

GJBH010029542017



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Decided On : 29/04/2026

Duration : 8Y-4M-14D

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

MACP No.448 of 2017**Exh. _____**

Claimant: Narendrabhai Bijalbhai Vasava
R/o. At. Baldava, Tal. Netrang,
Dist. Bharuch.

V/s.

Opponents :

1. Taiyab Yakubbhai Andhi
2. Fesalbhai Yakubbhai Andhi
Both are R/o. Station Joj Road,
Tal. Dist. Chhotaudepur
3. Reliance General Insurance Co. Ltd.
At. Harihar Complex, Nr. Inox,
Zadeshwar Road, Bharuch.

Appearance:-

Ld. Advocate Mr. C. R. Intwala, for the claimant.

Opponent Nos.1&2 Ex-parte.

Ld. Advocate Mr. P. G. Shah, for the opponent No.3.

Claim : Rs.3,00,000/- 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.3,00,000/- 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 03/11/2017 at about 1:00 am., claimant was driving Motorcycle No.GJ16-KF-7203 from Nasarpur to village Badalva along with Chiragbhai as pillion rider. The said motorcycle was proceeding on the left side of the road at moderate speed from Nasarpur to village Badalva. When they reached near village Chasvad where truck No.GJ9-Y-8011 was parked stationary on the middle of the road without reflector or any signal light or any hazard signal on its rear side due to which motorcycle dashed with stationary truck from behind with heavy force. As a result, claimant sustained grievous bodily injuries in the accident. The FIR with respect to the said accident was registered with Netrang Police Station vide I-CR No.44/2017 against claimant i.e. motorcyclist.

2.2 According to the claimant, he was aged 20 years at the time of the accident. It is stated that the claimant was employed as 'Helper' in the company at Jhagadia and earning Rs.7,500/- per month at the time of accident. It is further stated that in the said vehicular accident, the claimant sustained head injury, and therefore immediately taken to Government Hospital, Netrang where he received primary treatment. Thereafter, he was shifted to Jayaben Modi Hospital, Ankleshwar, but due to seriousness, claimant was taken to Kiran Hospital, Surat where he received indoor treatment from 03.11.2017 to 22.11.2017 and discharged thereafter. It is also stated that the claimant has incurred expenses of Rs.75,000/- 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.3,00,000/- as compensation from the opponents under different heads.

- 2.3** It is further submitted that the said vehicular accident had occurred due to negligent act of the opponent No.1 – tempo driver and opponent No.2 being owner of the tempo had insured his vehicle with the opponent No.3. Therefore, all the opponents are jointly and severally liable to pay the amount of compensation to the claimants.
- 3.** Upon the petitions being admitted, notices were issued to the opponents and they have been duly served. Despite due service of notices, opponent Nos.1&2 have not appeared before the Tribunal, and therefore, the matter was ordered to be proceeded ex-parte against them.
- 3.1** The opponent No.3 – Insurance Company has appeared through its advocate and filed reply at **Exh.31** 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 denied that the driver of the truck

parked on the road without side signal and motorcycle dashed with truck from behind. It is further denied that accident took place due to negligent parking of the truck by the opponent No.1. It is stated that accident occurred due to sole negligence of claimant – motorcyclist. It is stated that truck was parked on the left side of kachcha road with reflector and parking light on. It has contended that, opponent No.1 – truck driver was not holding valid and effective driving licence on the day of accident and has not satisfied the requirements of the Rule 3 of the Central Motor Vehicles Rules, 1989, and thereby, the insured had committed breach of policy conditions. It is further contended that the vehicle truck did not have valid fitness & permit, and thereby also, owner had committed breach of policy conditions. Thus, the opponent No.3- insurance company may be exonerated from its liability to pay compensation to the claimants.

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

Sr. No.	Evidences	Exh.
<u>Oral Evidences</u>		
1	Narendrabhai Bijalbhai Vasava	44
<u>Documentary Evidences</u>		
1	Copy of Aadhar card of claimant	47
2	Copy of FIR	48
3	Copy of Panchnama of place of occurrence	49
4	Copy of Driving licence of opponent no.1	51
5	Copy of RC Book of truck	52

6	Copy of insurance policy of truck	53
7	Discharge card issued by Kiran Hospital	57
8	Medical bills of Rs.43,565/-	58
9	Medical bills of Rs.9,659/-	59
10	Disability certificate	60

4.1 Ld. Advocate for the insurance company has produced details of driving licence of opponent No.1 at **Exh.65**, Extract of driving licence of opponent No.1 at **Exh.66**, insurance policy of truck at **Exh.67** and charge-sheet at **Exh.68**.

5. On completion of evidence, Ld. Advocate for the claimant has filed closing pursis at **Exh.61**, whereas, Ld. Advocate for the insurance company filed closing pursis at **Exh.69**.

6. Heard Learned Advocates for the parties and perused the evidence produced on record.

7. Following issues are framed at **Exh.42** 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 appears to it to be just.

9.1 Ld. Advocate for the claimant has submitted that, incident took place at night hours and truck was parked on the middle of the road in hazardous condition without any parking light or reflectors and due to which the accident had occurred. Therefore, claimant could not notice presence of stationary truck parked on the middle of the road, unfortunately motorcycle dashed with stationary truck from behind. He has therefore submitted that opponent No.1 – truck driver should be held responsible for the cause of accident.

9.2 Ld. Advocate for the insurance company has submitted that, FIR was filed against the claimant and upon investigation charge-sheet (**Exh.68**) was also filed against him. He has

further submitted that, the claimant has not examined any eye-witness to prove that truck driver was negligent for the cause of accident. He has therefor submitted that claimant dashed his motor-cycle with stationary truck from behind, therefore the alleged accident took place due to rash and negligent driving of claimant himself. Therefore, insurance company may be exonerated from its liability.

9.3 The claimant has submitted his affidavit of examination-in-chief at **Exh.44** and narrated the facts as mentioned in the claim petition. During his cross-examination by Ld. Advocate for the opponent No.3, he admitted that he was driving the motorcycle at the time of accident and Chirag Vasava and Akshay Vasava were traveling as pillion riders. He further admitted that his vision was dazzled by the vehicle approaching from the opposite direction. However, he denied that he met with stationary truck parked on the side of the road. He admitted that complaint regarding the accident was lodged against him. He denied that accident occurred due to his negligence.

9.4 The claimant has produced on record copy of the FIR at **Exh.48** and spot panchnama at **Exh.49**, both mention the details of Truck No.GJ9-Y-8011, and thereby prima facie established the involvement of the said vehicle. Upon perusal of the FIR, it appears that the same was lodged by Akshaykumar Dharamsinh Vasava. As stated therein, he along with his friend Chirag was traveling as

pillion riders on Motorcycle No.GJ16-F-7203, which was being driven by the claimant, while proceeding towards home from Nasarpur. When they reached near Sugar Factory at Chasvad, the motorcycle collided with stationary truck from behind. As a result of the said accident, claimant sustained grievous bodily injuries.

9.5 On perusal of spot panchnama (**Exh.49**), it appears that the accident has occurred near Nala approximately 200 meter away from Sugar Factory. Truck No.GJ9-Y-8011 was found stationary at the spot and Motorcycle No.GJ16-F-7203 was also found lying on the road beside the said truck. It further appears that damage was caused to the front portion of the motorcycle and the iron grille affixed to the number plate of the truck was found bent. Along with the spot panchnama, charge-sheet (**Exh.68**) filed by the police is also required to be considered. Upon perusing the same, it appears that claimant dashed with the truck from behind by driving his motorcycle in excessive speed and received grievous head injuries in the accident. At this juncture, it is fruitful to refer the decision of the Hon'ble Apex Court in the case of **Mathew Alexander v. Mohammed Shafi & Anr.** reported in **2023 LiveLaw (SC) 531**, in which the Hon'ble Apex Court has held that in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal has to determine the amount of fair compensation to be granted in the event an accident has taken place by reason of negligence of a driver of a

motor vehicle. A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimant has to establish his case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident.

9.6 It is fruitful to refer **Section 122 of M. V. Act, 1988**, and **Rule 104 of Central Motor Vehicle Rules, 1989** which provides that -

Sec. 122. Leaving vehicle in dangerous position. - *No person in-charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers.*

Rule 104. Fitment of reflectors. - *(1) Every motor vehicle including trailers and semi-trailers other than three-wheelers of engine capacity not exceeding 500 cc and motor-cycle shall be fitted with two red reflectors, one each on both sides at their rear.*

9.7 From the perusal of the panchnama of place of offence, no reflector or any light is found on the rear side of stationary truck. As per the provisions of M. V. Act and Rules, the truck shall be fitted with two red reflectors, one each on both at their rear sides. Therefore, there is clear violation of

the said statutory rules by the driver of truck.

9.8 In view of above mentioned discussion, this Tribunal has come to the conclusion that, the incident took place at about 1:00 am. near Sugar Factory at Chasvad, and at that time it cannot be expected that the driver of a motorcycle (claimant) should visualize that there might be some stationary vehicle standing on the road. If the driver of truck had put reflector on the rear side of the stationary truck, or there was any parking light put on the road or vehicle, accident could have been avoided. If the panchnama at **Exh.49** is perused, there was no signal light found on as well as there was no radium stick. Therefore, it can certainly be said that, the truck driver left stationary truck on the road in hazardous condition to harm other road users. Further, opponent no.1 - truck driver has not stepped into witness-box to establish the negligence of claimant motorcyclist, and therefore adverse inference is required to be drawn against him. The insurance company has not produced any evidence to contradict the evidence produced by the claimant. Merely on the basis of charge-sheet, no negligence of the claimant can be inferred. Therefore, there is no evidence on record to infer negligence or carelessness on the part of claimant in contributing to the accident. Thus, the submission of the Ld. Advocate for the insurance company that the claimant himself was negligent is not accepted. It is, therefore, established

that the accident has occurred due to sole negligent act on the part of opponent No.1 – truck driver. Hence, I answer the Issue No.1 accordingly in “*Affirmative*”.

Issue No.2

10. It is settled legal position of law that, if victim of an accident suffers permanent or temporary disability, then efforts should be made to award adequate compensation not only for the physical injury and treatment, but also for the pain, suffering and trauma caused due to accident, loss of earnings and victim's inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident. The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident.
11. According to say of claimant, he was aged 20 years at the time of accident. On perusal of Aadhar Card at **Exh.47**, date of birth of the claimant is mentioned as 22.11.1997. The claimant has not produced school leaving certificate or birth certificate to prove his age. However, in absence of the said evidence, Aadhar card is considered to decide age of the claimant for the purpose of just compensation. Thus, claimant was 20 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.44** that, he was working as helper in company at Jhagadia and earning Rs.7,500/- per month at the time of accident. The claimant has not produced documentary evidence to prove his income. 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.7,500/- p.m. and Rs.90,000/- 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.36,000/-** (Rs.90,000 x 40%) in the actual income of the claimant and therefore, annual income including future rise in salary of the claimant would be Rs.90,000 + Rs.36,000 = **Rs.1,26,000/-**.

13. To prove the injuries, claimant has categorically stated in his affidavit at **Exh.44** that in the said vehicular accident, he sustained head injury, and therefore immediately taken to Government Hospital, Netrang where he received primary treatment. Thereafter, he was shifted to Jayaben Modi Hospital, Ankleshwar, but due to seriousness, claimant was taken to Kiran Hospital, Surat where he received indoor treatment from 03.11.2017 to 22.11.2017 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. Rajesh R. Parmar, M.S. (Orthopedics) at **Exh.60** from which it appears that claimant had sustained head injury, resulting in permanent partial disability @ 30% body as whole. However, Ld. Advocates for the claimant and insurance company have made 'no objection' endorsement at Exh.46 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.25,200/- p.a. [20% of Rs.1,26,000]**. 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.4,53,600/-** (Rs.25,200 x 18 multiplier).

15. 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**.

16. On perusing the discharge card at **Exh.57**, it appears that claimant has received indoor treatment from 03.11.2017 to 22.11.2017 in Kiran Hospital, Surat, 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.10,000/- 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.7,500/- p.m. income x 2 months = Rs.15,000. Hence, it is just and reasonable to award sum of **Rs.15,000/- under the head actual loss of income.**

18. According to averments made in the oral evidence of claimant at **Exh.44**, he incurred Rs.75,000/- towards his medical treatment. However, the claimant has produced medical bills of Rs.43,565/- at **Exh.58** and medical bills of Rs.9,659/- at **Exh.59**. Therefore, the claimant had incurred total amounting to Rs.53,224/-. Thus, it would be just and proper to award round off **Rs.53,230/- 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	03.11.2017
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2	Name of the injured	Narendrabhai Bijalbhai Vasava
3	Age of the injured	20 Years
4	Occupation of the injured	Service
5	Income of the injured	Rs.7,500/- per month
6	Nature of injury	Head injury
7	Period of hospitalization	From 03.11.2017 to 22.11.2017 in Kiran Hospital, Surat
8	Whether any permanent disability? If yes, give details	Yes. 30% permanent disability.
9	Computation of Compensation	
Sr. No.	Heads	Awarded by the Tribunal
10	Pecuniary Loss	
(i)	Expenditure on treatment	Rs.53,230/-
(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.15,000/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	--
11	Non-Pecuniary Loss	
(i)	Compensation for mental and physical shock	Rs.10,000/-
(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.	--
12	Disability resulting in loss of earning capacity	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	30%
(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.4,53,600/-
13	Total Compensation	Rs.5,41,830/-
14	Interest Awarded	9%

20. The claimant has, in claim petition, claimed compensation of **Rs.3,00,000/-**. 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.5,41,830/-** 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.GJ9-Y-8011 at the relevant time is also established from RC Book of the subject vehicle at **Exh.52**. Further, on perusing insurance policy of truck No.GJ9-Y-8011 at **Exh.53**, it transpires that the vehicle in question was insured with the opponent No.3 for the period from 26.12.2016 to 25.12.2017. Thus, it was valid insurance on 03.11.2017 i.e. the date of accident. 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.
2. The claimant is entitled to recover a sum of **Rs.5,41,830/- (Rupees Five Lac Forty One Thousand Eight Hundred Thirty 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:

A/c. Name	Additional District Judge, Bharuch
Branch Name	State Bank of India, Muktinagar Branch, Bharuch
A/c. No.	40759978524
IFSC Code	SBIN0008278
MICR	392002002

5. After depositing the amount of court fees in the account of Additional District Judge, Bharuch, the 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.
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 29th April, 2026.

Date: 29/04/2026

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