

GJBH010026822017



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Decided On : 13/04/2026

Duration : 8Y-5M-07D

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

**MACP No.394 of 2017**

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

**Claimant:** Jitendra Rameshbhai Vasava  
R/o. At. Mulad, Tal. Jhagadia,  
Dist. Bharuch.

**Versus**

- Opponents :**
1. Mukeshbhai Pyarelal Gupta (*Driver of truck*)  
R/o. At. Dwarikapuri, Tal. Ranigunj,  
Dist. Pratapgadh (UP).
  2. Hareshbhai Harjibhai Vekeriya (*Owner of truck*)  
R/o. 78, Shyamnagar, At. Navagam,  
Tal. Kamrej, Dist. Surat.
  3. The New India Assurance Co. Ltd.  
(*Insurance Company of truck*)  
At. Station Road, Bharuch.
  4. Rameshbhai Chhitubhai Patel (*Motorcyclist*)
  5. Amarsinh Somabhai Vasava (*Owner of motorcycle*)  
Both are R/o. At. Mulad, Tal. Jhagadia,  
Dist. Bharuch.
  6. National Insurance Co. Ltd.  
(*Insurance Company of motorcycle*)  
At. Nr. Sheetal Circle, College Road,  
Bharuch.

**Appearance:-**

Ld. Advocate Mr. A. K. Parekh, for the claimant.

Opponent Nos.1,2,4&5 Ex-parte.

Ld. Advocate Mr. K. N. Chavda, for the opponent No.3.

Ld. Advocate Mr. R. I. Sutariya, for the opponent No.6.

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

**JUDGMENT**

1. The claimant has preferred the present claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act' for short) seeking compensation to the tune of Rs.2,00,000/- from the opponents on account of accidental injuries sustained by him in a road accident.
2. The brief facts of this petition are as under:-
  - 2.1 That, on 08/03/2013 the claimant Jitendra and Jigneshbhai were travelling as pillion riders on Motorcycle No.GJ16-AK-4204 which was being driven by Rameshbhai. When they were passing over the bridge of Amravati Khadi on National Highway No.8, truck moving ahead suddenly applied brakes, upon which Rameshbhai also applied brakes. At that time, opponent No.1 came by driving truck No.GJ5-AV-4141 at high speed with rash and negligent manner, without observing traffic rules and in a way dangerous to human life, dashed with the motorcycle from behind. As a result of the impact, all of them fell down on the road and the claimant sustained fracture in his right leg in the accident. The police complaint with respect to the said accident was registered vide I-CR No.31/2013 with Ankleshwar City Police Station against opponent No.1 i.e.

driver of truck.

**2.2** According to the claimant, he was aged 25 years at the time of the accident. It is stated that the claimant was employed as 'Helper' in Shriram Agency and earning Rs.6,000/- per month at the time of accident. It is further stated that in the said vehicular accident, the claimant sustained fracture on right leg, and therefore immediately taken to Jayaben Modi Hospital, Ankleshwar where he received indoor treatment for a period of 6 days and discharged thereafter. It is also stated that the claimant has incurred expenses of Rs.35,000/- towards his 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 also stated that due to such injuries, he suffered permanent disability due to which he is suffering difficulties in his daily routine life. Hence, claimant has claimed the amount of Rs.2,00,000/- as compensation from the opponents under different heads.

**2.3** It is further stated that the said vehicular accident has occurred due to rash and negligent driving on the part of the opponent No.1 i.e. truck driver. Opponent No.2 being owner of the truck had insured his vehicle with opponent No.3. It is also stated that, opponent No.4 was the driver of motorcycle and opponent No.5 being owner of the said motorcycle has insured his vehicle with opponent No.6. Hence, all the opponents are jointly & severally liable to pay the amount of compensation to the claimant.

3. Upon the petitions being admitted, notices were issued to the opponents and they have been duly served. The opponent Nos.1,2,4&5 have not appeared before the Tribunal, and therefore, the matter was ordered to be proceeded ex-parte against them vide order dated 15.11.2025.
- 3.1 The opponent No.3 – New India Assurance Company has appeared through its advocate and filed reply at **Exh.36** inter alia contending that, all the averments made in the claim petition are not true and correct, and denied in toto. It is contended that, the facts regarding occurrence of accident, involvement of offending vehicles, causing injuries and resultant disablement, age and income of the claimant are not true and correct. It is stated that opponent No.4 was driving the motorcycle which was being saddled with three persons, therefore negligence of motorcyclist is required to be considered. It is further stated that truck was lodged with heavy articles, therefore it would be impossible to drive the truck by the opponent No.1 in rash and negligent manner. It is contended that opponent No.1 i.e. driver of truck was not holding valid and effective driving licence on the date of accident, and thereby the insured had committed breach of policy conditions. Thus, opponent No.3-insurance company may be exonerated from its liability to pay compensation to the claimant.
- 3.2 The opponent No.6 – National Insurance Company has appeared through its advocate and filed reply at **Exh.25**

inter alia contending that, all the averments made in the claim petition are not true and correct, and denied in toto. It is denied that opponent No.4 was driving the motorcycle at high speed and in rash and negligent manner. It is stated that as per the police papers and pleadings in the claim petition, opponent No.1 i.e. driver of truck was solely responsible for the cause of accident, therefore no negligence may be attributed on the part of opponent No.4 i.e. motorcyclist. Thus, opponent Nos.4 to 6 may be exonerated from its liability to pay compensation to the claimant.

4. The claimant has 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	Jitendra Rameshbhai Vasava	<b>28</b>
<b><u>Documentary Evidences</u></b>		
1	Medical prescriptions	<b>47</b>
2	Medical bills of Rs.16,083/-	<b>48</b>
3	Copy of Discharge card issued by Jayaben Modi Hospital, Ankleshwar	<b>49</b>
4	Disability certificate	<b>50</b>
5	Copy of Police complaint	<b>55</b>
6	Copy of Panchnama of place of occurrence	<b>56</b>
7	Copy of Charge-sheet	<b>57</b>
8	Copy of RC Book of truck	<b>58</b>
9	Copy of Goods Carriage Permit of truck	<b>59</b>
10	Copy of RC Book of motorcycle	<b>60</b>
11	Copy of insurance policy of motorcycle	<b>61</b>

- 4.1** Ld. Advocate for the opponent No.3 has produced judgment of MACP No.486/2016 passed by the MACT (Auxi), Bharuch at **Exh.54**.
- 5.** On completion of evidence, Ld. Advocate for the claimant has filed closing pursis at **Exh.51**, whereas, Ld. Advocate for the opponent No.3 filed closing pursis at **Exh.64**.
- 6.** Heard Learned Advocates for the parties and perused the evidence produced on record.
- 7.** Following issues were framed at **Exh.46** by my learned predecessor for determination of this claim petition:
1. Whether the claimant proves that he sustained injuries on account of rashness or negligent driving on the part of driver of the vehicle involved in the accident ?
  2. What amount, the claimant is entitled to get by way of compensation and from which of the opponents ?
  3. What order ?
- 8.** My findings on the aforesaid issues, for the reasons stated below are as under:
1. In affirmative.
  2. In affirmative – As per final order.
  3. As per the final order.

### **REASONS**

#### **Issue No.1**

- 9.** It is settled legal position of law that the claim tribunal has

to decide the negligence on the touchstone of preponderance of probability. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. Further, the Tribunal has to hold an inquiry to determine compensation which must appear to it to be just.

- 9.1** So far as the question of negligence is concerned, the claimant has submitted his affidavit of examination-in-chief at **Exh.28** and narrated the facts as mentioned in the claim petition. During his cross-examination by Ld. Advocate for the opponent No.3, he stated that Rameshbhai was driving the motorcycle at the time of accident. He denied that motorcycle dashed with truck moving ahead, causing him to sustain injuries. However, he voluntarily stated that truck dashed with motorcycle from behind. He denied that accident took place due to negligence of Rameshbhai.
- 9.2** Ld. Advocate for the opponent No.3 has produced the judgment dated 30.06.2023 passed by the Motor Accident Claims Tribunal (Auxi), Bharuch in MACP No.468/2016 at **Exh.54** and submitted that the previous judgment pertaining to the same accident is relevant and it can be looked into while deciding the present claim petition by this Tribunal. Upon perusal of the judgment in MACP No.468/2016, it appears that the learned Tribunal after appreciating the evidence on record has held that the accident occurred solely due to the negligence of driver of truck No.GJ5-AV-4141 involved

in the accident. In the present claim petition, the claimant has produced cogent and reliable evidence, including the police complaint (**Exh.55**), which clearly establishes that while motorcycle was passing over the bridge of Amravati Khadi on N.H.No.8, the driver of truck No.RJ19-GC-7148 which was moving ahead suddenly applied brakes. Consequently, Rameshbhai who was driving motorcycle also applied brakes. At that time, truck No.GJ5-AV-4141 came from behind and dashed with the motorcycle, as a result of which the claimant sustained injuries to his right leg. The learned advocate for opponent No.3 has contended that there were three persons travelling on the motorcycle, and therefore, the rider of motorcycle (opponent No.4) may be held liable for the accident. However, merely on the basis of triple riding on a motorcycle, no negligence can be attributed to the rider of the motorcycle in causing the accident. Thus, considering the facts and circumstances of the case, it is clear that the accident occurred solely due to rashness, recklessness and gross negligence on the part of truck driver i.e. opponent No.1. Hence, I answer issue No.1 accordingly in '**Affirmative**'.

### **Issue No.2**

10. It is settled legal position of law that, if victim of an accident suffers permanent or temporary disability, then efforts should be made to award adequate compensation not only for the physical injury and treatment, but also for the

pain, suffering and trauma caused due to accident, loss of earnings and victim's inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident. The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident.

- 11.** According to say of claimant, he was aged 25 years at the time of accident. On perusal of discharge card issued by Jayaben Modi Hospital, Ankleshwar at **Exh.49**, age of the claimant is mentioned as 24 years. The claimant has not produced school leaving certificate or birth certificate to prove his age. However, in absence of the said evidence, discharge card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 24 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 SC]**, multiplier of **18** is applicable.
- 12.** So far as income of the claimant is concerned, he has stated in his affidavit of examination-in-chief vide **Exh.28** that, he was doing labour work and earning Rs.9,120/- per month at the time of accident. However, in the claim petition, it is averred that he was working as "Helper" in Shriram Agency and earning Rs.6,000/- per month. Thus, there is a material inconsistency in the version of the claimant regarding his occupation as well as income. The claimant has not

produced documentary evidence or any other proof to substantiate either of the two versions and this fact is also admitted by him in cross-examination vide **Exh.28**. However, considering the age of claimant, year of accident, nature of work performed by the claimant and considering the minimum wages prevailing at the time of accident, it would be just and proper if the income of the claimant is considered as **Rs.6,000/- p.m.** and **Rs.72,000/- p.a.**

**12.1** Considering the age of the claimant at the time of accident, this is a fit case to give rise of **40%** in actual salary i.e. **Rs.28,800/-** (Rs.72,000 x 40%) in the actual income of the claimant and therefore, annual income including future rise in salary of the claimant would be Rs.72,000 + Rs.28,800 = **Rs.1,00,800/-**.

**13.** To prove the injuries, claimant has categorically stated in his affidavit at **Exh.28** that in the said vehicular accident, he sustained fracture on right leg, and therefore immediately taken to Jayaben Modi Hospital, Ankleshwar where he received indoor treatment for a period of 6 days and discharged thereafter.

**13.1** So far as the disability sustained by the claimant is concerned, he has relied upon the disability certificate issued by Dr. Rajendra L. Rana which is at **Exh.50** from which it appears that claimant had sustained fracture of right shaft femur, resulting in permanent partial disability @ 26% of right lower limb. However, Ld. Advocates for the

claimant and insurance company have no objection to consider 11% 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 **11%**.

- 14.** Taking into considering the functional disability of the claimant which is assessed as **11%**, his yearly loss of income would come to round off **Rs.11,088/- p.a. [11% of Rs.1,00,800]**. As above discussed, considering the age of the claimant, the multiplier of **18** would be applicable, hence, the future economic loss of income would come to **Rs.1,99,584/-** (Rs.11,088 x 18 multiplier).
- 15.** 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**.
- 16.** On perusing the discharge card at **Exh.49**, it appears that claimant has received indoor treatment from 08.03.2013 to 11.08.2013 in Jayaben Modi Hospital, Ankleshwar, and therefore, he might have required help of attendant. Further, he 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.5,000/- towards Attendant, Special diets and Transportation Expenses**.

17. According to say of claimant, he could not do his work for six months on account of accidental injuries. Therefore, considering the nature of injury, he would not have worked for a period of around 2 months. Thus, actual loss of income would be Rs.6,000/- p.m. income x 2 months = Rs.12,000. Hence, it is just and reasonable to award sum of **Rs.12,000/- under the head actual loss of income.**
18. According to averments made in the oral evidence of claimant at **Exh.28**, he incurred Rs.35,000/- towards his medical treatment. Claimant has produced medical bills of Rs.16,083/- at **Exh.48**. Therefore, it would be just and proper to award round off **Rs.16,100/- 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**

1	Date of accident	08.03.2013
2	Name of the injured	Jitendra Rameshbhai Vasava
3	Age of the injured	24 Years
4	Occupation of the injured	Service
5	Income of the injured	Rs.6,000/- per month
6	Nature of injury	Fracture of right shaft femur
7	Period of hospitalization	From 08.03.2013 to 11.03.2013 in Jayaben Modi Hospital, Ankleshwar
8	Whether any permanent disability? If yes, give details	Yes. 26% 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.16,100/-
(ii)	Expenditure on conveyance	Rs.5,000/-
(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.12,000/-
(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.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	26%
(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	11%

(iv)	Loss of future income (Income x % Earning Capacity x Multiplier)	Rs.1,99,584/-
<b>13</b>	<b>Total Compensation</b>	<b>Rs.2,37,684/-</b>
<b>14</b>	Interest Awarded	<b>9%</b>

20. The claimant has, in claim petition, claimed compensation of **Rs.2,00,000/-**. But the Tribunal can award the amount more than the amount claimed in the claim petition if the same is found to be just compensation. Hence, the claimant is entitled to get **Rs.2,37,684/-** as compensation.

#### **Liability**

21. In view of above discussion, the present accident had occurred because of negligent driving of opponent No.1 i.e. truck driver involved in the accident. The opponent No.2 was the owner of truck No.GJ5-AV-4141 at the relevant time is also established from RC Book of the subject vehicle at **Exh.58**. Further, on perusing insurance policy of truck No.GJ5-AV-4141 at **mark-6/6**, it transpires that the subject vehicle was insured with the opponent No.3 on the date of accident and this fact is not disputed. Since the tribunal has not found negligence on the part of opponent No.4 i.e. motorcyclist, therefore the claim against opponent Nos.4 to 6 is hereby rejected. Therefore, the claimant is entitled for the compensation with interest @ 9% p.a. from the date of claim petition till realization from opponent Nos.1 to 3 jointly & severally. Hence, I answer Issue No.2 in the '**affirmative**' accordingly and for Issue No.3, the following final order is passed:-

### **ORDER**

1. The claim petition stands allowed against opponent Nos.1 to 3, and opponent Nos.4 to 6 are exonerated.
2. The claimant is entitled to recover a sum of **Rs.2,37,684/- (Rupees Two Lac Thirty Seven Thousand Six Hundred Eighty Four only)** as compensation with cost and interest @ 9% p.a. from the date of the claim petition till realization of the amount from the opponent Nos.1 to 3, jointly and severally.
3. The interim amount of compensation, if any, paid or deposited under the principle of No Fault Liability, will be adjusted from the aforesaid amount of compensation awarded in this final adjudication.
4. As per the award, the opponent Nos.1 to 3 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:

<b>A/c. Name</b>	<b>Additional District Judge, Bharuch</b>
<b>Branch Name</b>	<b>State Bank of India, Muktinagar Branch, Bharuch</b>
<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 opponent Nos.1 to 3 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 claimant is hereby directed to furnish the details of his bank account maintained with Nationalized Bank along with first page of the Passbook showing Account Number, Name of the Account Holder, IFSC Code and other required details duly supported by an affidavit within reasonable time before this Tribunal. It is further directed to the claimant to submit the certificate of the banker certifying that the account is of the concerned claimant. Upon receipt of the aforesaid bank details, as per the decision of the Hon'ble Apex Court in the case **Paraminder Singh v. Honey Goyal & Ors.** in Civil Appeal arising out of SLP (C) No.4484 of 2020, the opponent Nos.1 to 3 are directed to transfer the awarded amount into bank account of claimant within 30 days. Before transferring the amount into the bank account of the claimant, the opponents shall inform the concerned bank of the claimant well in advance regarding the transfer of the awarded amount, so that the concerned bank is able to give effect to the direction of this tribunal regarding depositing of respective amount in fixed deposit.
7. The opponent Nos.1 to 3 are also directed to intimate this tribunal on [e-mail I.D. mactbha@gmail.com](mailto: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 opponent Nos.1 to 3, **70%** amount shall be invested in FDR by the concerned

bank in the name of claimant for a period of 5 years. The bank of the claimant is directed to intimate the details with respect to the Fixed Deposit made as per the present award in the name of claimant to this tribunal immediately after depositing the amount in FDR. The concerned Bank is directed not to grant any loan, advances or withdrawal against the said FDRs without obtaining prior permission of this Tribunal. However, the claimant will be at liberty to withdraw the periodical interest accrued on the said FDRs. The Nazir of the District Court to ensure the compliance of this award.

9. The cost of the proceedings incurred by the claimant as well as the opponents shall be born by the opponent Nos.1 to 3.
10. Registry is directed to forward the copy of the judgment through e\_mail to the opponent No.3 i.e. insurance company as well as concerned bank of the claimant.
11. Award be drawn accordingly.

Pronounced in the open Court today on 13<sup>th</sup> April, 2026.

Date: 13/04/2026

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