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

M.A.C.P. No.: 144/2015

Exhibit: -____.

GJBH010016042015	सत्यमेव जयते	FILED ON / REGISTERED ON	04.06.2015
		DATE OF DECISION	26.05.2026
		DURATION	**10Y:11M:22D**

Claimant:-

1	**Minor Dharshil Sunilbhai Chauhan** Age : 16 Years, Occu. Study, R/o. Bholav, Ta. & Dist. Bharuch.
2	**Savitaben Sunilbhai Chauhan** Age : Adult, Occu. : House hold work, R/o. Bholav, Ta. & Dist. Bharuch. (Claimant no.2 is legal guardian of claimant no.1) **(The Claimant no.1 attains the age of majority, hence below mentioned amendment is made by passing an order below Exh.53)** **Dharshil Sunilbhai Chauhan** Age : 23 Years, Occu. Study, R/o. Bholav, Ta. & Dist. Bharuch.

Versus

Opponents:-

1.	**Apurv Baldevbhai Barot** Age : Adult, Occupation: Driver, **<u>Residing at:</u>** 1, Shivshaktinagar, Ajwa road, Vadodara.
2.	**Gopal Ramdas Kanade** Age : Adult, Occupation: Owner, (Owner as per Policy) **<u>Residing at:</u>** C/211, Rajratnapole, Kishanwadi, Ajwa Road, Vadodara.
3.	**Dilipbhai Abdulbhai Vora** **Age : Adult, Occupation: Owner,** (Owner as per R.C.Book) Residing at : Gulshannagar, Petlad, Anand.
4.	**Oriental Insurance Co. Ltd.** **<u>Office Functional at:</u>** Pruthvi Trade Center, Station Road, Bharuch. (Vehicle No. GJ 23 M 4437) Policy No. 171101/31/2015/5425
5.	**Dharmendra Galram Sahani** Age : Adult, Occupation: Driver, **<u>Residing at:</u>** C/o. Budhabhai Ghelabhai Hambal, 145, Hambal Faliya, Padanu, Gandhidham (Katchh)
6.	**Budhabhai Ghelabhai Hambal** Age : Adult, Occupation: Owner, (Owner as per R.C.Book) **<u>Residing at:</u>** 145, Hambal Faliya, Padanu, Gandhidham (Katchh)
7	**Mukeshbhai Damjibhai Shah** Age : Adult, Occupation: Owner, (Owner as per Policy) **<u>Residing at:</u>**

	9, Sundaram Raw-House, Behind Dutt Petrol Pump, Talodh, Po. Devsar, Ta. Gandevi, Dist. Navsari.
8.	**New India Assurance Co. Ltd.** **<u>Office Functional at:</u>** J.K. Amin Chambers, Station Road, Bharuch. (Vehicle No. GJ 12 Z 0832) Policy No. 23090131140100004166

<u>CLAIM PETITION FILED UNDER SECTION-166 OF THE MOTOR VEHICLE ACT, 1988, CLAIMING COMPENSATION TO THE TUNE OF Rs.3,00,000/- ALONG-WITH INTEREST AT THE RATE OF 9% PER ANNUM.</u>

<u>Appearance:</u>

Learned Advocate Mr. J. A.Shaikh / *S*.F.Shaikh appearing for and on behalf of claimant.
Learned Advocate Mr. D.B. Shah appearing for and on behalf of opponent nos. 1 & 2.
Opponent no.3 : Exparte by passing an order below Exh.1 dated 26/09/2016.
Learned Advocate Mr. V.J. Patel appearing for and on behalf of Opponent no.4 – Insurance Company.
Opponent nos. 5 to 7 : Exparte by passing an order below Exh.1 dated 26/09/2016.
Learned Advocate Mr. P. G. Shah appearing for and on behalf of Opponent no.8 – Insurance Company.

: <u>J U D G E M E N T</u> :

1. The Claimants has filed present claim petition under Section 166 of the MV Act for getting of compensation of Rs.3,00,000/- for the injuries caused to him in the alleged vehicular accident which was occurred on 05/11/2014, along with costs and interest at the rate of 9% p.a. from the date of petition till realization.

2. The facts of the case is that, on the day of the incident, on 05.11.2014, the claimant was traveling in Maruti Ecco Car No. GJ 23 M 4437 towards Ahmedabad with his relatives, when the said Maruti Car reached near the Vadodara-Ahmedabad Express Highway, within the jurisdiction of Anand Rural Police Station, opponent no.1 who was driving the said Maruti Car with full speed and negligent manner and dashed with Trailer No. GJ 12 Z 0832, thereby causing accident. As a result, the claimant sustained serious injuries in the said accident.

2a. Due to injuries sustained to the claimant, operation was performed in Zydus Hospital, Anand and he had incurred huge amount towards his medical treatment. Considering the seriousness of the injuries, there is a possibility that the claimant may suffer permanent disability. Therefore, the claimant has filed this claim petition to claim compensation of Rs. 5,00,000/- along with interest @ 9% p.a. under the heads of loss of income, future loss of income, permanent disability, medical expenses, pain, shock and suffering, transportation expenses, special diet & attendant charges etc.

2b. At the time of the accident, the opponent no.1 was driving the Vehicle No. GJ 23 M 4437 owned by opponent nos. 2 & 3 and opponent no.3 had obtained insurance for the said vehicle from opponent no.4. Further opponent no.5 was driving the Vehicle No. GJ 12 Z 0832 owned by opponent nos. 6 & 7 and opponent no.7 had obtained insurance for the said vehicle from opponent no.8. Therefore, all the opponents are jointly and severally liable to pay compensation.

3. Notice of present claim petition was issued and duly served upon the opponents.

Opponent nos.1 & 2– Secured their presence through their Ld. Advocate Mr. D.B.Shah and filed written statement at Exh.34, wherein, the opponent nos.1 & 2 have denied all the averments of the claim petition except those which are specifically admitted.

Opponent no.4 – Oriental Insurance Co. Ltd. Secured its presence through its Ld. Advocate Mr. V.J. Patel and filed written statement at Exh.30, wherein, the opponent no.4 has denied all the averments of the claim petition except those which are specifically admitted. It is specifically denied the facts of accident, age, nature of work of the claimant at the time of the accident. It is denied that the incident occurred due to rash and negligent driving on the part of the opponent no.1. It is also stated that at the relevant time opponent no.1 was not driving the Maruti Eco Car o. GJ 23 M 4437 and opponent no.3, had never insured with the opponent no.4 and therefore, the opponent no.4

is not liable to pay any compensation to the claimant. It is stated that at the time of accident, the opponent no.5 driver of the Trailer No. GJ 12 Z 0832 had apply the break all of sudden without any care and caution, and therefore, the incident is happened and therefore, the opponent no.5 is entirely liable for the accident. It is further stated that the driver of the Maruti Eco Car No. GJ 23 M 4437 was not holding a valid and effective driving license at the time of accident and thereby opponent no.4 – Insurance Company has prayed to reject present claim petition.

4. Thereafter, Opponent no.8 – New India Assurance Co. Ltd. Secured its presence through its Ld. Advocate Mr. P.G. Shah and filed written statement at Exh.50, wherein, the opponent no.8 has denied all the averments of the claim petition except those which are specifically admitted. It is specifically denied the facts of accident, age, nature of work of the claimant at the time of the accident. It is denied that the incident occurred due to rash and negligent driving on the part of the driver of the Trailer No. GJ 12 Z 0382. It is further stated that the driver of the said Trailer was not holding valid & effective driving license. It is further stated that the driver of the Maruti Eco Car was negligent who was driving without driving license and drove his vehicle during day time and dashed with the running trailer. It is further stated that the police case & charge sheet is filed against the driver of the Maruti Eeco Car. Consequently, prays to dismiss the claim petition with costs.

5. Learned Advocate Mr. P.G.Shah appearing for the opponent nos.5 to 7 put on record, application vide Exh.60 under section 170 of Motor Vehicle Act, 1988, the Ld. Advocate for the claimant has endorsed i.e. “No objection” hence, the said application was granted by the tribunal and opponent no.8 was permitted to contest the present petition on behalf of opponent nos.5 to 7.

6. On dated 25/02/2019 the following issues were framed by M.A.C.Tribunal (Aux.) at Exh.47 for determination:

Issues

(1) Whether petitioner proves that he sustained injuries on account of rashness or negligent driving on the part of the driver of the vehicle involved in the accident ?

(2) What amount, if any, the claimant is entitled to get by way of compensation and from which of the opponents ?

(3) What order?

7. My findings on the above issues are as under for the reasons to follow:

(1) Affirmative,
(2) As per final order,
(3) As per final order.

8. ISSUE No. 1 :-

In order to prove the claim, claimant has produced documentary evidence which are as follows:

Sr.No.	**Oral Evidence**	**Exhibit**
1	Examination-in-chief of claimant - Darshil Sunilbhai Chauhan	**58**
Sr.No.	**Documentary Evidence**	**Exhibit**

1	Copy of FIR	**61**
2	Copy of Panchnama of the place of offense.	**62**
3	Copy of driving license of opponent no.1	**63**
4	Copy of R.C. book of offending vehicle i.e. Maruti Eeco No. GJ 23 M 4437.	**64**
5	Copy of Insurance Policy of offending vehicle i.e. Maruti Eeco No. GJ 23 M 4437.	**65**
6	Copy of driving license of opponent no.5	**66**
7	Copy of R.C. book of offending vehicle i.e. Trailer No. GJ 12 Z 0832	**67**
8	Copy of Insurance Policy of offending vehicle i.e. Trailer No. GJ 12 Z 0832	**68**
9	Copy of Injury Certificate of claimant	**69**
10	Discharge card of claimant issued by Zydus Hospital, Anand.	**70**
11	Medical bills of Rs.12,483/-	**71**
12	Disability Certificate of claimant issued by Dr. R.L. Rana, Consulting Orthopedics surgeon, Consulting Industrial Physician.	**72**

Opponent no.8 – Insurance compnay has submitted the copy of charge-sheet filed against the **opponent no.1 – Apurva Baldev Barot** vide **Exh.77.**

8a. After submitting oral as well as documentary evidence, Learned Advocate for claimant has filed closing pursis at **Exh.73** and Learned Advocate for opponent nos. 4 & 8 Insurance companies have also filed closing pursis at Exhs. **74 & 78**

respectively. This tribunal has heard Learned Advocates for the respective party and considered oral as well as documentary evidence placed on record by the Learned Advocate for the claimant.

9. Moreover, Ld. Advocate of the claimant has submitted written argument at Exh.72 & submitted the following authorities.

(1) Kajal V/s. Jagdish Chand, 2020(0) AIJEL SC 65725.

(2) Baby Sakshi Greola V/s. Manzoor Ahmad Simon and another, 2024(0) AIJEL SC 74382.

(3) Master Ayush V/s. Branch Manager, Reliance General Insurance Co. Ltd, 2022(0) AIJEL SC 68581.

(4) Lalabhai Chelabhai Chuhan V/s. Virendrasinh Kundansinh Jadav & Ors. R/First Appeal No. 2886 of 2025.

(5) National Insurance Company Limited V/s. Nasirkhan Mobinkhan, reported in 2018(0) AIJEL-HC-240363.

(6) Uttar Pradesh State Road Transport Corporation V/s. National Insurance Company Limited, reported in 2018(0) AIJEL-SC-63039.

10. Moreover, Ld. Advocate of the opponent nos.4 & 8 have submitted written argument at Exhs.73 & 75 respectively. I have perused the written arguments submitted by the parties at length.

<u>Issues Nos. 1 to 3 :-</u>

11. 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.

11a. So far as the question of negligence is concerned, it has been decided by the Ld. Tribunal (Auxi.) and 2nd Additional District Judge, Vadodara In Motor Accident claim petition No. 1045 of 2015, filed by the applicant Apurva Baldevbhai Barot and decided on 29/11/2025, arising out of the said accident, the judgement was passed below Exh.102, wherein the negligence of ecco car is fixed as 70% and 30% negligence of driver of trailer.

11b. Moreover, the injured claimant has submitted his affidavit of examination-in-chief **at Exh.58** and narrated the same facts as mentioned in his claim petition.

The said claimant is Cross-examined on behalf of Opponent No. 4 by Advocate Mr. V.J. Patel, *Wherein he has admitted that :*

> *"It is true that the accident in question occurred on 05/11/2014 at around 9:30 a.m. on the Ahmedabad Express Highway near Anand. It is true that the accident occurred between Trailer No. GJ-12-Z-832 and Maruti Eeco No. GJ-23-M-4437. It is true that the trailer was travelling from Vadodara towards Ahmedabad, i.e., from south to north. It is true that the Maruti Eeco was also travelling from Vadodara towards Ahmedabad and was proceeding from south to north. It is true that the trailer was moving ahead of the Maruti car. It is true that all of us were seated in the Eeco vehicle. I was*

seated behind the conductor's seat in the Eeco vehicle and others were seated on the rear seat. It is not true that I came to know about the manner in which the accident occurred only from what people told me after the incident. It is true that the complaint regarding the incident was filed by the trailer driver against the driver of the Maruti Eeco. It is true that I have read the complaint produced in this matter. Today, a copy of the complaint marked Exhibit 6/1 is shown to me, and upon seeing the same, I state that it is true that the following fact is written therein: "While proceeding on the express highway, the pressure pipe of my trailer burst, due to which the trailer slowed down." It is true that the accident occurred due to the negligence of the trailer driver. The copy of the FIR produced by the applicant and referred to during cross-examination by the opponents is accordingly marked Exhibit 61. I was first taken from the place of accident to Zydus Hospital, Anand for treatment. It is true that the injured persons in this accident suffered ordinary fractures. Now I state that not all had ordinary fractures, but some had major fractures requiring rods to be inserted. In this accident, I suffered only an injury to my eyelid. It is true that I have produced proof of my age in this matter. I was admitted as an indoor patient at Zydus Hospital for three days. It is true that I have produced all case papers of Zydus Hospital in this matter. It is true that I have not produced the prescriptions corresponding to the medicine bills produced by me. It is true that I have not produced any permanent disability certificate from Zydus Hospital where I had taken treatment. It is true that I had not taken any treatment from Dr. Rajendra N. Rana of Ankleshwar, who issued the permanent disability certificate. It is true that I have produced a permanent disability certificate dated 21/04/2024 obtained from Dr. Rajendra N. Rana. It is true that if Dr. Rana had taken any X-ray of mine, no such X-ray has been produced by me in this

> *matter. It is not true that I have suffered no permanent disability. It is not true that I have given false evidence in order to obtain higher compensation. It is true that I was studying at the time of the incident".*

Claimant is cross-examined by Ld. Advocate Mr. P.G. Shah, wherein he has admitted that :

> *"At the time of the incident, I was seated behind the conductor's seat in the Eeco vehicle. It is true that the accident occurred during daylight hours. It is true that the trailer involved in the accident was moving ahead of our Eeco vehicle on the left side. Our vehicle and the trailer involved in the accident had been travelling together for about ten to fifteen minutes. It is not true that the trailer was moving slowly. It is not true that due to a defect in the steering of the Eeco vehicle, the Eeco collided with the vehicle ahead, namely the trailer. It is not true that the accident occurred due to the negligence of the driver of the Eeco vehicle. At the time of the incident, I was studying".*

12. This court has considered the record and it transpires that, one Mr. Dharmendrabhai Jayram has lodged the FIR which is at Exh.61. Further, as narrated in the FIR (Exh.61) that, he is driver of Trailer No. GJ 12 Z 0832, when he was going by driving the said Trailer along with conductor Mr. Shaileshbhai from Ankleshwar GIDC to Mundra and when they were reached on Express highway towards Ahmedabad, at that time, pressure pipe of his trailer got burst and therefore he reduced the speed of his trailer, meanwhile, driver of the Ecco car came by driving his Eco car in rash and negligent manner and dashed behind the ahead going trailer, as a result of which, passengers who were traveling in the Ecco car sustained severe injuries, the registration number of the trailer was GJ 23 M 4437.

13. The Panchnama of place of occurrence is produced on record at Exh.62. From the perusal of the said Panchnama, the place of accident and the four corners of the place of accident are stated. Moreover, it appears from the Panchnama that one Ecco Car No. GJ 23 M 4437 and also Trailer No. GJ 12 Z 0832 lying on the spot of accident and damages caused to Ecco car more than damage caused to the Trailer. The Police has not recovered any materials from the place of accident.

14. This tribunal has also taken note that, the driver of the Ecco car has not stepped into the witness-box. The evidence led on behalf of the claimant has not been controverted by the insurance company. Except breach of conditions of policy, the opponents have not rebutted the evidence led by the claimant.

15. Thus, from the oral as well as the documentary evidence on record, and as discussed previously, it has been decided by the Ld. Tribunal (Auxi.) and 2nd Additional District Judge, Vadodra In Motor Accident claim petition No. 1045 of 2015, filed by the applicant Apurva Baldevbhai Barot and decided on 29/11/2025, the judgement was passed below Exh.102, wherein the negligence of opponent no.1 - driver of the Ecco Car No. GJ 23 M 4437 is fixed as 70% and 30% negligence of driver of trailor.

15a. In view of the above referred discussion, this Tribunal comes to the conclusion that, the claimant sustained injuries in a vehicular accident which occurred due to rash and negligent driving of opponent No. 1. Hence Issue No.1 is decided in ***Affirmative.***

15b. The oral, documentary evidence as well as the Spot panchnama are sufficient to appreciate that, out of this road accident, the claimant had received injuries & he had received physical disablement. In view of the judgment delivered by the Hon'ble Supreme Court in the case of ***Pawan Kumar & Anr. Vs. M/s. Harkishan Dass Mohan Lal & Ors. [2014 ACJ 704 (SC)]*** as well as in case of ***Khenyei Vs. New India Assurance Company Limited, 2015 ACJ 1441 (SC),*** as he was traveling in the Ecco car, he does not fall in the category of tort-feasor, therefore the issue of negligence will be governed by the principle of **composite negligence.**

ISSUE NO. 2

16. It is settled legal position of law that, if victim of an accident suffers permanent or temporary disability, then efforts should be made to award adequate compensation not only for the physical injury and treatment, but also for the pain, suffering and trauma caused due to accident, loss of earnings and victim's inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.

17. So far as age of the claimant is concerned, as stated by him in his petition, he has stated that he was 16 years of age at the time of accident. Claimant has deposed at Exh.58 on dated 10.07.2024 wherein he has stated his age to be 25 years. Disability Certificate placed on record by the claimant shows the age of claimant to be 24 years which is issued on dated 21.04.2024. Accident occurred on dated 05.11.2014. Moreover, on perusing the Discharge Summary at Exh.70**,** it appears that claimant age is mentioned as 15Y 10M & 9D. Therefore, claimant was about 16-17 years old at the time of accident. Therefore, considering the decision in the case of **Sarla Varma v/s Delhi Transport Corporation & ors [2009 ACJ 1298]**, multiplier of **18** is applicable.

18. Ld. Advocate for the claimant has submitted that, minimum wages should be taken as yardstick to consider the income of the minor claimant. On the contrary, Ld. Advocate for the insurance company has submitted that, minor being non earning member of the family, therefore notional income may be considered.

18.1 In the present case, minor claimant was 3 years old at the time of accident and due to the accidental injuries, he has suffered physical disability @ 23%. In the decision of **Kajal v. Jagdish Chand** reported in **2020 (4) SCC 413,** the Hon’ble Supreme Court has held in **para-20** as under:

> *20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs.15,000/ per annum can be taken into consideration. We do not think this is a*

proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs.15,000/- per annum. Each case has to be decided on its own evidence but taking notional income to be Rs.15,000/- per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs.4846/- per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs.6784.40/- per month, i.e., 81,412.80 per annum. Applying the multiplier of 18 it works out to Rs.14,65,430.40, which is rounded off to Rs.14,66,000/-.

18.2 Therefore, in view of the decision of the Hon'ble Apex Court, minor claimant would have earned on becoming a major, and therefore income is to be decided on the basis of minimum wages payable to a skilled workman. Hence, considering the year of accident, it would be just and proper if the income of minor claimant is considered as (Rs.293/- per day x 26 days) Rs.7,618/- p.m. and Rs.91,416/- p.a. for future loss of income and addition of 40% as future prospects, annual income including future rise in salary would be Rs.91,416 + Rs.36,566 = **Rs.1,27,982/-**.

19. To prove the injuries, the claimant has categorically stated in his affidavit at **Exh.58** that in the said vehicular accident, he had sustained (1) Head Injury (2) Blunt Abdominal Injury & (3) Right supraobital CLW. Due to the severe injuries & fractures, the claimant was admitted in Zydus Hospital, Anand and operation was performed their and discharge from the hospital on 6/11/2014 and due to this, he was not done his study since six months. Due to the severity of the fractures & injuries, the claimant faces great difficulty in performing daily routine activities. He has spent Rs.1,00,000/- towards medical expenses.

20. So far as the disability sustained by the claimant is concerned, the claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana, M.S. (Orthopedic) which is at **Exh.72** from which it appears that claimant had sustained fracture injuries & head injuries. Considering the above clinical findings, the doctor has certified that the claimant has sustained permanent partial disablement @ 20%. Here it is required to be noted that Ld. Advocate of the opponent no.8 – Insurance Company has made endorsement that **"permanent partial disability may be considered at 20% body as a whole",** and therefore the doctor has not been examined. Hence, considering the nature of injury, physical disability, age and avocation of the claimant, it would be just and proper if the functional disability of the claimant is considered as **20%.**

21. Taking into considering the functional disability of the minor claimant which is assessed as **20%**, his yearly loss of income would come to **Rs.25,596/- p.a. [20% of Rs.1,27,982].** As above discussed, considering the age of minor claimant, the multiplier of **15** is applicable, hence, the future economic loss of income would come to **Rs.3,83,940/-** (Rs.25,596 x 15 multiplier).

22. Considering the nature of injuries sustained by the claimant and the evidence of medical treatment, **Rs.20,000/-** is awarded under the head of **Pain, Shock & Sufferings.**

23. Considering the nature of injuries, period of treatment and also considering the fact that the claimant remained as indoor patient in the hospital, therefore, he must have engaged an attendant and also spent some amount towards transportation for follow-up treatment and it is also believable that he must have consumed some special diet for his early recovery. Therefore, it would be just and reasonable to award sum of **Rs.15,000/- towards joint heads of Attendant, Special diets and Transportation Expenses.**

24. According to the averments made in the oral evidence of claimant at **Exh.58**, he has incurred around Rs.1,00,000/- towards his medical treatment. In support of his submissions, he has produced medical bills of Rs.12,483/- **at Exh.71.** Therefore, it would be just and proper to award **Rs.12,483/- under the head medical expenses.**

25. In view of the fact and circumstances discussed herein above the claimant is entitled for the following amount as compensation :

Rs.	3,83,940	Future economic loss
Rs.	20,000	Pain, Shock and sufferings
Rs.	15,000	Special diet/Attendance/Transportation
Rs.	12,483	Medical expenses.
Rs.	**4,31,423**	Total Compensation.

In view of the above referred discussion, claimant is entitled for **Rs. 4,31,423/- (Rupees Four Lacs Thirty One Thousand Four Hundred Twenty Three Only).**

Liability in case of composite negligence

26. 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 tortfeasors, 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.

26a. This Tribunal is also conversant with the judgment in the case of **Amar Singh Jugabhai & Others v. Vijayaben Hemantlal Bhulia and others,** reported in **1996 (1) GLH 1007,** wherein, the Hon'ble Gujarat High Court has observed thus -

> … where a person is injured in a motor accident that occurs not on account of his negligence but because the drivers of the colliding vehicles were negligent, the claimants are entitled to damage jointly and severally from the negligent respondents. Every wrongdoer is liable for the whole damage and it does not matter whether they acted between themselves as equals. A decree passed against two or more tortfeasors can be executed against any one of the defendants and such defendants can be compelled to pay the entire amount of damages decreed. It is further clear that the defendant who is compelled to pay the entire amount of damages decreed has a right to contribute from the other

> wrongdoer. The liability in case of composite negligence, unless must normally be apportioned because the claimant is liable to recover a whole amount of compensation in normal circumstances should not be apportioned, as both wrongdoers are jointly and severally liable for the whole loss. Rule of apportionment of liabilities in case of contributory negligence i.e. where the injured himself is also guilty of negligence.

Further, in **Para-26**, it was observed thus -

> … it is a settled legal position that even if the liability of joint tort-feasor is to the extent of 1 percent the entire amount i.e. 100% amount of compensation awarded can be recovered from the tort-feasor whose liability is adjudged to the extent of 1% only and omission to use one of the joint tortfeasors will not disentitle the claimants from claiming full relief against one who is sued.

27. In view of the above discussion, the present accident had occurred because of **negligence on the part of vehicles of both the drivers i.e of the Ecco car i.e. opponent no.1 and th**e trailer.

Opponent Nos.2 & 3 were the owners of the offending Ecco Car No. GJ 23 M 4437 at the relevant time (opponent no.2 as per owner of Policy & Opponent no.3 as per owner of R.C.Book); & this fact is also clearly derived from the certificate of registration of the offending Ecco Car & Insurance Policy at **Exhs.64 & 65 respectively.**

Opponent No.5 driver of Trailer No. GJ 12 Z 0832 is found, insured with opponent No.8 - Insurance company. The claimant has produced the R.C.Book & Insurance Policy of Trailer No. GJ 12 Z 0832 at Exhs. 67 & 68, Shows that opponent no.6 is owner of said Trailer as per R.C.Book & opponent no.7 is owner of said Trailer as per Insurance Policy, further, looking to the copy of driving license which is on record at Exh.63, the opponent no.1 – Apurva Baldevbhai Barot is driver.

28. Thus, all the opponent are jointly and severally liable to pay the amount of compensation to the claimants, together with proportionate costs and interest @ 9% p.a. from the date of claim petition till realization. Hence, I answer Issue No.2 in the 'affirmative' accordingly and as the claimants succeeds in the matter, they are 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 :-

ORDER

1	The Claim petition stands partly allowed against all the opponents, jointly & severally.
2.	Claimant is entitled for the compensation of **Rs. 4,31,423/- (Rupees Four Lacs Thirty One Thousand Four Hundred Twenty Three Only) with interest at the rate of 9% per annum** from the date of application till

<table>
<tr><td></td><td>final realization from all the opponents jointly and severally.</td></tr>
<tr><td>3.</td><td>Opponents are hereby ordered to deposit <u>Rs. 4,31,423/- (Rupees Four Lacs Thirty One Thousand Four Hundred Twenty Three Only)</u> as compensation with awarded rate of interest within 30 days from the date of this order.</td></tr>
<tr><td>4.</td><td>The opponents are directed to follow the ratio laid down in the judgment of <u>Hansaguri P. Ladhani Vs. Oriental Insu. Co. Ltd.</u> reported in <u>2007(2) GLH 291</u> as far as the TDS is concerned.</td></tr>
<tr><td>5.</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>6.</td><td>The Claimant is hereby directed to furnish the details of his 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 Appeal arising out of SLP (C)</td></tr>
</table>

	No.4484 of 2020, the opponents are directed to transfer the awarded amount into bank account of concerned claimant as per his 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 claimant 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.
7.	The opponents are also directed to intimate this tribunal on email id mactbha@gmail.com with respect to transfer of awarded amount in the bank account of the concerned claimant along with proof of such transfer, such as, MACP number, name of claimant, amount of transfer , date of transfer, name of the claimants bank with account number within 7 days form date of transfer.
8.	Opponents are entitled for adjustment of the amount of interim compensation, if any paid, at the final settlement of the awarded compensation.
9.	Out of the amount deposited by the opponents, **70%** amount shall be invested in FDR by the concerned bank in the name of concern claimant/s for a period of 5 years. 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.
10.	Out of total amount of compensation deposited by opponents, the amount of **medical bills total of Rs. 12,483/-** be paid to claimant by direct transfer to the credit of the saving Bank Account of the Claimant/s as the case may be by NEFT or RTGS only after due verification.
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.	Registry is directed to forward the authenticated copy of this order to the Insurance Co. by e_mail.
14.	Award be drawn accordingly.

Signed and Pronounced in the open Tribunal today on this 26th day of May, 2026.

Date: 26/05/2026
Place: Bharuch
(ZYV)

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