & 6**, 70%** amount shall be invested in FDR by the concerned bank in the name of concerned claimants for a period of 5 years. ***Whereas, in case of minor claimant Nos.2 to 4, the entire amount of compensation shall be fixed deposited by the bank for a period of 5 years or till they attains the age of majority, whichever is later.*** The bank of the claimants is directed to intimate the details with respect to the Fixed Deposit/s made as per the present award in the name of claimant/s to this tribunal immediately after depositing the amount in FDR. The concerned Bank is directed not to grant any loan, advances or withdrawal against the said FDRs without obtaining prior permission of this Tribunal. However, the claimant/s will be at liberty to withdraw the periodical interest accrued on the said FDRs. Nazir of the District Court as well as MACP Branch, District Court to ensure the compliance of this award.
11	Insofar 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 them to seek refund of tax deducted.
12	Opponents shall pay cost of the petition and shall bear own cost.
13	Award be drawn accordingly.

Signed and Pronounced in the open Tribunal today on this **18th** day of July, 2026.

Date: 18/07/2026.
Place: Bharuch

(ZYV)*

(Ejaz Mohsinali Shaikh)
2nd Additional District Judge & MAC
Tribunal (Auxi), Bharuch
Code No.GJ00627