GJBH010019382016

Filing No.:	MACP/358/2016
Filed On:	12/09/2016
Decided On :	29/04/2026
Duration :	9Y-7M-17D

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

MACP No.358 of 2016
Exh. ____

Claimant: Pravinbhai Ganeshbhai Patel through his next friend Bhavnaben Pravinbhai Patel (wife of claimant)
R/o. Nava Kansiya, Tal. Ankleshwar,
Dist. Bharuch.

Versus

Opponents :

1. Premchandbhai Santbax Yadav
R/o. At. Goladara, Tal. Chauryasi,
Dist. Surat.
2. Ramshankar Ramlaxmi Yadav
R/o. 18-19, Laxman Nagar,
Goladara, Udhna, Surat.
3. ICICI Lombard General Insurance Co. Ltd.
At. Sevashram Road, Bharuch.

Appearance:-
Ld. Advocate Mr. A. K. Parekh, for the claimant.
Opponent Nos.1&2 served.
Ld. Advocate Mr. N. R. Modi, for the opponent No.3.

Claim : Rs.20,00,000/- U/s.166 of the M. V. Act, 1988.

JUDGMENT

1. An injured claimant through his next friend/agent Bhavnaben Pravinbhai Patel has preferred the present claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act' for short) seeking compensation to the tune of Rs.20,00,000/- from the opponents on account of accidental injuries sustained by him in a road accident.

2. The brief facts of this petition are as under:-

2.1 That, on 21/04/2016 the injured was driving motorcycle No.GJ16-AM-128 on the left side of the road with moderate speed. When he reached near the farm of Akbarbhai on Juna Chhapra road, at that time opponent No.1 came by driving tempo No.GJ5-V-696 at high speed with rash and negligent manner, dangerous to human life, and thereby tempo dashed with motorcycle from behind. As a result of the impact, the motorcycle was dragged some distance from the spot, causing the injured claimant to fall on the road and sustain grievous bodily injuries. The FIR with respect to the said accident was registered vide I-CR No.75/2016 with Ankleshwar City Police Station against opponent No.1 i.e. driver of tempo.

2.2 According to the claimant, he was aged 29 years at the time of the accident. It is stated that the injured was engaged in masonry work as well as rod-centering work and earning Rs.15,000/- per month at the time of accident.

It is further stated that in the said vehicular accident, the injured sustained severe head injury and fracture of distal end of right femur, etc. He was initially taken to Jayaben Modi Hospital; however, due to seriousness of injuries, he was shifted to Unique Care Hospital, Surat, and thereafter taken to Bhailal Amin Hospital, Vadodara where he received indoor treatment for a period of 60 days and discharged thereafter. It is also stated that during the course of treatment at Bhailal Amin Hospital, Vadodara, the injured underwent multiple surgeries related to the head and brain. A nasal tube was inserted for feeding and breathing purposes. The claimant has incurred expenses of Rs.5,50,000/- towards his medical treatment. It is further stated that due to injuries on head and ear, the claimant has suffered loss of hearing in the left ear, along with memory impairment, resulting in difficulty in retaining and recalling information. It is also stated that the claimant experiences frequent agitation of the brain, resulting in difficulty in speaking, and suffers from drooling of saliva while attempting to speak. As a result, his mental condition has deteriorated significantly, resembling that of a child. It is further stated that due to the said injuries, the working capacity of the injured has been reduced, leading to a considerable loss of income. It is also stated that the claimant has suffered permanent disability, as a result of which he faces difficulties in carrying out his daily routine activities. Hence, claimant has claimed the amount of Rs.20,00,000/- as compensation from the opponents under different heads.

2.3 It is further submitted that the said vehicular accident has occurred due to rash and negligent driving on the part of the opponent No.1 i.e. tempo driver and opponent No.2 being owner of the tempo has insured his vehicle with opponent No.3, hence all the opponents are jointly & severally liable to pay the amount of compensation to the claimant.

3. Upon the petitions being admitted, the opponent Nos.1&2 though served through Public Notice (**Exh.19**) have not remained present before the Tribunal. Therefore, the matter was ordered to be proceeded ex-parte against them vide order dated 10.05.2017.

3.1 The opponent No.3 – Insurance Company has appeared through its advocate and filed reply at **Exh.22** inter alia contending that, all the averments made in the claim petition are not true and correct, and denied in toto. It is contended that, the facts regarding occurrence of accident, involvement of offending vehicles, causing injuries and resultant disablement, age and income of the claimant are not true and correct. It is stated that accident took place due to sole negligent driving on the part of injured claimant i.e. motorcyclist. It is further stated that there was no negligence on the part of opponent No.1 i.e. driver of tempo. It is contended that opponent No.1 i.e. driver of tempo was not holding valid and effective driving licence on the date of accident, and thereby the insured had committed breach of policy conditions. Thus, opponent

No.3-insurance company may be exonerated from its liability to pay compensation to the claimant.

4. The claimant has adduced following oral as well as documentary evidences:

Sr. No.	Evidences	Exh.
Oral Evidences		
1	Bhavnaben Pravinbhai Patel	**40**
2	Dr. Bhavesh Chaudhary	**50**
Documentary Evidences		
1	Copy of School leaving certificate of claimant	**38**
2	Copy of Admission letter of claimant's son and his mark sheet	**39**
3	Disability certificate issued by Chief Medical Officer, General Hospital, Bharuch	**51**
4	Disability certificate issued by Dr. Rajendra Rana	**54**
5	Copy of FIR	**58**
6	Copy of Panchnama of place of occurrence	**59**
7	Copy of Injury Certificate	**60**
8	Copy of charge-sheet	**61**
9	Copy of RC Book of tempo	**62**
10	Copy of Insurance policy of tempo	**63**
11	Medical bills of Rs.7,17,157/-	**64**
12	Discharge card	**65**
13	Disability certificate issue by Dr. Parth Modi	**66**

4.1 Ld. Advocate for the insurance company has produced copy of judgment in CC No.3264/2016 at **Exh.71.**

5. On completion of evidence, Ld. Advocate for the claimant has filed closing pursis at **Exh.56**, whereas, Ld. Advocate for the insurance company filed closing pursis at **Exh.57.**

6. Heard Learned Advocates for the parties, perused the evidence and written submissions produced by Ld. Advocate for the claimant at **Exh.67** as well as Ld. Advocate for the insurance company at **Exh.72.**

7. Following issues were framed at **Exh.23** by my learned predecessor for determination of this claim petition:

1. Whether it is proved that the claimant sustained injuries on account of rashness or negligent driving on the part of driver of the vehicle involved in the accident ?
2. What amount, the claimant is entitled to get 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 affirmative.
2. In affirmative – As per final order.
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.

9.1 So far as the question of negligence is concerned, the next friend (wife of claimant) has submitted her affidavit of examination-in-chief at **Exh.40** and narrated the facts as mentioned in the claim petition. During her cross-examination, she admitted that her husband (injured claimant) is unable to speak, and therefore, he is not in a position to depose before the Tribunal. However, nothing could be emerged in her cross-examination with regard to the negligence.

9.2 The claimant has produced on record the copy of the FIR at **Exh.58** and spot panchnama at **Exh.59**, both of which mention the details of Tempo No.GJ5-V-696 and Motorcycle No.GJ16-AM-128, and thereby prima facie established the involvement of the said vehicles. Upon perusal of the FIR, it appears that the same was lodged by Maheshbhai Mangubhai Patel on the very day of the accident, i.e., 21.04.2016. As stated therein, an unknown caller informed Ashokbhai Mangubhai Patel that his brother met with an accident. Upon receiving such information, complainant along with others immediately rushed to the spot. Upon reaching the place of occurrence, they came to know that Pravinbhai was proceeding towards his farm on motorcycle No.GJ16-AM-128. When he reached at distance of about one kilometer towards Juna

Kasiya village from Andada village, tempo No.GJ5-V-696 came from Chhapra at high speed and in a rash and negligent manner and dashed with motorcycle. As a result of the impact, Pravinbhai fell down on the road and sustained grievous head injuries. The spot panchnama at **Exh.59** clearly indicates that the incident occurred near the farm of Akbarbhai on Andada to Juna Chhapra road where pieces of broken mirror were found scattered. The panchnama further reveals that motorcycle No.GJ16-AM-128 was found lying on the side of the road, with damages including broken headlight, damaged front and rear indicator lights, and bent right-side mudguard. It is pertinent to note that the position of tempo No.GJ5-V-696 is not reflected in the panchnama, as the same was prepared on the next day of the accident, i.e., on 22.04.2016.

9.3 Therefore, considering the facts and circumstances of the present case and material on record, it is evident that opponent No.1 was driving the tempo at an excessive speed and in a rash and negligent manner on Juna Kasiya to Andada road and dashed with motorcycle, resulting in grievous head injury to the claimant. Consequently the FIR (**Exh.58**) with respect to the accident was lodged against opponent No.1 and upon completion of investigation, the police filed charge-sheet (**Exh.61**) against him. Therefore, it is established that tempo was being driven at high and uncontrollable speed, as a result of which opponent No.1 failed to maintain proper control and dashed with motorcycle. It transpires from the record that opponent No.1 neither made any attempt to slow down the vehicle nor applied brakes in order to avoid collision with motorcycle. This reflects a clear lapse on his part in exercising the expected degree of caution while driving. Had opponent No.1 exercised due care and caution, the accident could have been avoided. The learned advocate for the insurance company has relied upon the judgment passed by the trial court in Criminal Case No.3264/2016 produced at **Exh.71**, wherein tempo driver was acquitted of the charges and held not responsible for the accident. It is a well-settled principle of law that acquittal in a criminal case does not *ipso facto* absolve a person from civil liability. The standard of proof in a criminal trial is that of *beyond reasonable doubt*, whereas in motor accident claim proceedings, the case is decided on the basis of *preponderance of probabilities*. In the present case, insurance company has not examined opponent No.1 (tempo driver) to depose with respect to negligence as well as involvement of the vehicle. Therefore, adverse inference is required to be drawn against him. Thus, there is no evidence on record to attribute any negligence to the claimant i.e. motorcyclist in causing the accident, and thereby the submission of Ld. Advocate for the insurance company in this regard is not accepted. Thus, this Tribunal is of the opinion that the accident occurred solely due to the rash and negligent driving of the opponent No.1 i.e. driver of tempo. Hence, I answer the Issue No.1 accordingly in ***"Affirmative"***.

Issue No.2

10. 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. The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident.

11. On perusing the School Leaving Certificate at **Exh.38**, claimant's birth date is mentioned as 06.12.1985. Thus, injured was 30 years old 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]**, multiplier of **17** is applicable.

12. Ld. Advocate for the claimant has relied upon the decision in the case of **Amjiba wd/o Narendrasinh @ Kalusinh Champaksinh Dabhi v. Lilaram Johrilal Yadav** arising out of R/First Appeal No.2370/2019 and submitted that the claimant was engaged in masonry as well as rod-centering work and he being skilled worker, Rs.15,000/- per month income is required to be considered. Ld. advocate for the insurance company has submitted that income of the claimant should not be considered more than Rs.6816/- per month in absence of proof of income.

12.1 So far as income of the injured claimant is concerned, Bhavnaben w/o injured claimant has stated in her affidavit of examination-in-chief vide **Exh.40** that, injured was engaged in masonry work as well as rod-centering work and earning Rs.15,000/- per month at the time of accident. Bhavnaben has not led documentary evidence to prove the income of the injured claimant and this fact is also admitted by her in cross-examination vide **Exh.40**. Hence, the decision relied upon by Ld. Advocate for the claimant is not applicable to the facts of the present case. However, considering the age of claimant, year of accident, nature of work performed by the claimant and considering the minimum wages of skilled person prevailing at the time of accident, it would be just and proper if the income of the claimant is considered as **Rs.8,100/- p.m.** and **Rs.97,200/- p.a.**

12.2 Considering the age of the claimant at the time of accident, this is a fit case to give rise of **40%** in actual salary i.e. **Rs.38,880/-** (Rs.97,200 x 40%) in the actual income of the claimant and therefore, annual income including future rise in salary of the claimant would be Rs.97,200 + Rs.38,880 = **Rs.1,36,080/-**.

13. To prove the injuries, wife of injured claimant has categorically stated in her affidavit at **Exh.40** that in the said vehicular accident, the injured sustained severe head injury and fracture of distal end of right femur, etc. He was initially taken to Jayaben Modi Hospital; however, due to seriousness of injuries, he was shifted to Unique Care Hospital, Surat, and thereafter taken to Bhailal Amin Hospital, Vadodara where he received indoor treatment for a period of 60 days and discharged thereafter. It is also stated that during the course of treatment at Bhailal Amin Hospital, Vadodara, the injured underwent multiple surgeries related to the head and brain. A nasal tube was inserted for feeding and breathing purposes. The claimant has incurred expenses of Rs.5,50,000/- towards his medical treatment. It is further stated that due to the injuries sustained to the head and ear, the claimant has suffered loss of hearing in the left ear, along with memory impairment, resulting in difficulty in retaining and recalling information. It is also stated that the claimant experiences frequent agitation of the brain, resulting in difficulty in speaking coherently, and suffers from drooling of saliva while attempting to speak. As a result, his mental condition has deteriorated significantly, resembling that of a child.

13.1 So far as the disability sustained by the injured is concerned, wife of the injured claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana on 29.07.2025 which is at **Exh.54** from which it appears that claimant had sustained head injury and fracture of the distal end of right femur, resulting in permanent partial disability @ 20% of right lower limb. However, the learned Advocate for the insurance company had no objection to consider claimant's disability at 10% of the body as a whole. Further, on perusal of disability certificate issued by Chief Medical Officer, General Hospital, Bharuch at **Exh.51,** it appears that the injured is suffering from locomotor disability which is affecting the right side of the body. It also appears from disability certificate that the diagnosis indicates right-sided hemiplegia resulting in 75% permanent disability. The claimant has produced photographs at Mark-34/5. Learned advocate for the insurance company has no objection to consider disability at 65% of body as a whole. Further, on perusal of disability certificate issued by Dr. Parth P. Modi, M.S. M.ch. (Neurosurgery) at **Exh.66,** it appears that the injured claimant is an operated case of head injury with right hemiparesis, accompanied by aphasia and left third cranial nerve palsy. The said condition has resulted in 80% permanent physical impairment in relation to his daily activities.

13.2 With context to this fact, Dr. Bhavesh Chaudhary, Associate Professor, K.M.C.I.R. Medical College, Bharuch has been examined by the claimant at **Exh.50**. He deposed that he had examined the injured claimant for the purpose of assessing disability. He stated that he conducted neurological assessment, reviewed the medical records and evaluated the physical condition of the injured claimant. Upon examination, he observed that the injured was facing issues related to vision and speech, and thereby was unable to speak and had loss of vision in one eye. He further deposed that the injured Pravinbhai was suffering from paralysis affecting his right hand and right leg. He also deposed that he had issued certificate to the claimant assessing 75% physical disability. He further stated that considering the nature of injuries and the extent of disability, he observed that the injured claimant is not in a position to perform any heavy or strenuous work and is not even capable of walking independently. However, he stated that he had not conducted any assessment regarding the claimant's ability to engage in sexual relations. He further deposed that the certificate bearing his signature, along with that of the Chief District Medical Officer is produced at **Exh.51**. He stated that the injuries sustained by Pravinbhai are of serious nature and the extent of disability is unlikely to either increase or decrease. He stated that there would be no improvement in the working capacity of the claimant even with further treatment. During cross-examination by the learned advocate for the insurance company, he admitted that he has not obtained any information regarding the nature of work performed by the claimant. He further admitted that he cannot say on the specific difficulties faced by the claimant while working. However, he voluntarily stated that he has no knowledge about the type of work carried out by the claimant. He also admitted that the left-side limbs of the injured are functional. He further admitted that he is not specialist in neurology. However, he voluntarily stated that neurology is a subject covered under

Doctor of Medicine. He denied that he issued locomotor disability certificate without having the requisite expertise in neurology.

13.3 Therefore, considering the evidence of Dr. Bhavesh Chaudhary, Associate Professor, K.M.C.I.R. Medical College, Bharuch (**Exh.50**) as well as the disability certificates on record, it is established that the injured claimant sustained severe head injury, right-sided hemiparesis, aphasia, left third cranial nerve palsy, and fracture of distal end of right femur. Therefore, he underwent multiple surgeries and remained hospitalized for longer period. The disability certificates issued by Dr. Rajendra L. Rana (**Exh.54**), Chief Medical Officer (**Exh.51**) and Dr. Parth P. Modi (**Exh.66**) indicates permanent physical impairment is 20% of right lower limb; 75% in relation to locomotor and neurological deficits and 80% with respect to daily activities. Although Dr. Bhavesh Chaudhary is not a neurology specialist, his clinical assessment supported by detailed review of the medical records which provides credible and reliable evidence regarding the serious and permanent nature of the injuries and resultant disablement. The collective medical evidence establishes that claimant continues to face severe difficulties in his daily routine activities.

13.4 Ld. Advocate for the claimant has relied upon the decision in the case of **Sri Benson George v. Reliance General Insurance Co. Ltd.** reported in **2022(13) SCC 142** and submitted that claimant suffered grievous brain injuries and he underwent multiple operations and prolonged period of hospitalization, loss of earning capacity must be fixed at 100%. So far as reduction in earning capacity of the claimant is concerned, it is undisputed fact that paralysis is a life long condition, and therefore considering the physical disability, the effect of earning capacity is required to be considered by the Tribunal.

13.5 In case of **Raj Kumar V. Ajay Kumar and Ors.,** reported in **2011 ACJ 1 (SC),** the Hon'ble Apex Court has laid down some guiding principles regarding determination of loss of future earning of the injured with reference to extent of permanent disablement. Such principles can be summarized as under:-

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of his permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirely.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

13.6 The Hon'ble Apex Court in the said decision has held in **para-13** as under:

> ***13.*** *Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent ability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.*

13.7 Therefore, in light of the aforesaid three-steps, it becomes necessary to determine the earning capacity of the claimant. As per the oral evidence of wife of claimant at **Exh.40**, the injured was 29 years at the time of accident and was engaged in masonry as well as rod-centering work. The disability certificates on record clearly indicate that the claimant is unable to sit or squat cross-legged due to shortening of the right limb. The injured is also suffering from paralysis of right hand and leg along with impairment of vision and speech, and thereby he is unable to perform heavy or strenuous work or to walk independently. Further, Dr. Parth Modi (Neurosurgery) has opined that the disability is non-progressive and is unlikely to improve even with further treatment. Further, Dr. Bhavesh Chaudhary, Associate Professor at K.M.C.I.R. Medical College, Bharuch, has opined that the injured claimant suffers from severe and permanent disabilities. He observed significant impairment in vision and speech, including loss of vision in one eye and inability to speak. Therefore, the injuries are of serious and permanent nature and is unlikely either to increase or decrease. Thus, the working capacity of the injured claimant is severely affected. The cumulative effect of the accidental injuries has resulted in permanent paralysis of the right side of body, and thereby rendering the condition lifelong in nature. Therefore, the injured claimant is prevented and restricted from discharging his previous activities and functions and requires assistance to carry out his daily activities. Thus, the claimant is totally disabled from earning any kind of livelihood. There is no possibility of any employment by the claimant considering his permanent physical disability. Further, the injured has personally remained present before this tribunal with his wife and son. This court has observed that the injured claimant is unable to speak properly and unable to walk without any support. Hence, considering the facts and circumstances of the case, the nature of injuries, the extent of physical disability and expert opinion of doctor, it would be just and proper to assess the functional disability of the claimant at **100%**.

14. Taking into considering the functional disability of the claimant which is assessed as **100%**, his yearly loss of income would come to **Rs.1,36,080/- p.a. [100% of Rs.1,36,080].** As discussed above, considering the age of the claimant, the multiplier of **17** would be applicable, hence, the future economic loss of income would come to **Rs.23,13,360/-** (Rs.1,36,080 x 17 multiplier).

15. Ld. Advocate for the claimant has submitted that, the amount of Rs.15,00,000/- is required to be awarded under the head pain, shock and suffering considering the injuries of the claimant. In the case of **Kajal v. Jagdish Chand & Ors.** reported in **2020 ACJ 1042 SC**, victim sustained brain injuries which led to severe hysteria and incontinence of urine and stool, resulting in 100% disablement, and therefore the Hon'ble Apex Court has awarded Rs.15,00,000/- under the head 'pain and suffering'. In the present case also, claimant is suffering from paralysis of right hand and leg along with impairment of vision and speech, and thereby he is unable to perform heavy or strenuous work or to walk independently. Further, the disability is non-progressive and is unlikely to improve even with further treatment. Therefore, it is established that injured is suffering from paralysis and the same is life long disability. Thus, considering the nature of injury, disability, the period of treatment and hospitalization and in view of the decision of the Hon'ble Apex Court in the case of *Kajal (supra)*, it would be just, fair and reasonable if the sum of **Rs.15,00,000/- is awarded under the head Pain, Shock & Sufferings.**

16. On perusing discharge summary **(Exh.65)**, it appears that the claimant has received treatment from 23.04.2016 to

26.05.2016 in Bhailal Amin General Hospital, Vadodara. Therefore, he might have required help of attendant. Further, the claimant might have incurred expenses towards transportation, special diets and nutritious food and other miscellaneous expenses also. Hence, looking to nature of injuries, period of hospitalization as well as material on record, it would be just & proper to award a sum of **Rs.30,000/- towards Attendant, Rs.50,000/- towards Special diets** and **Rs.30,000/- towards Transportation Expenses.**

17. According to averments made in the oral evidence of wife of claimant at **Exh.40**, she incurred Rs.10,00,000/- towards medical treatment of injured husband. In support of the same, medical bills of Rs.7,17,157/- are produced at **Exh.64.** Thus, it would be just and proper to award round off **Rs.7,17,200/- towards medical expenses.**

18. Ld. advocate for the claimant has relied upon the decision in the case of **Erudhaya Priya v. State Express Transport Corporation Ltd.** reported in **2020(3) TAC 1 (SC)** and submitted that injured is suffering from paralysis of right hand and leg, therefore he will have to be permanently bed-ridden during his entire life and is unable to enjoy marriage life. He has therefore submitted that Rs.5,00,000/- is required to be awarded under the head of loss of matrimonial aspects. In *Erudhaya Priya (supra),* victim aged 23 years sustained multiple fractures, resulting in 31.1% permanent disability. As in the present case, injured is suffering from paralysis of right hand and leg and he will have to suffer difficulties during his entire life. Thus, considering the nature of injury, disability and in view of the decision of the Hon’ble Apex Court in the case of *Erudhaya Priya (supra)*, it would be just, fair and reasonable if the sum of **Rs.5,00,000/- is awarded under the head of loss of matrimonial aspects.**

19. So far as future medical expenses of the injured claimant is concerned, it would be difficult to hold that for future medical expenses which are required to be incurred by a victim, fresh award could be passed. However, for such medical treatment, the Tribunal has to arrive at a reasonable estimate on the basis of evidence brought on record. In the present case, it has been pointed out that injured is suffering from paralysis of right hand and leg. The claimant has not produced any materials as regards estimated future medical expenses. In absence of evidence, it would not be just and proper to award any amount under this head.

20. Thus, the injured claimant is entitled to get amount of compensation under the following different heads:-

SUMMARY OF THE COMPUTATION OF AWARD AMOUNT

1	Date of accident	21.04.2016
2	Name of the injured	Pravinbhai Ganeshbhai Patel
3	Age of the injured	30 Years
4	Occupation of the injured	Masonry work
5	Income of the injured	Rs.8,100/- per month

6	Nature of injury	Head injury with right-sided hemiparesis, aphasia, left third cranial nerve palsy, and fracture of distal end of right femur.
7	Period of hospitalization	From 23.04.2016 to 26.05.2016 in Bhailal Amin General Hospital, Vadodara
8	Whether any permanent disability? If yes, give details	Yes. 80% permanent disability.
9	**Computation of Compensation**	
Sr. No.	**Heads**	**Awarded by the Tribunal**
10	**Pecuniary Loss**	
(i)	Expenditure on treatment	Rs.7,17,200/-
(ii)	Expenditure on special diet	Rs.50,000/-
(iii)	Cost of nursing/attendant	Rs.30,000/-
(iv)	Transportation expenses	Rs.30,000/-
(v)	Cost of artificial limb	--
(vi)	Loss of earning capacity	--
(vii)	Actual Loss of income	--
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
11	**Non-Pecuniary Loss**	
(i)	Compensation for mental and physical shock	Rs.15,00,000/-
(ii)	Pain and Suffering	
(iii)	Loss of matrimonial aspects	Rs.5,00,000/-
(iv)	Disfiguration	--
(v)	Loss of Future medical Exp.	--
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration,	--

	mental stress, dejectment and unhappiness in future life etc.	
12	**Disability resulting in loss of earning capacity**	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	80%
(ii)	Loss of amenities or loss of expectation of life span on account of disability	--
(iii)	Percentage of loss of earning capacity in relation to disability	100%
(iv)	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.23,13,360/-
13	**TOTAL COMPENSATION**	**Rs.51,40,560/-**
14	INTEREST AWARDED	**9%**

21. The injured claimant has, in claim petition, claimed compensation of **Rs.20,00,000/-**. But the Tribunal can award the amount more than the amount claimed in the claim petition if the same is found to be just compensation. Hence, the claimant is entitled to get **Rs.51,40,560/-** as compensation.

<u>Liability</u>

22. In view of above discussion, the present accident had occurred because of negligent driving of opponent No.1 i.e. tempo driver involved in the accident. The opponent No.2 was the owner of tempo No.GJ5-V-696 at the relevant time is also established from the certificate of registration of the subject vehicle at **Exh.62**. Further, on perusing insurance policy of tempo No.GJ5-V-696 at **Exh.63**, it transpires that the subject vehicle was insured with the opponent No.3 for the period from 23.12.2015 to 22.12.2016. Thus, it was valid insurance on 21.04.2016 i.e., the date of accident. Therefore, the injured claimant is entitled for the compensation with interest @ 9% p.a. from the date of claim petition till realization from opponent Nos.1 to 3 jointly & severally. Hence, I answer Issue No.2 in the **'affirmative'** accordingly and for Issue No.3, the following final order is passed:-

ORDER

1. The claim petition stands allowed.
2. The injured claimant is entitled to recover a sum of **Rs.51,40,560/- (Rupees Fifty One Lac Forty Thousand Five Hundred Sixty only)** as compensation with cost and interest @ 9% p.a. from the date of the claim petition till realization of the amount from the opponent Nos.1 to 3, 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. 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**

5. 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.

6. The injured claimant through his next friend/agent (wife of claimant) is hereby directed to furnish the details of his 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. It is further directed to the injurd claimant to submit the certificate of the banker certifying that the account is of the concerned claimant. 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 opponents are directed to transfer the awarded amount into bank account of injured claimant within 30 days. Before transferring the amount into the bank account of the claimant, the opponents shall inform the concerned bank of the claimant 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.

7. 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 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.

8. Out of the amount deposited by the opponents, **70%** amount shall be invested in FDR by the concerned bank in the name of claimant for a period of 5 years. The bank of the injured claimant is directed to intimate the details with respect to the Fixed Deposit made as per the present award in the name of claimant 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 injured claimant will be at liberty to withdraw the periodical interest accrued on the said FDRs. The Nazir of the District Court to ensure the compliance of this award.

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

10. Registry is directed to forward the copy of the judgment through e_mail to the insurance company as well as concerned bank of the injured claimant.

11. Award be drawn accordingly.

Pronounced in the open Court today on 29th April, 2026.

Date: 29/04/2026

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