

GJBH010022002017 Filing No.: MACP/332 to 337/2017



Filed On: 30/08/2017

Decided On : 07/05/2026

Duration : 8Y-8M-8D

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

**MACP No.332/2017 with  
MACP Nos.333 to 337 of 2017**

**Exh. \_\_\_\_\_**

**MACP No.332/2017**

**Claimant**

Kanaiyalal Chunilal Patel  
R/o. At. Bhadbhoot,  
Tal. Dist. Bharuch.

**MACP No.333/2017**

**Claimant**

Dharmeshbhai Kanaiyalal Patel  
R/o. B-32, Navjivan Society,  
Bharuch.

**MACP No.334/2017**

**Claimant**

Harshadbhai Kantibhai Patel  
R/o. At. Bhadbhoot,  
Tal. Dist. Bharuch.

**MACP No.335/2017**

**Claimant**

Revaben Kantibhai Patel  
R/o. At. Bhadbhoot,  
Tal. Dist. Bharuch.

**MACP No.336/2017**

**Claimant**

Minakshiben Kanaiyalal Patel  
R/o. At. Bhadbhoot,  
Tal. Dist. Bharuch.

**MACP No.337/2017**

**Claimant** Minor Shubham Dharmeshbhai Patel through his guardian Dharmeshbhai Kanaiyalal Patel R/o. B-32, Navjivan Society, Bharuch.

V/s.

- Opponents :**
1. Vasubhai Ramchandra Bhoy  
R/o. 12, Police Line, Nabipur,  
Tal. Dist. Bharuch.
  2. *Heirs of Late Chandubhai Ambalal Thakor*  
Vinodbhai Chandubhai  
R/o. 20, Lavkush Nagar,  
Vadsar Road, Vadodara.
  3. The New India Assurance Co. Ltd.  
At. 2<sup>nd</sup> Floor, Pruthvi Trade Centre,  
Station Road, Bharuch.

**Appearance**

Ld. Advocate Mr. H. M. Patel, for the claimants.

Ld. Advocate Mr. M. S. Solanki, for the opponent No.1.

Ld. Advocate Mr. R. S. Patanwadiya, for opponent No.2.

Ld. Advocate Mr. R. T. Prajapati, for opponent No.3.

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Claim petition to get compensation of ***Rs.12,00,000/-*** in ***MACP No.332/2017***; ***Rs.10,00,000/-*** in ***MACP Nos.333 & 334 of 2017***; ***Rs.3,00,000/-*** in ***MACP No.335/2017***; ***Rs.1,50,000/-*** in ***MACP No.336/2017*** and ***Rs.50,000/-*** in ***MACP No.337/2017*** under the provisions of ***Section 166 of the Motor Vehicles Act, 1988***.

**JUDGMENT**

1. The claimants of MACP No.332 to 337 of 2017 have sustained bodily injuries in the accident. The claimants have filed claim petitions and claimed compensation of ***Rs.12,00,000/-*** in ***MACP No.332/2017***; ***Rs.10,00,000/-*** in ***MACP Nos.333 & 334 of 2017***; ***Rs.3,00,000/-*** in ***MACP No.335/2017***; ***Rs.1,50,000/-*** in ***MACP No.336/2017*** and

***Rs.50,000/- in MACP No.337/2017 under the provisions of Section 166 of the Motor Vehicles Act, 1988.***

**1.1** All the claim petitions have arisen out of the same accident. MACP Nos.333 to 337 of 2017 have been consolidated with MACP No.332/2017 vide order passed below **Exh.31** and MACP No.332/2017 is treated as main claim petition. Hence, as all the claim petitions have arisen out of the same accident, to ensure consistency and avoid conflicting decisions, all claim petitions are decided by this common judgment.

**2.** The brief facts of all the petitions in nutshell are as under:-

**2.1** That, all the claimants intended to undertake religious Yatra to Shirdi, Nashik, etc. Opponent No.2 who is the nephew of Harshadbhai (claimant of MACP No.334/2017) and the owner of Toofan Car No.GJ-6-FK-4825 (hereinafter referred to as the 'Car' for short) was approached for the said vehicle. Accordingly, Harshadbhai requested for the use of the said car for the religious Yatra and opponent No.2 has provided the said car along with opponent No.1 as its driver. On 06/11/2014 all the claimants commenced their Yatra in the said Car. After completing the Yatra, they were returning home on 09/11/2014, at that time, the said car was driven by opponent No.1 at high speed and in a rash and negligent manner. When they reached near Village Tadpada on Vadhai-Vansda road, opponent No.1 lost control of over the vehicle, and thereby the car collided with roadside tree.

As a result, all the claimants sustained bodily injuries in the accident. The police complaint with respect to the said accident was registered vide I-CR No.144/2014 with Vansda Police Station against driver of Toofan Car No.GJ6-FK-4825 i.e. opponent No.1.

- 2.2** According to the claimant of **MACP No.332/2017**, he was aged 66 years at the time of accident. It is stated that the claimant was cultivating his 28 acres of lands and earning Rs.10,00,000/- p.a. after deducting all the expenses at the time of accident. It is further stated that in the said vehicular accident, claimant had sustained fracture of left acetabulum and fracture of right metatarsal and was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 22.11.2014 and was thereafter discharged with advice of follow-up treatment. It is further submitted that despite undergoing treatment, the claimant continued to suffer complications including prostate-related issues. Therefore, claimant had received treatment at Saranjam Multispeciality Hospital and Asutosh Medicare Pvt. Ltd., Vadodara. The claimant was also treated by Dr. K. R. Buch for mental shock and agony resulting from the accident. Despite continuous medical care, the claimant did not recover from his injuries and was subsequently admitted to Welcare Hospital, Vadodara, where he was advised to undergo hip replacement surgery, and thereby incurred medical expenses of Rs.4,81,044/-. It is further submitted that due to the injuries sustained in the accident, the claimant's

working capacity has been significantly reduced, rendering him unable to perform any work. The claimant remained bedridden from 09.11.2014 to 14.08.2015 and thereby suffered substantial loss of income. It is also stated that due to such injuries, he is suffering difficulties in his daily routine life. Hence, claimant has claimed amount of Rs.12,00,000/- as compensation from the opponents under different heads.

- 2.3** According to the claimant of **MACP No.333/2017**, he was aged 45 years at the time of accident. It is stated that the claimant was employed as 'Administrative Officer' at Galiya Kotwala Engineering Company, Ankleshwar and getting monthly salary of Rs.29,278/- at the time of accident. It is further stated that in the said vehicular accident, claimant had sustained (i) displaced fracture of bilateral 3<sup>rd</sup> to 8<sup>th</sup> ribs; (ii) displaced fracture of bilateral infra and supraspinous scapular blades; (iii) displaced fracture of left corocoid process; (iv) undisplaced fracture of left anteroinferior glenoid and (v) fracture of dorsal vertebra. Therefore, he was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 17.11.2014 and was thereafter discharged with advice to take rest for 3 months. It is further stated that the claimant had incurred Rs.51,788/- towards his medical treatment. It is also submitted that due to the injuries sustained in the accident, the claimant's working capacity has been significantly reduced, rendering him unable to perform any work. It is further stated that due to

accidental injuries, the claimant was unable to attend his employment from 09.11.2014 to 18.02.2015. During the said period, the claimant did not receive any salary and thereby suffered loss of income total amounting to Rs.1,00,730/-. It is further submitted that the claimant also suffered loss of bonus amounting to Rs.5,834/-. It is further stated that the claimant was entitled to leave salary for three days in every month; however, he did not receive such leave salary for a period of three months, thereby incurred an additional loss of Rs.8,459/-. It is also stated that due to such injuries, he is suffering difficulties in his daily routine life. Hence, claimant has claimed amount of Rs.10,00,000/- as compensation from the opponents under different heads.

- 2.4** According to the claimant of **MACP No.334/2017**, he was aged 45 years at the time of accident. It is stated that the claimant was cultivating his agricultural land and earning Rs.3,00,000/- p.a. after deducting all expenses. In addition thereto, the claimant was also involved in the business of purchase/sale of land and by selling agricultural produce, he was earning additional sum of Rs.2,00,000/- p.a. Thus, the claimant was earning total amount of Rs.5,00,000/- p.a. at the time of accident. It is further stated that in the said vehicular accident, claimant had sustained fracture of left acetabulum and was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 17.11.2014 and was thereafter discharged with advice of follow-up treatment. It is further submitted

that, despite undergoing treatment, the claimant continued to suffer from persistent pain, and therefore, received further treatment at Pandya Orthopedic Hospital, Bharuch. As his condition did not improve, he consulted Asutosh Medicare Pvt. Ltd., Vadodara, where he was advised to undergo hip replacement surgery. Accordingly, claimant underwent the said surgery at Welcare Hospital, Vadodara, and incurred medical expenses of Rs.3,35,000/-. It is further submitted that due to the injuries sustained in the accident, claimant's working capacity has been reduced, rendering him unable to perform any work. The claimant remained bedridden from 09.11.2014 to 14.08.2015 and thereby suffered substantial loss of income. It is also stated that due to such injuries, he is suffering difficulties in his daily routine life. Hence, claimant has claimed amount of Rs.10,00,000/- as compensation from the opponents under different heads.

- 2.5** According to the claimant of **MACP No.335/2017**, she was aged 65 years at the time of accident. It is stated that the claimant was engaged in household work. In addition thereto, she was also engaged in agricultural activities and earning Rs.5,000/- per month at the time of accident. It is further stated that in the said vehicular accident, claimant had sustained fracture of left upper end tibia, comminuted fracture of nasal bone with fracture of nasal septum, etc. Therefore, she was immediately taken to Mahavir Hospital, Surat where she received indoor treatment from 09.11.2014 to 11.11.2014 and was thereafter discharged

with advice of follow-up treatment. It is also stated that the claimant has incurred expenses of Rs.30,000/- towards her medical treatment. It is further stated that claimant's working capacity has been reduced on account of accidental injuries and suffered loss of income. It is further stated that due to fracture of nasal bone, the claimant has been suffering from persistent shortness of breath and headache and is unable to carry out household or agricultural work. It is further stated that due to such injuries, she suffered permanent disability due to which she is suffering difficulties in her daily routine life. Hence, claimant has claimed the amount of Rs.3,00,000/- as compensation from the opponents under different heads.

- 2.6** According to the claimant of **MACP No.336/2017**, she was aged 61 years at the time of accident. It is stated that the claimant was engaged in household work. In addition thereto, she was also engaged in agricultural activities and earning Rs.5,000/- per month at the time of accident. It is further stated that in the said vehicular accident, claimant had sustained fracture nasal bone with injuries on nose and jaw, and therefore, she was immediately taken to Mahavir Hospital, Surat where she received indoor treatment from 09.11.2014 to 10.11.2014 and was thereafter discharged with advice of follow-up treatment. It is also stated that the claimant has incurred expenses of Rs.8530/- towards her medical treatment. It is further stated that claimant's working capacity has been reduced on account of accidental injuries and suffered loss of income. It is further

stated that due to fracture of nasal bone, the claimant has been suffering from persistent shortness of breath and headaches and is unable to carry out household or agricultural work. It is further stated that due to such injuries, she suffered permanent disability due to which she is suffering difficulties in her daily routine life. Hence, claimant has claimed the amount of Rs.1,50,000/- as compensation from the opponents under different heads.

**2.7** According to the claimant of **MACP No.337/2017**, minor Shubham was aged 15 years at the time of accident. It is further stated that in the said vehicular accident, minor claimant had sustained contusion on dorsal spine, cervical spine and left facial soft tissue injury. He was therefore immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 11.11.2014 and thereafter discharged with advice of follow-up treatment. It is also stated that guardian of minor claimant spent approximate amount of Rs.7751/- towards medical treatment of minor claimant and his working capacity has been reduced on account of accidental injuries. Hence, claimant has claimed the amount of Rs.50,000/- as compensation from the opponents under different heads.

**2.8** 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 and opponent No.2 being owner of the Toofan car had insured his vehicle with opponent No.3. Therefore, the opponent Nos.1 to 3 are jointly & severally

liable to pay the amount of compensation.

3. Despite due service of notices, opponent Nos.1&2 appeared through their advocates but not filed reply. Therefore, right to file reply was closed by the tribunal vide order dated 19.07.2025.

3.1 The opponent No.3 i.e. The New India Assurance Company has appeared through its advocate and filed reply at **Exh.22** (in MACP Nos.332,333,334 & 336 of 2017), **Exh.21** (in MACP No.357/2017) and **Exh.23** (in MACP No.337/2017) 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, age and income of the claimant, injury and resultant disablement to the injured persons are not true and correct. It is denied that opponent No.1 was driving the car in rash and negligent manner, and thereby lost control over the vehicle and dashed with roadside tree. It is further denied that the claimants went to Nasik and Shirdi for religious purpose by taking car from the opponent No.2 who offered opponent No.1 as the driver of the car. It is contended that opponent No.1 was not holding valid and effective driving licence on the day of accident and thereby, the insured had committed breach of policy conditions. Thus, the 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:

<b>Sr. No.</b>	<b>Evidences</b>	<b>Exh.</b>
<b><u>Oral Evidences</u></b>		
1	Kanaiyalal Chunilal Patel (MACP No.332/17)	<b>32</b>
2	Dharmeshbhai Kanaiyalal Patel (MACP No.333/17)	<b>35</b>
3	Harshadbhai Kantibhai Patel (MACP No.334/17)	<b>38</b>
4	Revaben Kantibhai Patel (MACP No.335/17)	<b>41</b>
5	Minakshiben Kanaiyalal Patel (MACP No.336/17)	<b>44</b>
<b><u>Documentary Evidences</u></b>		
	<b>(MACP No.332/17)</b>	
1	Village from Nos.8-A & 7	<b>54</b>
2	Village from Nos.8-A & 7	<b>55</b>
3	Village from Nos.8-A, 7	<b>56</b>
4	Discharge summary issued by Dr. J.R. Buch	<b>57</b>
5	Medical bills of Rs.3,15,819/-	<b>61</b>
6	Disability certificate	<b>64</b>
7	Copy of Aadhar card of claimant	<b>65</b>
8	Copy of PAN Card of claimant	<b>66</b>
9	Copy of Police complaint	<b>81</b>
10	Copy of Panchnama of place of occurrence	<b>82</b>
11	Copy of RC Book of Toofan car	<b>83</b>
12	Copy of Insurance policy of Toofan car	<b>84</b>
13	Copy of Discharge summary issued by Mahavir Hospital	<b>85</b>
	<b>(MACP No.333/17)</b>	
1	Disability certificate	<b>67</b>
2	Copy of Aadhar card of claimant	<b>68</b>
3	Copy of PAN Card of claimant	<b>69</b>
4	Copy of Police complaint	<b>86</b>
5	Copy of Panchnama of place of occurrence	<b>87</b>

6	Copy of RC Book of Toofan car	<b>88</b>
7	Copy of Insurance policy of Toofan car	<b>89</b>
8	Copy of CT Scan report of claimant	<b>90</b>
	<b>(MACP No.334/17)</b>	
1	Copy of Discharge summary issued by Mahavir Hospital, Surat	<b>58</b>
2	Discharge summary issued by Welcare Hospital	<b>59</b>
3	Medical bills of Rs.3,26,335/-	<b>62</b>
4	Disability certificate	<b>70</b>
5	Copy of Aadhar card of claimant	<b>71</b>
6	Copy of PAN Card of claimant	<b>72</b>
7	Copy of Police complaint	<b>91</b>
8	Copy of Panchnama of place of occurrence	<b>92</b>
9	Copy of RC Book of Toofan car	<b>93</b>
10	Copy of Insurance policy of Toofan car	<b>94</b>
	<b>(MACP No.335/17)</b>	
1	Medical bills of Rs.27,564/-	<b>63</b>
2	Disability certificate	<b>73</b>
3	Copy of Aadhar card of claimant	<b>74</b>
4	Copy of PAN Card of claimant	<b>75</b>
5	Copy of Police complaint	<b>96</b>
6	Copy of Panchnama of place of occurrence	<b>97</b>
7	Copy of RC Book of Toofan car	<b>98</b>
8	Copy of Insurance policy of Toofan car	<b>99</b>
9	Copy of Discharge summary	<b>100</b>
	<b>(MACP No.336/17)</b>	
1	Disability certificate	<b>76</b>
2	Copy of Aadhar card of claimant	<b>77</b>
3	Copy of PAN Card of claimant	<b>78</b>
4	Copy of Police complaint	<b>101</b>
5	Copy of Panchnama of place of occurrence	<b>102</b>
6	Copy of RC Book of Toofan car	<b>103</b>
7	Copy of Insurance policy of Toofan car	<b>104</b>

8	Copy of Discharge summary <b>(MACP No.337/17)</b>	<b>105</b>
1	Copy of Police complaint	<b>106</b>
2	Copy of Panchnama of place of occurrence	<b>107</b>
3	Copy of RC Book of Toofan car	<b>108</b>
4	Copy of Insurance policy of Toofan car	<b>109</b>
5	Copy of Discharge summary	<b>110</b>

5. On completion of evidence, Ld. Advocates for the claimants and opponents have filed their respective closing pursis.
6. Heard Learned Advocates for the parties and perused the evidence produced on record.
7. Following issues are framed at **Exh.30** (in MACP No.332, 333, 334 & 335 of 2017) and **Exh.31** (in MACP No.336/2017) for determination of these claim petitions:
  1. Whether the claimant proves that he sustained damages to his vehicle due to rash and negligent driving of the driver of the vehicle involved in this accident ?
  2. Whether the claimant is entitled to any amount of compensation ? If yes, to what extent ?
  3. What order ?
8. My findings on the aforesaid issues in all the claim petitions, for the common 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** The claimant of MACP No.332/2017 has filed his affidavit of examination-in-chief at **Exh.32**; claimant of MACP No.333/2017 has filed his affidavit of examination-in-chief at **Exh.35**; claimant of MACP No.334/2017 has filed his affidavit of examination-in-chief at **Exh.38**; claimant of MACP No.335/2017 has filed his affidavit of examination-in-chief at **Exh.41** and claimant of MACP No.336/2017 has filed his affidavit of examination-in-chief at **Exh.44** and narrated the facts as mentioned in their claim petitions. During cross-examination of claimant (MACP No.332/2017) by Ld. Advocate for the opponent No.3, he stated that the driver was driving the car recklessly, resulting in a collision with tree. He further stated that the incident occurred during the winter season. Further, the evidence adduced by the claimants in MACP Nos.333 to 336 of 2017 with respect to the negligence of opponent No.1 has not been challenged by the learned advocate for the insurance company during the cross-examination.

**9.2** The claimant has produced on record copy of police complaint at **Exh.81** (in MACP No.332/2017) and spot panchnama at **Exh.82** (in MACP No.332/2017) which contains details of Toofan Car No.GJ6-FK-4825, and thereby prima facie established the involvement of the said vehicle. Upon perusal of the police complaint, it appears that the same was lodged by Hiteshkumar Kanaiyalal Patel, occupant of the car in question. As stated therein, on 06/11/2014 at about 5:00 a.m., complainant along with his family members were travelling in Toofan Car No.GJ6-FK-4825 for darshan at Shirdi, Nasik, Trimbakeshwar and Shanidev. On 09/11/2014, while returning at about 7:00 a.m., when they reached near village Tadpada, the said car was driven by Vasubhai at high speed and in a rash and negligent manner, and thereby collided with roadside tree, resulting in bodily injuries to the claimants. The spot panchnama at **Exh.82** (in MACP No.332/2017) indicates that the accident occurred near village Tadpada on Vaghai-Vasda road, where the car collided with tree situated on the left side of the road and no skid marks or other marks were found at the spot. It further appears from the panchnama that witness Chandubhai Thakor stated that the incident took place on 09.11.2014, and Toofan Car No.GJ5-FK-4825 was repaired after the accident having sustained damage amounting to Rs.90,000/- at the relevant time.

**9.3** Therefore, considering the facts and circumstances of the present case and material on record, it appears that

no brake marks were found at the place of the accident. This circumstance indicates that the driver of Toofan Car was driving the vehicle at high speed and in rash and negligent manner and failed to apply the brakes in time, as a result of which the car collided with roadside tree. Further, the claimant of MACP No.332/2017 has stated in his cross-examination (**Exh.32**) that the driver was driving the car recklessly, resulting in a collision with tree. Had the driver reduced the speed of the vehicle, the accident could have been averted. In the present case, insurance company has not examined opponent No.1 (Toofan car 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, this Tribunal is of the opinion that the accident occurred solely due to the rash and negligent driving of the driver of opponent No.1 i.e. driver of Toofan Car. Hence, I answer Issue No.1 accordingly in “*Affirmative*”.

### **Issue No.2**

#### **In MACP No.332/2017 (Injury)**

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.** According to say of claimant, he was aged 66 years at the time of accident. On perusing the PAN Card at **Exh.66**, claimant's birth date is mentioned as 19.09.1949. The claimant has not produced birth certificate or school leaving certificate to prove his age. However, in absence of the said evidence, PAN Card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 65 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 7 is applicable.
- 12.** The claimant has stated in his affidavit of examination-in-chief vide **Exh.32** that, claimant was cultivating his 28 acres of lands and earning Rs.10,00,000/- p.a. after deducting all the expenses at the time of accident. The claimant has produced revenue records at **Exh.54** to **Exh.56** which suggests that claimant is having agriculture lands at village Bhadbhut. From the perusal of the revenue records, it appears that lands were exclusively in the name of the claimant. There is no reliable evidence produced with respect to the income from agricultural lands and this fact is admitted by the claimant in his cross-examination at

**Exh.32.** However, considering the age and avocation of claimant, minimum wages prevailing at the relevant time and considering the fact that claimant is the sole owner of the agriculture lands, it would be just and proper if the amount of Rs.10,000/- p.m. is considered as supervisory loss. Hence, it would be just and proper if the income of the claimant is considered as **Rs.1,20,000/- p.a.**

**12.1** Considering the age of the claimant at the time of accident, it would not be just and proper to give future rise in actual income of the claimant.

**13.** To prove the injuries, the claimant has categorically stated in his evidence at **Exh.32** that in the said vehicular accident, claimant had sustained fracture of left acetabulum and fracture of right metatarsal and was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 22.11.2014 and was thereafter discharged with advice of follow-up treatment. It is further stated that despite treatment, claimant continued to suffer complications including prostate-related issues. Therefore, claimant had received treatment at Saranjam Multispeciality Hospital and Asutosh Medicare Pvt. Ltd., Vadodara. The claimant was also treated by Dr. K. R. Buch for mental shock and agony resulting from the accident. Further, despite continuous medical care, the claimant did not fully recover from his injuries and was subsequently admitted to Welcare Hospital, Vadodara, where he underwent hip replacement surgery.

**13.1** So far as the disability sustained by the claimant is concerned, claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana, M.S. (Orthopedic) which is at **Exh.64** from which it appears that claimant had sustained fracture of left acetabulum, fracture of posterior and superior lip of acetabulum, displaced fracture of 4<sup>th</sup> & 5<sup>th</sup> sacral segment, haematoma in the presacral space and lateral pelvis wall and haematoma in the lower retroperitoneal space. Considering the above clinical findings, the doctor has certified that the claimant has sustained permanent partial disability @ 40% of left lower limb and 10% of low body. Thus, the claimant had sustained 50% permanent partial disability. However, Ld. Advocate for the insurance company has no objection to consider 20% disability of the claimant body as 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%**.

**14.** Taking into considering the functional disability of the claimant which is assessed as **20%**, his yearly loss of income would come to round off **Rs.24,000/- p.a. [20% of Rs.1,20,000]**. As above discussed, considering the age of the claimant, the multiplier of **7** would be applicable, hence, the future economic loss of income would come to **Rs.1,68,000/-** (Rs.24,000 x 7 multiplier).

15. 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**.
16. On perusing the discharged summary at **Exh.85 & Exh.57**, it appears that claimant had received treatment from 09.11.2014 to 22.11.2014 in Mahavir Hospital, Surat, and from 30.11.2014 to 03.12.2014 in Neurology Hospital, Vadodara, and 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 other facts on record, it would be just & proper to award a sum of **Rs.15,000/- towards Attendant, Special diets and Transportation Expenses**.
17. According to say of claimant, he could not do his work for 9 months on account of accidental injuries. Therefore, considering the nature of injury, he would not have worked for a period of around 4 months. Thus, actual loss of income would be Rs.10,000/- p.m. income x 4 months = Rs.40,000. Hence, it is just and reasonable to award sum of **Rs.40,000/- under the head actual loss of income**.
18. According to averments made in the oral evidence of claimant at **Exh.32**, he incurred Rs.4,81,044/- towards his medical treatment. However, claimant has produced medical bills of Rs.3,15,819/- at **Exh.61**. Therefore, it

would be just and proper to award round off **Rs.3,16,000/- towards medical expenses.**

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

**SUMMARY OF THE COMPUTATION OF AWARD AMOUNT**

<b>1</b>	Date of accident	06.11.2014
<b>2</b>	Name of the injured	Kanaiyalal Chunilal Patel
<b>3</b>	Age of the injured	65 Years
<b>4</b>	Occupation of the injured	Cultivation of agriculture lands
<b>5</b>	Income of the injured	Rs.10,000/- per month
<b>6</b>	Nature of injury	Fracture of left acetabulum and fracture of right metatarsal
<b>7</b>	Period of hospitalization	From 09.11.2014 to 22.11.2014 in Mahavir Hospital, Surat and from 30.11.2014 to 03.12.2014 in Neurology Hospital, Vadodara.
<b>8</b>	Whether any permanent disability? If yes, give details	Yes. 50% permanent disability.
<b>9</b>	<b>Computation of Compensation</b>	
<b>Sr. No.</b>	<b>Heads</b>	<b>Awarded by the Tribunal</b>
<b>10</b>	<b>Pecuniary Loss</b>	
<b>(i)</b>	Expenditure on treatment	Rs.3,16,000/-
<b>(ii)</b>	Expenditure on conveyance	Rs.15,000/-
<b>(iii)</b>	Expenditure on special diet	
<b>(iv)</b>	Cost of nursing/attendant	
<b>(v)</b>	Cost of artificial limb	--

(vi)	Loss of earning capacity	--
(vii)	Actual Loss of income	Rs.40,000/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
<b>11</b>	<b>Non-Pecuniary Loss</b>	
(i)	Compensation for mental and physical shock	Rs.20,000/-
(ii)	Pain and Suffering	
(iii)	Loss of amenities of life	--
(iv)	Disfiguration	--
(v)	Loss of marriage prospects	--
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
<b>12</b>	<b>Disability resulting in loss of earning capacity</b>	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	50%
(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	20%
(iv)	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.1,68,000/-
<b>13</b>	<b>Total Compensation</b>	<b>Rs.5,59,000/-</b>
<b>14</b>	<b>Interest Awarded</b>	<b>9%</b>

20. Hence, the claimant is entitled to get **Rs.5,59,000/-** as compensation.

**In MACP No.333/2017 (Injury)**

- 21.** According to say of claimant, he was aged 45 years at the time of accident. On perusing the PAN Card at **Exh.68**, claimant's birth date is mentioned as 10.06.1971. The claimant has not produced birth certificate or school leaving certificate to prove his age. However, in absence of the said evidence, PAN Card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 43 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 **14** is applicable.
- 22.** The claimant has stated in his affidavit of examination-in-chief vide **Exh.35** that, claimant was employed as 'Administrative Officer' at Galiya Kotwala Engineering Company, Ankleshwar and getting monthly salary of Rs.29,278/- at the time of accident. The claimant has not led documentary evidence to prove that he was getting monthly salary of Rs.29,278/- and this fact is admitted by the claimant in his cross-examination at **Exh.35**. However, considering the age of claimant, year of accident, nature of work performed by the claimant and considering the minimum wages prevailing at the relevant time, it would be just and proper if the income of the claimant is considered as **Rs.12,000/- p.m.** and **Rs.1,44,000/- p.a.**
- 22.1** Considering the age of the claimant at the time of accident, this is a fit case to give rise of **25%** in actual salary i.e.

**Rs.36,000/-** (Rs.1,44,000 x 25%) in the actual income of the claimant and therefore, annual income including future rise in salary of the claimant would be Rs.1,44,000 + Rs.36,000 = **Rs.1,80,000/-**.

**23.** To prove the injuries, the claimant has categorically stated in his evidence at **Exh.35** that in the said vehicular accident, claimant had sustained (i) displaced fracture of right bilateral 3<sup>rd</sup> to 8<sup>th</sup> ribs; (ii) displaced fracture of bilateral infra and supraspinous scapular blades; (iii) displaced fracture of left corocoid process; (iv) undisplaced fracture of left anteroinferior glenoid and (v) fracture of dorsal vertebra. Therefore, he was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 17.11.2014 and was thereafter discharged with advice to take rest for 3 months.

**23.1** So far as the disability sustained by the claimant is concerned, claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana, M.S. (Orthopedic) which is at **Exh.64** from which it appears that claimant had sustained fracture of right 5<sup>th</sup> to 8<sup>th</sup> ribs, etc. Considering the above clinical findings, the doctor has certified that the claimant has sustained permanent partial disability @ 20% of chest injury. However, Ld. Advocate for the insurance company has no objection to consider 10% disability of the claimant body as 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 **10%**.

- 24.** Taking into considering the functional disability of the claimant which is assessed as **10%**, his yearly loss of income would come to round off **Rs.18,000/- p.a. [10% of Rs.1,80,000]**. As above discussed, considering the age of the claimant, the multiplier of **14** would be applicable, hence, the future economic loss of income would come to **Rs.2,52,000/-** (Rs.18,000 x 14 multiplier).
- 25.** Considering the nature of injuries sustained by the claimant and the evidence of medical treatment, **Rs.15,000/-** is awarded under the head of **Pain, Shock & Sufferings**.
- 26.** According to say of claimant, he had received treatment from 09.11.2014 to 17.11.2014 in Mahavir Hospital, Surat, and 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 other facts on record, it would be just & proper to award a sum of **Rs.12,000/- towards Attendant, Special diets and Transportation Expenses**.
- 27.** According to evidence claimant at **Exh.35**, he could not attend his job for 3 months on account of accidental injuries. It it further stated that claimant did not receive any

salary for three months and thereby suffered loss of income amounting to Rs.1,00,730/-. It is also stated that claimant had suffered loss of bonus amounting to Rs.5,834/-. It is further stated that the claimant was entitled for leave salary for three days in every month; however, he did not receive such leave salary for a period of three months, thereby suffered an additional loss of Rs.8,459/-. The claimant has not produced documentary evidence to substantiate the alleged loss of income, bonus and leave salary. However, considering the nature of injury and period of hospitalization, he would not have worked for a period of around 3 months. Thus, actual loss of income would be Rs.12,000/- p.m. income x 3 months = Rs.36,000. Hence, it is just and reasonable to award sum of **Rs.36,000/- under the head actual loss of income.**

- 28.** According to averments made in the evidence of claimant at **Exh.35**, he incurred Rs.51,778/- towards his medical treatment. The claimant has not produced any medical bills or documentary evidence to substantiate the said expenses. However, considering the nature of injury, disability and period of hospitalization, it would be just and proper to award **Rs.5,000/- towards medical expenses.**

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

**SUMMARY OF THE COMPUTATION OF AWARD AMOUNT**

<b>1</b>	Date of accident	06.11.2014
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2	Name of the injured	Dharmeshbhai Kanaiyalal Patel
3	Age of the injured	43 Years
4	Occupation of the injured	Service
5	Income of the injured	Rs.12,000/- per month
6	Nature of injury	(i) displaced fracture of right bilateral 3 <sup>rd</sup> to 8 <sup>th</sup> ribs; (ii) displaced fracture of bilateral infra and supraspinous scapular blades; (iii) displaced fracture of left corocoid process; (iv) undisplaced fracture of left anteroinferior glenoid and (v) fracture of dorsal vertebra
7	Period of hospitalization	From 09.11.2014 to 17.11.2014 in Mahavir Hospital, Surat
8	Whether any permanent disability? If yes, give details	Yes. 20% permanent disability.
9	<b>Computation of Compensation</b>	
<b>Sr. No.</b>	<b>Heads</b>	<b>Awarded by the Tribunal</b>
<b>10</b>	<b>Pecuniary Loss</b>	
(i)	Expenditure on treatment	Rs.5,000/-
(ii)	Expenditure on conveyance	Rs.12,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	
(v)	Cost of artificial limb	--
(vi)	Loss of earning capacity	--
(vii)	Actual Loss of income	Rs.36,000/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of	--

	his life	
<b>11</b>	<b>Non-Pecuniary Loss</b>	
<b>(i)</b>	Compensation for mental and physical shock	Rs.15,000/-
<b>(ii)</b>	Pain and Suffering	
<b>(iii)</b>	Loss of amenities of life	--
<b>(iv)</b>	Disfiguration	--
<b>(v)</b>	Loss of marriage prospects	--
<b>(vi)</b>	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
<b>12</b>	<b>Disability resulting in loss of earning capacity</b>	
<b>(i)</b>	Percentage of disability assessed and nature of disability as permanent or temporary	20%
<b>(ii)</b>	Loss of amenities or loss of expectation of life span on account of disability	--
<b>(iii)</b>	Percentage of loss of earning capacity in relation to disability	10%
<b>(iv)</b>	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.2,52,000/-
<b>13</b>	<b>Total Compensation</b>	<b>Rs.3,20,000/-</b>
<b>14</b>	Interest Awarded	<b>9%</b>

**30.** Hence, the claimant is entitled to get **Rs.3,20,000/-** as compensation.

**In MACP No.334/2017 (Injury)**

**31.** According to say of claimant, he was aged 45 years at the time of accident. On perusing the PAN Card at **Exh.71**,

claimant's birth date is mentioned as 08.06.1970. The claimant has not produced birth certificate or school leaving certificate to prove his age. However, in absence of the said evidence, PAN Card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 44 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 **14** is applicable.

- 32.** The claimant has stated in his affidavit of examination-in-chief vide **Exh.38** that, claimant was cultivating his 28 acres of lands and earning Rs.5,00,000/- p.a. after deducting all the expenses at the time of accident. The claimant has not produced documentary evidence to prove that he was earning Rs.5,00,000/- by cultivating the agriculture lands. However, considering the age and avocation of claimant, nature of work done by the claimant and considering the minimum wages prevailing at the relevant time, it would be just and proper if the income of the claimant is considered as **Rs.10,000/- p.a.** and **Rs.1,20,000/- p.a.**

- 32.1** Considering the age of the claimant at the time of accident, this is a fit case to give rise of **25%** in actual salary i.e. **Rs.30,000/-** (Rs.1,20,000 x 25%) in the actual income of the claimant and therefore, annual income including future rise in salary of the claimant would be Rs.1,20,000 + Rs.30,000 = **Rs.1,50,000/-**.

**33.** To prove the injuries, the claimant has categorically stated in his evidence at **Exh.38** that in the said vehicular accident, claimant had sustained fracture of left acetabulum and was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 17.11.2014 and was thereafter discharged with advice of follow-up treatment. It is further submitted that, despite undergoing treatment, the claimant continued to suffer from persistent pain, and therefore, received further treatment at Pandya Orthopedic Hospital, Bharuch. As his condition did not improve, he consulted Asutosh Medicare Pvt. Ltd., Vadodara, where he was advised to undergo hip replacement surgery. Accordingly, claimant underwent the said surgery at Welcare Hospital, Vadodara.

**33.1** So far as the disability sustained by the claimant is concerned, claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana, M.S. (Orthopedic) which is at **Exh.70** from which it appears that claimant had sustained dislocation of left hip and fracture acetabulum. Considering the above clinical findings, the doctor has certified that the claimant has sustained permanent partial disability @ 40% of left lower limb. However, Ld. Advocate for the insurance company has no objection to consider 18% disability of the claimant body as 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 **18%**.

34. Taking into considering the functional disability of the claimant which is assessed as **18%**, his yearly loss of income would come to round off **Rs.27,000/- p.a. [18% of Rs.1,50,000]**. As above discussed, considering the age of the claimant, the multiplier of **14** would be applicable, hence, the future economic loss of income would come to **Rs.3,78,000/-** (Rs.27,000 x 14 multiplier).
35. 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**.
36. On perusing the discharged summary at **Exh.58 & Exh.59**, it appears that claimant had received treatment from 09.11.2014 to 17.11.2014 in Mahavir Hospital, Surat, and from 10.08.2015 to 14.08.2015 in Welcare Hospital, Vadodara, and 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 other facts on record, it would be just & proper to award a sum of **Rs.15,000/- towards Attendant, Special diets and Transportation Expenses**.
37. According to say of claimant, he could not do his work for 9 months on account of accidental injuries. Therefore, considering the nature of injury, he would not have worked

for a period of around 4 months. Thus, actual loss of income would be Rs.10,000/- p.m. income x 4 months = Rs.40,000. Hence, it is just and reasonable to award sum of **Rs.40,000/- under the head actual loss of income.**

- 38.** According to averments made in the oral evidence of claimant at **Exh.38**, he incurred Rs.3,35,000/- towards his medical treatment. However, claimant has produced medical bills of Rs.3,26,335/- at **Exh.62**. Therefore, it would be just and proper to award round off **Rs.3,26,400/- towards medical expenses.**

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

**SUMMARY OF THE COMPUTATION OF AWARD AMOUNT**

1	Date of accident	06.11.2014
2	Name of the injured	Harshadbhai Kantibhai Patel
3	Age of the injured	44 Years
4	Occupation of the injured	Cultivation of agriculture lands
5	Income of the injured	Rs.10,000/- per month
6	Nature of injury	Dislocation of left hip and fracture of acetabulum
7	Period of hospitalization	From 09.11.2014 to 17.11.2014 in Mahavir Hospital, Surat, and from 10.08.2015 to 14.08.2015 in Welcare Hospital, Vadodara
8	Whether any permanent disability? If yes, give details	Yes. 40% permanent disability.
9	<b>Computation of Compensation</b>	
<b>Sr.</b>	<b>Heads</b>	<b>Awarded by the Tribunal</b>

No.		
<b>10</b>	<b>Pecuniary Loss</b>	
(i)	Expenditure on treatment	Rs.3,26,400/-
(ii)	Expenditure on conveyance	Rs.15,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	
(v)	Cost of artificial limb	--
(vi)	Loss of earning capacity	--
(vii)	Actual Loss of income	Rs.40,000/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
<b>11</b>	<b>Non-Pecuniary Loss</b>	
(i)	Compensation for mental and physical shock	Rs.20,000/-
(ii)	Pain and Suffering	
(iii)	Loss of amenities of life	--
(iv)	Disfiguration	--
(v)	Loss of marriage prospects	--
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
<b>12</b>	<b>Disability resulting in loss of earning capacity</b>	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	40%
(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	18%

(iv)	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.3,78,000/-
<b>13</b>	<b>Total Compensation</b>	<b>Rs.7,79,400/-</b>
<b>14</b>	Interest Awarded	<b>9%</b>

40. Hence, the claimant is entitled to get **Rs.7,79,400/-** as compensation.

**In MACP No.335/2017 (Injury)**

41. According to say of claimant, she was aged 65 years at the time of accident. On perusing the PAN Card at **Exh.75**, claimant's birth date is mentioned as 09.11.1939. The claimant has not produced birth certificate or school leaving certificate to prove his age. However, in absence of the said evidence, PAN Card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 75 years old at the time of accident. In the case of **Sarla Varma v/s Delhi Transport Corporation & Ors. [2009 ACJ 1298]**, the Hon'ble Apex Court has suggested highest multiplier of 5 for the age group of persons between 66 to 70. Claimant had sustained fracture of left upper end tibia, comminuted fracture of nasal bone with fracture of nasal septum, etc. and received treatment from from 09.11.2014 to 11.11.2014 in Mahavir Hospital, Surat. Further, the accidental injuries had resulted in permanent partial disability @ 16%. However, in the present case, as the claimant was 75 years old, no multiplier is applicable. Therefore, there would not be any future loss of income. Hence, the claimant is not entitled to any amount under the

head of 'future loss of income', however, she is entitled for the expenses incurred during the course of her treatment, as well as under the head of pain, shock and suffering and attendant, special diets and transportation.

42. Considering the nature of injuries sustained by the claimant and the evidence of medical treatment, **Rs.10,000/-** is awarded under the head of **Pain, Shock & Sufferings**.
43. On perusing the discharged summary at **Exh.100**, it appears that claimant had received treatment from 09.11.2014 to 11.11.2014 in Mahavir Hospital, Surat, and therefore, she 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 other facts on record, it would be just & proper to award a sum of **Rs.10,000/- towards Attendant, Special diets and Transportation Expenses**.
44. According to averments made in the oral evidence of claimant at **Exh.41**, she incurred Rs.30,000/- towards her medical treatment. However, claimant has produced medical bills of Rs.27,564/- at **Exh.63**. Therefore, it would be just and proper to award round off **Rs.27,600/- towards medical expenses**.
45. Thus, the claimant is entitled to get amount of compensation under the following different heads:-

**SUMMARY OF THE COMPUTATION OF AWARD AMOUNT**

<b>1</b>	Date of accident	06.11.2014
<b>2</b>	Name of the injured	Harshadbhai Kantibhai Patel
<b>3</b>	Age of the injured	75 Years
<b>4</b>	Occupation of the injured	Household work besides agriculture work
<b>5</b>	Income of the injured	Rs.5,000/- per month
<b>6</b>	Nature of injury	Fracture of left upper end tibia, comminuted fracture of nasal bone with fracture of nasal septum, etc.
<b>7</b>	Period of hospitalization	From 09.11.2014 to 11.11.2014 in Mahavir Hospital, Surat
<b>8</b>	Whether any permanent disability? If yes, give details	Yes. 16% permanent disability.
<b>9</b>	<b>Computation of Compensation</b>	
<b>Sr. No.</b>	<b>Heads</b>	<b>Awarded by the Tribunal</b>
<b>10</b>	<b>Pecuniary Loss</b>	
<b>(i)</b>	Expenditure on treatment	Rs.27,600/-
<b>(ii)</b>	Expenditure on conveyance	Rs.10,000/-
<b>(iii)</b>	Expenditure on special diet	
<b>(iv)</b>	Cost of nursing/attendant	
<b>(v)</b>	Cost of artificial limb	--
<b>(vi)</b>	Loss of earning capacity	--
<b>(vii)</b>	Actual Loss of income	--
<b>(viii)</b>	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
<b>11</b>	<b>Non-Pecuniary Loss</b>	
<b>(i)</b>	Compensation for mental and	

	physical shock	Rs.20,000/-
<b>(ii)</b>	Pain and Suffering	
<b>(iii)</b>	Loss of amenities of life	--
<b>(iv)</b>	Disfiguration	--
<b>(v)</b>	Loss of marriage prospects	--
<b>(vi)</b>	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
<b>12</b>	<b>Disability resulting in loss of earning capacity</b>	
<b>(i)</b>	Percentage of disability assessed and nature of disability as permanent or temporary	16%
<b>(ii)</b>	Loss of amenities or loss of expectation of life span on account of disability	--
<b>(iii)</b>	Percentage of loss of earning capacity in relation to disability	--
<b>(iv)</b>	Loss of future income (Income x % Earning Capacity x Multiplier)	--
<b>13</b>	<b>Total Compensation</b>	<b>Rs.57,600/-</b>
<b>14</b>	Interest Awarded	<b>9%</b>

46. Hence, the claimant is entitled to get **Rs.57,600/-** as compensation.

**In MACP No.336/2017 (Injury)**

47. According to say of claimant, she was aged 61 years at the time of accident. On perusing the PAN Card at **Exh.78**, claimant's birth date is mentioned as 04.10.1953. The claimant has not produced birth certificate or school leaving certificate to prove his age. However, in absence of the said

evidence, PAN Card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 61 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 7 is applicable.

48. The claimant has stated in her affidavit of examination-in-chief vide **Exh.44** that, she was engaged in household work. Besides this, she was doing agricultural work, and thereby earning Rs.5,000/- p.m. at the time of accident. The claimant has not produced documentary evidence to prove her income. However, considering the age of claimant, nature of work done by the claimant and considering the minimum wages prevailing at the relevant time, it would be just and proper if the income of the claimant is considered as **Rs.5,000/- p.m. and Rs.60,000/- p.a.**
49. Considering the age of the claimant at the time of accident, it would not be just and proper to give future rise in actual income of the claimant.
50. To prove the injuries, the claimant has categorically stated in her evidence at **Exh.44** that in the said vehicular accident, she sustained fracture nasal bone with injuries on nose and jaw, and therefore, she was immediately taken to Mahavir Hospital, Surat where she received indoor treatment from 09.11.2014 to 10.11.2014 and was thereafter discharged with advice of follow-up treatment.

51. So far as the disability sustained by the claimant is concerned, claimant has relied upon the disability certificate issued by Dr. Rajendra L. Rana, M.S. (Orthopedic) which is at **Exh.76** from which it appears that claimant had sustained facial injury, fracture of maxilla left side and close injury over left tibial. Considering the above clinical findings, the doctor has certified that the claimant has sustained permanent partial disability @ 10%. However, Ld. Advocate for the insurance company has no objection to consider 5% disability of the claimant body as 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 **5%**.
52. Taking into considering the functional disability of the claimant which is assessed as **5%**, his yearly loss of income would come to round off **Rs.3,000/- p.a. [5% of Rs.60,000]**. As above discussed, considering the age of the claimant, the multiplier of **7** would be applicable, hence, the future economic loss of income would come to **Rs.21,000/-** (Rs.3,000 x 7 multiplier).
53. Considering the nature of injuries sustained by the claimant and the evidence of medical treatment, **Rs.5,000/-** is awarded under the head of **Pain, Shock & Sufferings**.
54. On perusing the discharged summary at **Exh.105**, it appears that claimant had received treatment from 09.11.2014 to

10.11.2014 in Mahavir Hospital, Surat, and therefore, she 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 other facts on record, it would be just & proper to award a sum of **Rs.10,000/- towards Attendant, Special diets and Transportation Expenses.**

**55.** According to say of claimant, she could not do her work for one month on account of accidental injuries. Therefore, considering the nature of injury, she would not have worked for a period of a month. Thus, actual loss of income would be Rs.5,000/- p.m. income x 1 month = Rs.5,000. Hence, it is just and reasonable to award sum of **Rs.5,000/- under the head actual loss of income.**

**56.** According to averments made in the oral evidence of claimant at **Exh.44**, she incurred Rs.8,530/- towards her medical treatment. The claimant has not produced documentary evidence or medical bills to prove the said fact. However, considering the nature of injuries, it would be just and proper to award **Rs.2,000/- towards medical expenses.**

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

**SUMMARY OF THE COMPUTATION OF AWARD AMOUNT**

1	Date of accident	06.11.2014
2	Name of the injured	Minakshiben Kanaiyalal Patel
3	Age of the injured	61 Years
4	Occupation of the injured	Household work besides agriculture work
5	Income of the injured	Rs.5,000/- per month
6	Nature of injury	Facial injury, fracture of left maxilla and close injury over left tibial
7	Period of hospitalization	From 09.11.2014 to 10.11.2014 in Mahavir Hospital, Surat
8	Whether any permanent disability? If yes, give details	Yes. 10% permanent disability.
9	<b>Computation of Compensation</b>	
<b>Sr. No.</b>	<b>Heads</b>	<b>Awarded by the Tribunal</b>
10	<b>Pecuniary Loss</b>	
(i)	Expenditure on treatment	Rs.2,000/-
(ii)	Expenditure on conveyance	Rs.10,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	
(v)	Cost of artificial limb	--
(vi)	Loss of earning capacity	--
(vii)	Actual Loss of income	Rs.5,000/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
11	<b>Non-Pecuniary Loss</b>	
(i)	Compensation for mental and physical shock	Rs.5,000/-
(ii)	Pain and Suffering	

(iii)	Loss of amenities of life	--
(iv)	Disfiguration	--
(v)	Loss of marriage prospects	--
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
<b>12</b>	<b>Disability resulting in loss of earning capacity</b>	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	10%
(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	5%
(iv)	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.21,000/-
<b>13</b>	<b>Total Compensation</b>	<b>Rs.43,000/-</b>
<b>14</b>	<b>Interest Awarded</b>	<b>9%</b>

58. Hence, the claimant is entitled to get **Rs.43,000/-** as compensation.

**In MACP No.337/2017**

59. The guardian of minor Shubham had contended that minor sustained contusion on dorsal spine, cervical spine and left facial soft tissue injury. Therefore, he was immediately taken to Mahavir Hospital, Surat where he received indoor treatment from 09.11.2014 to 11.11.2014 and thereafter discharged with advice of follow-up treatment.

60. It is pertinent to note that, the present claim has been filed by the guardian on behalf of the minor seeking compensation for the injuries allegedly sustained in the accident. However, the record indicates that the injuries sustained by the minor are of simple in nature and do not result in permanent disability. In the present case, the claimant has neither entered into witness box nor filed any affidavit in lieu of examination-in-chief to substantiate the claim. In the absence of any oral or documentary evidence to prove the nature of injuries, the claimant is not entitled to any compensation. Accordingly, the present claim petition deserves to be dismissed.

**Liability of opponent No.3 – insurance company**

61. Learned Advocate for the insurance company has submitted that, Toofan Car No.GJ6-FK-4825 was registered before the RTO as ‘private car’ and the said vehicle was insured as ‘private car package policy’. Therefore, the owner and his family members can travel under the said car as the owner cannot use the said vehicle on rent or carry passengers. He has further submitted that the occupiers of the car were not family members of the owner and they all were travelling as unauthorized passenger, and therefore there is clear breach of policy conditions of the insurance policy by the insured. He has further submitted that the risk of the unauthorized passengers is not covered when victims

were travelling as gratuitous passengers and owner had allowed to use the vehicle for hire and reward, insurance company may be exonerated.

**61.1** Ld. Advocate for the claimants has submitted that, the policy of Toofan Car was a “Private Car Package Policy” and the risk of the occupants was covered under the policy. He has further submitted that injured persons were belonging to the relative of owner, there is no question of the vehicle being used for hire and reward. He has also submitted that merely contending that the car was used for hire and reward cannot be said to have committed the breach of policy conditions by the insured. He has further submitted that, the insurance company is certainly liable to compensate the occupants of the private vehicle irrespective of nature of policy because there is nothing like different type of policy in the Statute and the liability of the Insurance Company is statutory, and therefore cannot escape from such liability. Thus, insurance company cannot be absolved from its liability to pay compensation to the claimants.

**61.2** Considering the rival submissions of both the sides, question arises whether the injured persons were travelling in the private car as gratuitous passenger ?

**61.3** Considering the material on record and the evidence adduced by the claimants, it appears that all the injured persons were acquainted with opponent No.2 (owner of

the vehicle). They went to pilgrimage Nashik and Shirdi for darshan in a Tofaan Car No.GJ6-FK-4825 and while returning home, the car dashed with roadside tree, as a result of which six persons sustained bodily injuries. The car was being driven by opponent No.1 at the time of the accident. From the police complaint at **Exh.81** (in MACP No. 332 of 2017), it is evident that all the victims were travelling in a private car. During cross-examination of claimant (in MACP No.332/2017), he stated that his family members were travelling in the Tofaan car. He denied that the driver of the car was not his relative or acquaintance. He further denied that the Tofaan car was hired by his nephew. Further, in the cross-examination of claimant (in MACP No.333/2017), he stated that his family members were travelling in the car to visit a religious places. He further stated that no rental fare was fixed for the vehicle. He also stated that he did not know the owner of the vehicle. He denied knowledge of the arrangement made by his cousin with the owner of the vehicle. Similarly, claimant (in MACP No.334/2017) denied in his cross-examination that he was not acquainted with Chandubhai (owner of the vehicle) and they were travelling in the car after fixing fare. Likewise, claimants (in MACP Nos.335 & 336 of 2017) denied in their cross-examinations that the vehicle in which they were travelling was hired on rent.

**61.4** Thus, upon careful consideration of the material on record, it appears that the occupants of the car were travelling without payment of any fare to the owner of

the car. The insurance company has neither examined the driver nor owner of the vehicle to establish that the car was used for hire and reward. Mere assertion that the occupants were not acquainted with the owner of the vehicle is not sufficient to discharge the burden of proof cast upon the insurance company. Insurance company has failed to establish by leading cogent and reliable evidence that the injured persons were travelling as unauthorized passengers in the car. In the absence of such proof, the contention that the car was used for hire and reward is not accepted. Hence, the insurance company cannot be absolved from its liability to pay compensation to the claimants.

**61.5** In view of the above discussion, the present accident had occurred because of negligent driving of driver of Toofan Car No.GJ6-FK-4825 involved in the accident. The opponent No.2 was the owner of Toofan Car No.GJ6-FK-4825 at the relevant time is established from the certificate of registration of the subject vehicle at **Exh.83** (in MACP No.332/2017). Further, on perusing the insurance policy of Toofan Car No.GJ6-FK-4825 at **Exh.84** (in MACP No.332/2017), it transpires that the subject vehicle was insured with the opponent No.3 for the period from 22.02.2014 to 21.02.2015. Thus, it was valid insurance on 06.11.2014 i.e., the date of accident. Therefore, the claimants are 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. MACP Nos.332, 333, 334, 335 & 336 of 2017 stands partly allowed. MACP No.337/2017 stands dismissed.
2. The claimants are entitled to recover the amount of compensation as mentioned in below table against their claim petitions with cost and interest at the rate of 9% p.a. from the date of the claim petitions till realization of the amount from the opponent Nos.1 to 3, jointly and severally.

Sr. No.	MACP Nos.	Amount of compensation awarded by the Tribunal
1	332/2017	Rs.5,59,000/-
2	333/2017	Rs.3,20,000/-
3	334/2017	Rs.7,79,400/-
4	335/2017	Rs.57,600/-
5	336/2017	Rs.43,000/-

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

<b>A/c. No.</b>	<b>40759978524</b>
<b>IFSC Code</b>	<b>SBIN0008278</b>
<b>MICR</b>	<b>392002002</b>

5. After depositing the amount of court fees in the account of Additional District Judge, Bharuch, the concerned 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](mailto:mactbha@gmail.com).
6. 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 concerned opponents shall inform the concerned bank of the claimants well in advance regarding the transfer of the awarded amount, so that the concerned bank is able to give effect to the direction of this

tribunal regarding depositing of respective amount in fixed deposit.

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 in MACP Nos.332, 333 & 334 of 2017, **70%** amount shall be invested in FDR by the concerned bank in the name of concerned claimants 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. The Nazir of the District Court to ensure the compliance of this award.
9. The cost of the proceedings incurred by the claimants 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 claimants.
11. A certified copy of this judgment be kept in case record of MACP Nos.333 to 337 of 2017.

**12.** Award be drawn accordingly.

Pronounced in the open Court today on 7<sup>th</sup> May, 2026.

Date: 07/05/2026

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