

GJBH010021272019



Filing No.: MACP/311/2019

Filed On: 26/07/2019

Decided On : 25/05/2026

Duration : 6Y-9M-30D

**Before the Motor Accident Claims Tribunal (Main),
At. Bharuch**

MACP No.311 of 2019**Exh. _____****Claimants:**

1. Pushpadevi Sanjeevkumar Sinh
2. Minor Shivanshukumar Sanjeevkumar Sinh
3. Minor Shreyanshkumar Sanjeevkumar Sinh
4. Mahatamsinh Surajsinh
5. Kulpatidevi Mahatamsinh
(Minor claimant Nos.2&3 represented through
their guardian claimant No.1)
All are R/o. Silver Susti Complex,
Link Road, Bharuch.

V/s.**Opponents:**

1. Pramodkumar Mahatamsinh
R/o. 202, Silver Susti Complex,
Link Road, Bharuch.
2. SBI General Insurance Co. Ltd.
At. 1st Floor, Star Track, Opp. ABS Tower,
Padra Road, Vadodara.

Appearance:

Ld. Advocate Mr. R. C. Gohil, for the claimants.

Opponent No.1 Ex-parte.

Ld. Advocate Mr. C. B. Modi, for the opponent No.2.

Claim : Rs.2,00,00,000/- U/s.166 of the M. V. Act, 1988.

JUDGMENT

1. The claimants being legal heirs of deceased Sanjeevkumar Mahatamsinh Sinh (hereinafter referred to as the 'deceased' for short) who died in a road accident, have preferred the present claim petition u/s 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,00,00,000/- from the opponents.
 - 1.1 The claimant No.1 is the wife of the deceased, claimant Nos.2&3 are the children of the deceased and claimant Nos.4&5 are the parents of the deceased.
2. The brief facts of petition in nutshell are as under:-
 - 2.1 That, on 16/05/2019 at about 5:00 pm., Sanjeevkumar was traveling in a Car No.BR28-L-5005 which was driven by his brother Pramodkumar. They were proceeding towards their home from Sivan. When they reached near Bhatiyani New Bridge, at that time an animal suddenly came on the road, thereby Pramodkumar lost control over the vehicle, causing the car to collide with the roadside parapet. As a result, Sanjeevkumar sustained grievous bodily injuries and died in the accident. The complaint with respect to the said accident was given by Pramodkumar Sinh to Mirganj Police Station.
 - 2.2 According to the claimants, deceased was aged 32 years at the time of accident. It is stated that deceased was doing

business in the name of 'Ambika Enterprises'. In addition to this, he was involved in supplying labourers to various companies, undertaking fabrication and irrigation work and carrying out agricultural activities, and thereby earning Rs.1,00,000/- per month at the time of accident. It is further stated that had deceased not died in the accident, he would have continued to earn substantial income, thereby providing financial security and support for the well-being of his dependents. It is also stated that due to sad demise of deceased, the claimants have suffered economic loss and claimed Rs.2,00,00,000/- as compensation under different heads.

2.3 It is further submitted that the accident occurred due to rash and negligent driving of opponent No.1 i.e. driver of car and he being owner of the car had insured his vehicle with opponent No.2 at the time of accident. Therefore, the opponents are jointly and severally liable to pay the amount of compensation to the claimants.

3. Despite due service of notice, opponent No.1 has not appeared before the Tribunal, and therefore, the matter was ordered to be proceeded ex-parte against him vide order dated 09.03.2022.

3.1 The opponent No.2 – Insurance Company 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 contended that, the facts regarding occurrence of accident, involvement of offending vehicle, causing injuries and resultant death of the deceased, age and income of the deceased are not true and correct. It is stated that the deceased was the brother of opponent No.1 and no FIR was lodged against opponent No.1, hence, the claimants have failed to establish negligence on his part. It is further stated that an animal suddenly crossed the road, and therefore, there was no fault or negligence on the part of opponent No.1 in causing the accident. It is also stated that the deceased was not wearing a seat belt while the vehicle was in motion, and thus, the accident occurred due to his own negligence. The allegation that the driver lost control over the vehicle and dashed with the roadside parapet, resulting in fatal injuries to Sanjeevkumar is denied. It is contended that the opponent No.1 was not holding valid and effective driving licence at the time of accident, and thereby the insured had committed breach of policy conditions. Thus, the opponent No.2 – insurance company has prayed to exonerate from its liability to pay compensation to the claimants.

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

Sr. No.	Evidences	Exh.
<u>Oral Evidence</u>		

1	Pushpadevi Sanjeevkumar Sinh	26
<u>Documentary Evidences</u>		
1	Copy of Registration certificate of Ambika Enterprises	29
2	Copy of Labour licence of deceased	30
3	Copy of PAN Card of deceased	31
4	Copy of application regarding accident given by Pramodkumar before Mirganj Police Station, Bihar	32
5	Dead body examination report	33
6	Copy of Postmortem report	34
7	Copy of RC Book of the car	35
8	Copy of Insurance policy of the car	36
9	Copy of Work order received by deceased from Samsung Engineering	37
10	Copy of Work order received by deceased from Linde Company	38
11	Copy of Work order received in 2017 by deceased from TechnipFMC	39
12	Copy of Work order received in 2018 by deceased from TechnipFMC	40
13	Copy of Work order received by deceased from Arudra Engineers Pvt. Ltd.	41
14	Photographs of car at the time of accident	58
15	Copy of Bank Statement for the payment of OD claim	74
16	Copy of In Patient Bill of Pramodkumar	75
17	Copy of Income-tax return for AY 2016-17	76
18	Copy of Income-tax return for AY 2017-18	77
19	Copy of Income-tax return for AY 2018-19	78

4.1 Ld. Advocate for the insurance company has adduced following oral as well as documentary evidences:

Sr. No.	Evidences	Exh.
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<u>Oral Evidence</u>		
1	Nivrtee Raosaheb Magar, Senior Forensic Expert, Mumbai	57
<u>Documentary Evidences</u>		
1	Motor Accident Reconstruction Report	60
2	Letter for appointment of Forensic Expert & Authorization to appear in the court	61
3	Copy of e-mail to Nivrtee (Forensic Expert) by Team Leader, SBI General Insurance Company	62
4	Copy of Master Degree in Forensic Science of Expert	63
5	Copy of ID Card of Forensic Expert	64

5. On completion of evidence, Ld. Advocate for the claimants has filed closing pursis at **Exh.79** and Ld. Advocate for the insurance company filed its closing pursis at **Exh.66**.
6. Heard Learned Advocates for the parties, perused the evidence and written submissions produced by Ld. Advocate for the claimants at **Exh.80** and Ld. advocate for the insurance company at **Exh.81**.
7. Following issues were framed at **Exh.21** by my learned predecessor for determination of this claim petition:
 1. Whether petitioners prove that the deceased died because of rash and negligent driving on the part of the driver of the vehicle involved in the incident ?
 2. Whether the claimants are entitled to get 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 final order.

REASONS

Issue Nos.1&2

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 appear to it to be just.
- 9.1 Ld. Advocate for the claimants has filed written submissions at **Exh.80** and submitted that, claimants' case is that the deceased went to his native place in Bihar and his brother had come to pick him up and was driving the car. It is submitted that an animal suddenly came on the road, causing the driver to lose control and the car collided with the roadside parapet. Therefore, the accident occurred due to the negligence of the opponent No.1. It is further submitted that the car sustained damage on both the sides and photographs to that effect have been produced on record, which establishes that the deceased was seated next to the driver seat. It is also contended that the forensic expert prepared the report without visiting the spot of accident and

merely relying upon the version of the insurance company cannot be said to have been proved that the deceased was driving the car at the time of accident. It is further submitted that the insurance company neither filed any application before the police nor SIT to prove that the driver was falsely implicated. It is further submitted that the damage to the car was compensated by the insurance company, which is evident from the bank statement produced at Exh.74. Therefore, it is submitted that the defence raised by the insurance company is not tenable and deserves to be rejected.

- 9.2** Ld. Advocate for the insurance company has filed written submissions at **Exh.81** and submitted that, considering the nature of damage to the car and the injuries sustained by the deceased, it is impossible that the deceased's brother was driving the car at the relevant time. It is submitted that the claimants have failed to establish the true manner of the accident, as no independent or cogent evidence has been produced to prove that the deceased was merely a passenger while his brother was driving the vehicle. On the contrary, the material on record and the nature of damage to car indicates that the deceased himself was driving the car at the relevant time. It is further submitted that the report of the forensic expert cannot be disregarded as it supports the defence of the insurance company. The contention that the expert did not visit the spot of accident does not, by itself, render the report invalid. It is also argued that the absence of

any complaint or application before the police or SIT does not relieve the claimants of their burden to prove negligence on the part of the alleged driver. The insurance company further submitted that mere production of photographs showing damage to the vehicle does not establish that the deceased was seated next to the driver at the time of accident. It is also argued that settlement of the vehicle damage claim by the insurance company cannot be construed as an admission of liability or negligence. Therefore, it is submitted that the claimants have failed to prove negligence on the part of driver, and therefore, the claim petition deserves to be dismissed.

9.3 On behalf of Insurance Company, Mr. Nivrtee Raosaheb Magar, Forensic Expert has been examined at **Exh.57**. In his examination-in-chief, he stated that he was serving as ‘Senior Forensic Expert’ with ICS Assure Services Pvt. Ltd. and had prepared an accident reconstruction report based on available documents, statements, photographs and the nature of damage to the vehicle. He deposed that the car had sustained damage to its front portion, and in such circumstances, the driver could not have escaped without grievous injuries. He further stated that Pramodkumar Sinh who alleged to be the driver did not appear to have been seated in the driver’s position, as he had sustained only fracture of acetabulum without any injury to the chest or abdomen. He further deposed that the deceased Sanjeevkumar was seated on the driver sit, resulting into

injuries to his chest, abdomen and left leg. During cross-examination, he stated that he prepared reconstruction report (**Exh.60**) but admitted that he had neither visited the accident site nor inspected the vehicle or seen the injured persons at the spot. He further admitted that he was not provided with immediate photographs of the vehicle or its occupants by the insurance company or police at the relevant time. He further stated that Pramodkumar sustained injuries but admitted the fact that he neither met nor examined him personally. He also admitted that the front portion of the car was damaged and the photographs to that effect are produced at **Exh.58**. He further stated that although the accident occurred in the year 2019, the report was prepared in the year 2023, and he had not filed any application before any police station or court after preparing the report.

9.4 Considering the rival submissions made by learned advocates for the parties and the material on record particularly the evidence of the forensic expert (**Exh.57**), this Tribunal finds that the opinion of the expert is not of such conclusive nature as to establish that the deceased was driving the vehicle at the time of accident. The expert has opined that the deceased was seated on the driver's seat based on the nature of injuries and damage to the vehicle. However, it is admitted fact by the forensic expert that he neither visited the accident site nor inspected the vehicle personally nor examined the injured persons. His Motor

Accident Reconstruction Report (**Exh.60**) has been prepared after lapse of 4 years and primarily on the basis of documents and photographs, which were not supplied at the relevant time. Therefore, the evidence of forensic expert does not inspire confidence. Further, the insurance company has not filed any application before the police alleging the fact that driver has been implanted in the alleged accident to get the compensation. Sanjeevkumar was driving the car at the relevant time has to be proved by examining witnesses or producing reliable evidence. Claimants have produced photographs showing damage to both sides of the vehicle and have consistently stated that the deceased was sitting beside the driver, while his brother was driving the car. The injuries sustained by Pramodkumar also indicate his involvement in the accident, which cannot be overlooked. Merely because the deceased sustained certain injuries, it cannot be conclusively presumed that he was driving the vehicle at the relevant time. It is well settled that expert opinion is only advisor in nature and cannot prevail over trustworthy factual evidence. Therefore, in absence of any cogent, reliable and independent evidence establishing that the driver was changed after the accident or that the deceased was falsely shown as passenger, the contention of the insurance company is devoid of any merit. Therefore, the defence of the insurance company that the driver was implanted is not accepted.

9.5 The claimant No.1 who is the wife of the deceased has

submitted her affidavit of examination-in-chief at **Exh.26** and has narrated the facts as mentioned in her claim petition. During her cross-examination by Ld. Advocate for the insurance company, she admitted that she was not present at the time of accident, therefore she has no personal knowledge regarding the accident. She denied that her husband was driving the car at the time of accident. She further denied that it was stated after the accident that her husband's brother was driving the vehicle. She denied that the complaint contains false facts.

9.6 The claimants have placed on record copy of the application regarding accident given by Pramodkumar i.e. the driver of car before Mirganj Police Station, Bihar at **Exh.32**. Upon perusal of the same, it appears that on 16.05.2019 at about 5:00 pm., the complainant and his brother Sanjeevkumar were returning home from Shivan in Car No.BR28-L-5005. When they reached near Bhatayani Nen Bridge, an animal suddenly came on the road. While attempting to avoid it and protect himself and his brother, the car collided with roadside parapet, resulting in severe damage to the vehicle. They were thereafter taken for medical treatment; however, his brother Sanjeevkumar died during transit.

9.7 Further, from the postmortem report (**Exh.34**), it is established that the deceased died due to hemorrhage and shock resulting from fracture of femur bone caused by

impact with a hard and blunt object in the accident. 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, it is evident that opponent No.1 was driving the car at high speed with rash and negligent manner near Bhatayani Nen Bridge, Bihar. It is also evident that when an animal suddenly came on the road, the opponent No.1 tried to save him and his brother, however he failed to do so and the car collided with road side parapet. The photographs produced at **Exh.58** corroborate that damage was caused to the front portion of the car. It transpires that speed of the car was excessive and uncontrollable, and thereby the driver lost control over the vehicle and the car collided with road side parapet. Had opponent No.1 taken reasonable care in driving the vehicle, this accident could have been avoided. Thus, it is established that the accident had occurred due to sole rash and negligent driving on the part of opponent No.1 i.e. driver of car. Hence, I answer Issue No.1 accordingly in *“Affirmative”*.

Issue No.3

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.** According to say of claimants, deceased was aged 32 years at the time of accident. On perusing the PAN Card at **Exh.31**, deceased's birth date is mentioned as 10.01.1983. The claimants have not produced birth certificate or school leaving certificate of deceased. However, for deciding just compensation, the date of birth mentioned in PAN Card is considered to determine age of the deceased. Therefore, deceased was 36 years old at the time of accident. Thus, considering the decision in the case of **Sarla Varma v/s Delhi Transport Corporation & Ors [2009 ACJ 1298]**, multiplier of **15** is applicable.
- 12.** The claimant No.1 who is the wife of the deceased has stated in her evidence at **Exh.26** that, deceased was doing business in the name of 'Ambika Enterprises'. In addition to this, he was involved in supplying labourers to various companies, undertaking fabrication and irrigation work and carrying out agricultural activities, and thereby earning Rs.1,00,000/- per month at the time of accident. The claimants have produced registration certificate dated 23.12.2017 at **Exh.29** which shows that deceased was doing business in the name of 'Ambika Enterprises' at Jamnagar.

Further, upon perusal of document at **Exh.30**, it appears that the deceased was having licence for supplying labourers, which was valid upto 31.01.2019. Therefore, it is established that the deceased was engaged in the business of labour supply in the name 'Ambika Enterprises'. Further, on perusal of the work orders produced at **Exh.37** to **Exh.41**, it appears that the deceased had received various work orders from different companies for the supply of men power with necessary tools and consumables. Further, the document at **Exh.41** further indicates that deceased had received work order from Arudra Engineers Pvt. Ltd., for fabrication and erection of temporary pipes for chemical cleaning work at Linde – Dahej site for Rs.8,50,000/-. The claimants have produced income-tax returns at **Exh.76** to **Exh.78**. On perusing the said income-tax returns, it appears that the gross total income was Rs.8,40,150/- in AY 2016-17; Rs.10,14,443/- in AY 2017-18 and Rs.8,44,054/- in AY 2018-19 and the said returns were filed prior to the date of accident.

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

*7. We have heard the learned counsel for the parties. We are unable to agree with the view taken by the Tribunal and High Court on the income of the deceased. It has been clarified in **Malarvizhi & Ors. v. United India Insurance Co. Ltd. & Ors.** that the determination of income must proceed on the basis of Income Tax Return when available,*

being a statutory document. More recently, this Court in New India Assurance Co. Ltd. v. Sonigra Juhi Uttamchand while determining the income of the deceased therein had observed:

"8. Monthly income could be fixed taking into account the tax returns only if the details of payment of tax are appropriately brought into evidence so as to enable the Tribunal/Court to calculate the income in accordance with law."

12.2 Therefore, in view of the above decision, income of the deceased can be considered on the basis of income-tax returns being a statutory documents. Further, it is also required to be noted that the said documents are not challenged by the opponents being concocted or forged. Hence, the said documents are required to be considered to determine the income of the deceased. If the income for AY 2017-18 is considered, the same was Rs.10,14,443/-. But, looking to the income-tax returns of the previous and subsequent year, income was Rs.8,40,150/- in AY 2016-17 and Rs.8,44,054/- in AY 2018-19. Therefore, it appears that income of the deceased depended upon the work orders and supply of labourer in the company. Thus, average income of the deceased is required to be considered. Hence, considering the average income for three years, the income of the deceased is considered as **Rs.8,99,549/- p.a.** (Rs.8,40,150 + Rs.10,14,443 + Rs.8,44,054 = Rs.26,98,647 divided by 3 = Rs.8,99,549/-).

12.1 The deceased was aged 36 years and he being self employed, therefore as per the decision reported in the case

National Insurance Co. Vs. Pranay Sethi reported in **2017 (16) SCC 680**, the income of the deceased is required to be increased by **40%** i.e. round off **Rs.3,59,820/-** [Rs.8,99,549 p.a. income x 40% future prospects]. Hence, deceased's yearly income at the time of accident including future prospects is considered as Rs.8,99,549 + Rs.3,59,820 = **Rs.12,59,369/-**. 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.12,59,369 p.a. income – tax i.e. Rs.1,90,310 (income tax as it was applicable in the A.Y. 2020-21 upto Rs.2.5 lac is Nil, Rs.2.5 to Rs.5 lac is 5%, Rs.5 to Rs.10 lac is 20%, Rs.10 lac above is 30%) = Rs.10,69,059/- p.a. Thus, **income of the deceased including future prospects after tax would be Rs.10,69,059/- p.a.**

13. As there are five dependent family members of the deceased, therefore $\frac{1}{4}$ th 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.10,69,059/- p.a. income – Rs.2,67,265/- ($\frac{1}{4}$ of total income Rs.10,69,059/-) = Rs.8,01,794 x 15 multiplier = Rs.1,20,26,910/-. Therefore, it is just and proper to award sum of **Rs.1,20,26,910/- 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 claimants are concerned, the Hon'ble Supreme Court in the case of *New India Insurance Company Ltd. Vs. Somwati 2020 SCC Online SC 720, United Insurance Co. Ltd. Vs. Satinder Kaun 2020 SCC Online SC 410, Joginder Singh*

Vs. ICICI Lombard General Insurance Company 2019 SCC Online SC 1029, *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram reported in 2018 (0) AIJEL-SC 62739* has categorically held that in addition to spouse, the children are entitled to parental consortium in the case of death of the parents and parents are entitled to filial consortium in the case of death of their child and the amount to be awarded for Loss of Consortium will be as per the amount fixed in *Pranay Sethi (supra)*. It is held by the Hon'ble Supreme Court in the case of *Magma General Insurance Co. Ltd. (supra)* at **para 8.7 to para-8.7.8** that,

- 8.7** *A Constitution Bench of this Court in [Pranay Sethi \(supra\)](#) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.*
- 8.7.1** *In legal parlance, “consortium” is a compendious term which encompasses ‘spousal consortium’, ‘parental consortium’, and ‘filial consortium’.*
- 8.7.2** *The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. (Rajesh and Ors. vs. Rajbir Singh and Ors. [JT 2013 (8) SC 288].*
- 8.7.3** *Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of “company, society, co-operation, affection, aid the other in every conjugal relation.”*
- 8.7.4** *Parental consortium is granted to the child upon the premature death of a parent, for loss of “parental aid, protection, affection, society, discipline, guidance and training.”*
- 8.7.5** *Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and*

agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

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

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

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

15.2 Therefore, claimant No.1 wife of the deceased is entitled to get **Rs.48,400/- towards Spousal Consortium**, claimant Nos.2&3 children of the deceased are entitled to get **Rs.48,400/- each towards Parental Consortium** and claimant Nos.4&5 parents of the deceased are entitled to get **Rs.48,400/- each 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	16.05.2019
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2	Name of the deceased	Sanjeevkumar Sinh	
3	Age of the deceased	36 Years	
4	Occupation of deceased	Business	
5	Income of the deceased	Rs.8,99,549/- p.a.	
6	Name, age and relationship of legal representatives of deceased		
	Name	Age	Relation
i	Pushpadevi Sanjeevkumar Sinh	29	Wife
ii	Minor Shivanshukumar Sanjeevkumar Sinh	09	Son
iii	Minor Shreyanshkumar Sanjeevkumar Sinh	06	“
iv	Mahatamsinh Surajsinh	70	Father
v	Kulpatidevi Mahatamsinh	67	Mother

COMPUTATION OF COMPENSATION

Sr No	Description	Amount
7.	Yearly Income of deceased (A)	Rs.8,99,549/- p.a.
8.	Add future Prospect (B)	40% of 8,99,549/- = Rs.3,59,820/-
9.	Income including future prospects of the deceased (C)	8,99,549 + 3,59,820 = Rs.12,59,369/-
10.	Less Applicable income-tax on the income of the deceased in the A.Y. 2020-21 (D) (As per Para-12.1)	Rs.1,90,310/-
11.	Actual income of the deceased i.e. Actual salary less tax (C - D) = (E)	12,59,369 – 1,90,310 = Rs.10,69,059/-
12.	Less personal & living expenses of the deceased (F)	10,69,059 x 1/4 = Rs.2,67,265/-
13.	Multiplier (G)	15
14.	Total loss of dependency (E – F) x G = (H)	(10,69,059 – 2,67,265) = Rs.8,01,794 x 15 Rs.1,20,26,910/-
15.	Compensation for loss of spousal, parental and 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.1,23,05,210/-
19.	Rate of Interest Awarded	9% p.a.

17. Hence, claimants are entitled to get **Rs.1,23,05,210/-** as compensation.

Liability

18. In view of above mentioned discussion, the present accident had occurred because of sole negligence of opponent No.1 – car driver. At the relevant time, opponent No.1 was the owner of Car No.BR28-L-5005 and this fact is established from the RC Book of the vehicle in question produced at **Exh.35**. Further, on perusing insurance policy of Car No.BR28-L-5005 at **Exh.36**, it transpires that the subject vehicle was insured with the opponent No.2 for the period from 11.04.2019 to 10.04.2020. Therefore, it was valid insurance on 16.05.2019 i.e., the date of accident. Thus, the claimants are entitled to recover the compensation with interest @ 9% p.a. from the date of claim petition till realization from opponent Nos.1&2, 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 partly allowed.
2. The claimants are entitled to recover **Rs.1,23,05,210/-** (**Rupees One Crore Twenty Three Lac Five Thousand**

Two Hundred Ten only) as compensation 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 opponent Nos.1&2, jointly & 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&3 shall get **15%** each share, claimant No.4 shall get **10%** share and claimant No.5 shall get **20%** share 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 claimants are hereby directed to furnish the details of their 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 claimants to submit the certificate of the banker certifying that the account is of the concerned claimants. 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 concerned claimants within 30 days. Before transferring the amount into the bank account of the concerned claimant/s, the 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 concerned 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.
9. Out of the amount deposited by the insurance company, **70%** amount shall be invested in FDR by the concerned bank in the name of claimant Nos.1,4&5 for a period of 5

years. *Whereas, in case of minor claimant Nos.2&3, the entire amount of compensation shall be fixed deposited through their guardian in any nationalized bank for a period of 5 years or till they attains the age of majority, whichever is later.* The bank of the claimants is directed to intimate the details with respect to the Fixed Deposit/s made as per the present award in the name of claimant/s to this tribunal immediately after depositing the amount in FDR. The concerned Bank is directed not to grant any loan, advances or withdrawal against the said FDRs without obtaining prior permission of this Tribunal. However, the claimant/s will be at liberty to withdraw the periodical interest accrued on the said FDRs. The Nazir of the District Court to ensure the compliance of this award.

10. The cost of the proceedings incurred by the claimants as well as the opponents shall be born by the opponents.
11. Registry is directed to forward the copy of the judgment through e_mail to the insurance company as well as concerned bank of the claimants.
12. Award be drawn accordingly.

Pronounced in the open Court today on 25th May, 2026.

Date: 25/05/2026

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