GJBH010009872022 Filing No.: MACP/144/2022
Filed On: 01/04/2022
Decided On : 17/04/2026
Duration: 4Y-0M-16D

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN),
AT. BHARUCH

MAC PETITION No.144/2022
Exh. _____

Claimants:
1. Manjuben Naranbhai Chhetariya
2. Hetalben Naranbhai Chhetariya
3. Sagar Naranbhai Chhetariya
4. Minor Sahil Naranbhai Chhetariya
5. Maniben Dhanabhai Chhetariya
   (Minor claimant No.4 represented through their guardian claimant No.1)
   R/o. Tadkuva, Bhurivel Faliyu,
   Ta. Vyara, Dist. Vapi.

Versus

Opponents:
1. Mukeshbhai Kunjbihari Agrawal
2. Kalpesh Mukeshbhai Agrawal
   Both having R/o. Navagam,
   Vaniya Faliyu, Ta. Sonagadh,
   Dist. Tapi.
3. The Oriental Insurance Co. Ltd.
   At. Station Road, Bharuch.

Appearance:
Ld. Advocate Mr. H. S. Kharva, for the claimants.
Ld. Advocate Mr. S. V. Pradhan, for the opponent Nos.1&2.
Ld. Advocate Mr. M. N. Gohil, for the opponent No.3.

Claim : Rs.70,00,000/- U/s.166 of the M. V. Act, 1988.

JUDGMENT

1. The claimants are the legal heirs and legal representatives of deceased Naranbhai Dhanabhai Chhetariya (hereinafter referred to as the 'deceased' for short) who died in a road accident, has preferred the present claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.70,00,000/- from the opponents. The claimant No.1 is the wife of the deceased, claimant Nos. 2 to 4 are children and claimant No.5 is the mother of the deceased.

2. The brief facts of the claim petition in nutshell are as under:-

2.1 That, on 08.02.2022 at around 12:15 P.M., the deceased Naranbhai Dhanabhai Chhetariya was traveling by driving his motorcycle No.GJ-26-AC-8775. When he was crossing the road from Paniyari Village towards the Vyara-Tichakpura byspass, at that time, opponent No.1 came by driving four wheeler Car having registration No.GJ-26-A-3033 at high speed with rash and negligent manner and dashed with the motorcycle, as a result of which deceased succumbed to fatal injuries. An FIR with respect to the said accident was registered with Vyara Police Station vide C.R. No.11824001220206/2019 against the driver of the car No.GJ-26-A-3033.

2.2 According to the claimants, at the time of accident, deceased was aged about 45 years, hale & healthy. It is stated that the deceased was engaged in the work of animal husbandry and earning Rs.40,000/- per month. It is further stated that claimants were depended on the income of the deceased. It is further stated that had the deceased not died in the accident, he would have continued to earn a substantial income, thereby providing financial security and support for the well-being of his dependents. It is further stated that due to sad demise of the deceased, claimants have suffered economic loss and claimed Rs.70,00,000/- as compensation under different heads.

2.3 It is further submitted by the claimants that the said road accident has occurred due to negligent driving on the part of the opponent No.1 - driver of the car and opponent No.2 being owner of the car has insured the vehicle with the opponent No.3, therefore, opponent Nos.1 to 3 are jointly & severally liable to pay the amount of compensation to the claimants.

3. Upon the petition being admitted, notices were issued to the opponents. The opponent Nos.1&2 – driver & owner of the Car have appeared through advocate and filed reply at **Exh.51** inter alia contending that, all the averments made in the claim petition are not true and correct, and denied in toto. It is further contended that, the facts regarding occurrence of accident, involvement of offending vehicle, causing death of deceased and age and income of the deceased are not true and correct. It is stated that there is no negligence on the part of the opponent Nos.1 and therefore, prayed to dismiss the present claim petition.

3.1 The opponent No.3 - Insurance Company has appeared through its advocate and filed reply at **Exh.18** inter alia contending that, all the averments made in the claim petition are not true and correct, and denied in toto. It is further contended that, the facts regarding occurrence of accident, involvement of offending vehicle, causing death of deceased and age and income of the deceased are not true and correct. It is further submitted that as per the FIR, it is clear that the deceased was crossing the highway at the time of accident and deceased was required to be cautious if any vehicle is coming on the highway, however, deceased crossed the road without looking if any vehicle is coming and therefore, accident occurred due to negligence of the deceased. It is further stated that the opponent No.1 was not holding valid and effective driving license at the time of accident and has not satisfied the requirements of the Rule No.3 of the Central Motor Vehicle Rules, 1989, and thereby, the insured has committed breach of policy condition. Thus, it is prayed by the opponent No.3 that the claim petition is required to be dismissed.

4. The claimants have adduced following oral as well as documentary evidences:

Sr. No.	Documents	Exh.
Oral Evidence		
1	Manjuben Naranbhai Chhetariya	22
Documentary Evidences		
1	Copy of FIR	25
2	Copy of Panchnama of place of occurrence	26
3	Copy of Inquest Panchnama	27
4	Copy of P.M. Note	28
5	Copy of R. C. book of car No.GJ-26-A-3033	29
6	Copy of insurance policy of car No.GJ-26-A-3033	30
7	Copy of Aadhar Card of deceased	36
8	Copy of IT return for the A.Y. 2020-2021	37
9	Copy of IT return for the A.Y. 2021-2022	38

4.1 The opponent Nos.1&2 have adduced following documentary evidences:

Sr. No.	Documents	Exh.
1	Copy of Driving License of opponent No.1	48
2	Copy of insurance policy of car No.GJ-26-A-3033	49
3	Copy of R. C. book of car No.GJ-26-A-3033	50

4.2 The opponent No.3 has adduced following oral as well as documentary evidences:

Sr. No.	Documents	Exh.
Oral Evidence		
1	Mukeshbhai Kunjbiharilal Agrawal	35
Documentary Evidences		

1	Copy of judgment in Criminal Case No.849/2022	**46**

5. On completion of evidence, Ld. Advocate for the claimants has filed closing pursis vide **Exh.43** whereas, Ld. Advocate for the insurance company has filed its closing pursis vide **Exh.47**.

6. Heard Learned Advocates for the parties and perused the evidence produced on record.

7. Following issues were framed at **Exh.19** by my learned predecessor for determination of this claim petition:

1. Whether petitioners prove that the deceased died on account of rashness and negligence 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 common reasons stated below are as under:

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

9.1 Ld. Advocate for the insurance company has filed written argument at **Exh.51** and submitted that deceased was driving his motorcycle at high speed, in a rash and negligent manner, and while crossing the road without any caution suddenly came in front of the car, resulting in accident. It is further submitted that as per the panchnama, the presence of brake marks on the road indicates that the driver of the car had attempted to avert the collision, however, the accident occurred due to the negligence of the driver of motorcycle. It is further submitted that the driver of the car has been examined and he has also stated that he was driving the car at moderate speed and that the accident occurred because the motorcycle suddenly came in front of his vehicle. It is also submitted that opponent No.1 has been acquitted in the criminal case and therefore, no negligence can be attributed to him. It is further submitted that merely because a charge-sheet has been filed against the driver of the car, the same does not establish negligence. It is alternatively submitted that the Tribunal may consider that the accident occurred due to negligence of driver of both the vehicles having case of contributory negligence.

9.2 Per Contra, Ld. Advocate for the claimants has submitted that the accident occurred solely due to the rash and negligent driving of the driver of the car and therefore, FIR was lodged against opponent No.1 and after investigation, charge-sheet was filed against him. It is submitted that the judgment of the Trial Court does not bind this Tribunal. The Tribunal has to decide the issue of negligence on the basis of material placed before it. He has submitted that the claim petition is to be decided on the touchstone of preponderance of probability and not on strict liability. Hence, the claimants have produced reliable material on record to prove the negligence of the opponent No.1.

9.3 Claimant No.1 who is wife of deceased has submitted her affidavit of examination-in-chief at **Exh.22** and has reiterated the facts as mentioned in the petition. During the cross-examination by the Ld. Advocate for the opponent No.3, she admitted that she was not present at the time of accident and therefore, she could not say that who was negligent. She further stated that she was subsequently informed that the accident occurred while her husband was crossing the road. She denied that the accident was occurred due to negligence of her husband.

9.4 Ld. Advocate for the insurance company has examined Mukeshbhai Kunjbiharilal Agrawal, driver of the car at

Exh.35, wherein, he has stated that on 08.02.2022, he was driving car No. GJ-26-A-3033 from Sonagadh to Bajipura at a speed of about 50–60 kmph, at that time, motorcycle suddenly came in the front and collided with his car. He has stated that accident occurred due to negligence of the driver of motorcycle and not due to his negligent. During the cross-examination by the Ld. Advocate for the claimant, he stated that accident occurred in the afternoon. He stated that there was no cross road or cut for crossing the road at the place of accident. He voluntarily stated that there was small road on the side. He admitted that he was arrested by the police for the said accident. He voluntarily stated that he was acquitted in the criminal case against him.

9.5 The claimants have produced on record the copy of the FIR at **Exh.25** and spot panchnama at **Exh.26**, wherein, the description of motorcycle No.GJ-26-AC-8775 and car No.GJ-26-A-3033 have been mentioned and thus, involvement of the vehicles is established. If the FIR at **Exh.25** is perused, it was filed by Khimanandbhai Bhikhbhai Varotariya who is the neighbour of the deceased, wherein, he has stated that around 11:00 am, he had gone to Vyara with his friends and at around 12:45 pm, he was informed through phone call that an accident occurred between deceased Naranbhai and a four wheeler car near Paniyari Village Patiya, at cut on the Vyara-Tichakpura byspass road. Upon reaching the spot, he saw four-wheeler car having registration No.GJ-26-AC-8775 on the Vyara-

Tichakpura byspass and the deceased lying dead on the opposite side with his motorcycle No.GJ-26-AC-8775.

9.6 Upon perusal of the spot panchnama at **Exh.26**, it is mentioned that approximately 40 feet long brake marks were found on the Vyara-Tichakpura road. It is further mentioned that a black Hero HF Deluxe motorcycle No.GJ-26-AC-8775 was found in a damaged condition, with damage to the petrol tank and seat, a bent steering and guard, and broken left-side mirror and headlight. It is further mentioned that a grey Hyundai i-20 car bearing registration No. GJ-26-A-3033 was found at the scene with damage to the right headlight, a bent bonnet, a broken front fiber guard, and scratches near the right-side tyre. Hence, it is established that the car No.GJ-26-A-3033 was involved in the accident.

9.7 Further, the claimants have produced the Inquest Panchnama at **Exh.27** and P.M. report at **Exh.38** which clearly reveals that the cause of death of deceased was hemorrhagic shock due to subdural hemorrhage due to head injury. The said evidence led by the claimants has not been controverted by the opponents.

9.8 Therefore, considering the facts and circumstances of the present case and material on record, the FIR registered against the driver of the car, and after due investigation, a charge-sheet filed against him prima facie indicates his negligence. Further, evidence of driver of car i.e. opponent No.1 (**Exh.35**) is self-serving in nature and cannot be solely relied upon to support the defence that driver of motorcycle was negligent. On the contrary, the presence of around 40 feet long brake marks noted in the panchnama indicates that the vehicle was being driven at a high speed. Further, considering the nature and location of the damage to the car on its front and right side as noted in the spot panchnama indicates that the car collided with the motorcycle with force which supports the case of negligent driving of the car driver. Further, the present accident occurred between the car and motorcycle. The car driver bears a higher degree of responsibility due to the nature of the vehicle being operated. Car being a heavy vehicle has significantly greater momentum and potential to cause harm compared to a two wheeler. Hence, this disparity imposes a higher duty of care on the car driver to exercise caution, maintain control and adhere strictly to the traffic regulations to avoid the accident. The car driver is expected to anticipate the vulnerability of smaller vehicle, such as two wheelers and take proactive measures to avoid collusion. Considering the facts of the present case, the car driver’s failure to exercise the requisite level of care and diligence while driving the heavy vehicle constitutes negligence. Considering the nature of accident, resulting in the death of the driver of two wheeler can not attribute any fault on the part of the driver of two wheeler. Therefore, the negligence of the car driver can be said to be the primary cause of the accident. Further, there is no reliable material evidence to support the contention that the deceased suddenly came on the road. Thus, there is no evidence on record to infer negligence on the part of deceased in contributing to the accident. Further, the opponent No.1 has voluntarily stated in his cross-examination that he was acquitted in the criminal case. However, it is settled principle of law that acquittal in criminal case does not ipso facto absolve a person from civil liability and the issue of negligence in the claim petition has to be decided on the touchstone of the preponderance of probability. Thus, it is established that the accident had occurred due to sole rash and negligent driving on the part of opponent No.1 – car driver, as a result of which deceased died on the spot. Hence, I answer Issue No.1 accordingly in ***"Affirmative".***

Issue No.2

10. 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 claimant 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.

11. On perusing the Aadhar Card at **Exh.36**, deceased's birth date is mentioned as 01.01.1975. The claimants have not produced birth certificate or school leaving certificate of the deceased to prove the age of the deceased. However, in absence of the said evidence, Aadhar Card at **Exh.36** is considered to decide age of deceased for the purpose of just compensation. Thus, deceased was 47 years at the time of accident. Therefore, considering the decision in the case of **Sarla Varma v/s Delhi Transport Corporation & Ors.** reported in **[2009 ACJ 1298 SC]**, multiplier of **13** is applicable.

12. The claimant No.1 has submitted in her affidavit **Exh.22** that deceased was engaged in the work of animal husbandry by maintaining around 30 buffaloes and 35 cows, and earning around Rs.45,000/- per month. During the cross-examination, she stated that after the death of her husband, she is doing the business of selling milk. She stated that she has produced the copy of tax return of her husband's income but, has not produced any balance sheet. She denied that income is not reduced after the death of her husband. She denied that her husband was not earning more than Rs.5,000/- per month. The claimants have produced the income tax return for the year 2020-21 at **Exh.37** and 2021-22 at **Exh.38**.

12.1 Ld. Advocate for the insurance company has argued that as per the claimants, the deceased was engaged in the work of animal husbandry and claimant No.1 has admitted in her cross-examination that her husband was engaged in the business of seeling milk by keeping cow and buffaloes in the stable and after the death her husband, she was carrying on the milk business. Thus, it is argued that the said admission itself suggest that there is no loss of income after the death of the deceased and therefore, only the supervisory income of the deceased is required to be considered. It is further submitted that the income tax returns produced by the claimants ought not to be relied upon for determining compensation.

12.2 In view of the above evidence and argument, it is required to note that merely because the claimant No.1 is continuing the business after the death of the deceased, it cannot be inferred that there is no loss of income. The continuation of the business by the widow is only an effort to sustain the family and mitigate the loss, and the same cannot be equated with the income, skill, experience, and managerial capacity of the deceased. Therefore, the role of the deceased was integral to the earning capacity of the business and contribution of the deceased in managing and running the business cannot be reduced to mere "supervisory income," particularly when the business involved maintaining a substantial number of cattle. Moreover, it is common fact that after the death of the head of the family, the efficiency and profitability of such a business are likely to be affected, particularly when the deceased possessed the necessary experience and skill. Thus, the argument that there is no loss of income is not tenable. In view of the above discussion, this Tribunal finds that the income tax returns produced by the claimants at Exh.37 and 38 is required to be taken into consideration to determine the average annual income. As per the income-tax returns, the deceased's gross income was Rs.4,61,090/- in 2020–21 (Exh.37) and Rs.4,57,800/- in 2021–22 (Exh.38). Hence, the average annual income of the deceased is considered **Rs.4,59,445/- p.a.** (Rs.4,61,090 + Rs. 4,57,800 divided by 2 = Rs.4,59,445/-).

12.3 The deceased was aged 47 years and was self-employed, and therefore as per the decision 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 **25%** i.e. **Rs.1,14,861/- [Rs.4,59,445/- p.a. income x 25% future prospects].** Hence, deceased's yearly income at the time of accident including future prospect is considered as Rs.4,59,445+ Rs.1,14,861 = **Rs.5,74,306/-**. In view of **Sarla Varma (supra),** if the annual income is in the taxable range, the word '*actual salary' should be read as 'actual salary less tax*'. Thus, deceased yearly income at the time of accident was Rs.5,74,306 p.a. income – tax i.e. Rs.19,930/- (income tax as it was applicable in the A.Y. 2022-23 upto Rs.2.5 lac is Nil, Rs.2.5 to Rs.5 lac is 5%, Rs.5 to Rs.7.5 lac is 10%, Rs.7.5 to Rs.10 lac is 15%, Rs.10 to 12.5 lac is 20%, Rs. 12.5 to 15 lac is 25% and Rs.15 lac and above is 30%) = Rs.5,54,376/- p.a. Thus, **income of the deceased including**

future prospects after tax would be Rs.5,54,376/- p.a.

13. As there were five dependent family members of the deceased, **1/4th** amount is required to be deducted towards the personal and living expenses of the deceased to arrive at just compensation.

14. After deduction of personal and living expenses of the deceased, dependency loss would be Rs.5,54,376/- p.a. income – Rs.1,38,594/- (1/4 of total income Rs.5,54,376/-) = Rs.4,15,782 x 13 multiplier = Rs.54,05,166/-. Therefore, it is just and proper to award sum of **Rs.54,05,166/- under the head of loss of dependency.**

15. 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. 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***.

15.1 Further, so far as the grant of consortium to the claimant is 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.*

15.2 Therefore, claimant No.1, wife of the deceased is entitled to **Rs.48,400/- towards Spousal Consortium,** and claimant Nos.2 to 4, children of the deceased is entitled to **Rs.48,400/- each towards Parental Consortium,** and claimant No.5, mother of the deceased is entitled to

Rs.48,400/- towards Filial Consortium.

16. Now, coming to the computation of compensation and by applying the settled guideline, the compensation is calculated as under: -

SUMMARY OF COMPUTATION OF AWARD AMOUNT

1	Date of accident	08.02.2022	
2	Name of the deceased	Naranbhai Dhanabhai Chhetariya	
3	Age of the deceased	47 Years	
4	Occupation of deceased	Self-employed	
5	Income of the deceased	Rs.4,49,445/- per annum	
6	Name, age and relationship of legal representatives of deceased		
	Name	**Age**	**Relation**
i	Manjuben Naranbhai Chhetariya	43	Wife
ii	Hetalben Naranbhai Chhetariya	21	Daughter
iii	Sagar Naranbhai Chhetariya	18	Son
iv	Minor Sahil Naranbhai Chhetariya	17	Minor Son
v	Maniben Dhanabhai Chhetariya	72	Mother

COMPUTATION OF COMPENSATION

Sr. No.	Description	Amount
7.	Yearly Income of deceased **(A)**	Rs.4,59,445/- p.a.
8.	**Add** future Prospect **(B)**	**25%** of 4,59,445/- **= Rs.1,14,861/-**
9.	Income including future prospects of the deceased **(C)**	4,59,445 + 1,14,861 = **Rs.5,74,306/-**
10.	**Less** Applicable income-tax on the income of the deceased in the A.Y. 2021-22 **(D)**	**Rs.19,930/-**

11.	Actual income of the deceased i.e. Actual salary less tax **(C - D) = (E)**	5,74,306 – 19,930 = **Rs.5,54,376/-**
12.	**Less** personal & living expenses of the deceased **(F)**	5,54,376 x ¼ = **Rs.1,38,594/-**
13.	Multiplier **(G)**	**13**
14.	Total loss of dependency **(E – F) x G = (H)**	(5,54,376 – 1,38,594) = Rs.4,15,782 x 13 **Rs.54,05,166/-**
15.	Compensation for loss of Spousal, Parental & Filial consortium **(I)**	Rs.48,400 x 5 = **Rs.2,42,000/-**
16.	Compensation for loss of estate **(J)**	**Rs.18,150/-**
17.	Compensation towards funeral expenses **(K)**	**Rs.18,150/-**
18.	TOTAL COMPENSATION **(H + I + J + K = (L)**	**Rs.56,83,466/-**
19.	RATE OF INTEREST AWARDED	**9% p.a.**

17. Hence, the claimants are entitled to get **Rs.56,83,466/-** as compensation from the opponents jointly and severally.

<u>Liability</u>

18. In view of above mentioned discussion, the present accident had occurred because of negligent driving of opponent No.1 – car driver. At the relevant time, opponent No.2 was the owner of the car No.GJ-26-A-3033 and this fact is clearly derived from the certificate of registration of the subject vehicle produced at **Exh.29**. Further, on perusing the insurance policy of car No.GJ-26-A-3033 at **Exh.30**, it transpires that the vehicle in question was insured with the opponent No.3 for the period from 11.01.2022 to 10.01.2023. Thus, it

was valid insurance on 08.02.2022 i.e. the date of accident. Therefore, opponent Nos.1 to 3 are jointly and severally liable to pay the amount of compensation to the claimants together with costs and interest @ 9% p.a. from the date of claim petition till realization and hence, I answer Issue No.2 in **'affirmative'** accordingly and for Issue No.3, the following final order is passed:-

ORDER

1. The claim petition stands party allowed.
2. The claimants are entitled to recover **Rs.56,83,466/- (Rupees Fifty Six Lac Eighty Three Thousand Four Hundred Sixty Six only)** with cost and interest at the rate of 9% p.a. from the date of the claim petition till realization of the amount from the opponents jointly and severally.
3. The interim amount of compensation, if any, paid or deposited under the principle of No Fault Liability, will be adjusted from the aforesaid amount of compensation awarded in this final adjudication.
4. The claimant No.1 shall get **40% share**, Claimant Nos.2 to 5 shall get **15% share each** in the awarded amount.
5. 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:

A/c. Name	**Additional District Judge, Bharuch**
Branch Name	**State Bank of India, Muktinagar Branch, Bharuch**

A/c. No.	40759978524
IFSC Code	SBIN0008278
MICR	392002002

6. After depositing the amount of court fees in the account of Additional District Judge, Bharuch, the opponents 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. mactbha@gmail.com.

7. The claimant/s are hereby directed to furnish the details of her bank account maintained with Nationalized Bank 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 within reasonable time before this Tribunal, if not submitted. It is further directed to the claimants to submit the certificate of the banker certifying that the account is of the concerned claimant/s. 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 Appeal arising out of SLP (C) No.4484 of 2020, the concerned opponents are directed to transfer the awarded amount into bank account of the claimants as per their share within 30 days. Before transferring the amount into the bank account of the claimants, the concerned opponents shall inform the concerned bank of the claimants well in advance regarding the transfer of the awarded amount, so that the concerned bank is able to give effect to the direction of this tribunal

regarding depositing of respective amount in fixed deposit.

8. The opponents are also directed to intimate this tribunal on e-mail I.D. mactbha@gmail.com with respect to transfer of awarded amount in the bank account of the concerned claimant/s along with proof of such transfer, such as, MACP Number, Name of Claimant, Amount Transfer, Date of Transfer, Name of Claimant's Bank with Account Number within 7 days from date of transfer.

9. Out of the amount coming to the share of claimant Nos.1, 2, 3&5, **70%** amount shall be invested in FDR by the concerned bank in the name of claimant/s for a period of 5 years. ***Whereas, in case of minor claimant No.4, the entire amount of compensation shall be fixed deposited by the bank for a period of 5 years or till minor attain the age of majority, whichever is later.*** The bank of the claimant/s are 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.

10. The cost of the proceedings incurred by the claimant as well as the opponents shall be born by the opponents.

11. MACT Branch is directed to forward the copy of this judgment through E-mail to the insurance company as well as concerned bank of the claimants.

12. Award be drawn accordingly.

Signed & Pronounced in the open Court today on 17th April, 2026.

Date: 17/04/2026

(Rajesh Karmarsinh Desai)
MAC Tribunal (Main)
Bharuch
Code No.GJ00912