


GJBK010003721996 	DATE OF INSTITUTION	23/08/1996		
	DATE OF REGISTRATION	23/08/1996		
	DATE OF JUDGMENT	16/04/2026		
	DURATION	DAYS	MONTHS	YEARS
		24	07	29

**IN THE TRIBUNAL OF MOTOR ACCIDENT CLAIMS**  
**(3RD.AUX.), AT:-PALANPUR. DIST.B.K.**

**M.A.C.P.No.702/1996**

**Ex.:** \_\_\_\_\_

<b><u>Claimant.</u></b>
<b>Revabhai Paragbhai Parmar Harijan,</b> Age: 25 years, Occ.Diamond Polishing, R/o.Motasada, Taluka-Danta, Dist.Banaskantha.

**Versus**

<b><u>Opponents.</u></b>
<b>1. <del>Chhaganbhai Kanjibhai,</del></b> <b>(-----Deleted as per order passed below Exh.16)</b>
<b>2. Smt. Bhagvatiben Rameshbhai Panchal,</b> <b>Age: Adult,</b> <b>R/o. Behind Jain Bhojnalay, Deesa, Dist.Banaskantha.</b> <b>(Owner of Jeep No.GJ-08-1397)</b>
<b>3. The Oriental Ins. Com. Ltd.,</b> <b>Add: Umiya Shopping Center, Mehsana Highway,</b> <b>Sagar Society, Mehsana, Pin-384002.</b> <b>(Ins. Com. Of Jeep No.GJ-08-1397)</b>

**Subject : Claim petition filed u/s.166 of the Motor Vehicles Act, 1988, to get compensation of Rs.1,00,000/-.**

<b><u>Appearance:-</u></b>	
Ld. Adv. for the applicant.	Mr. M.T.Khanna
<del>Ld. Adv. for the Opponent No.1</del>	<del>Deleted</del>
Ld. Adv. for the Opponent No.2	Mr.A.M.Makwana
Ld. Adv. for the Opponent No.3	Mr.Y.L.Bachani

**-: J U D G M E N T :-**

- (1) The applicant has filed the present claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation from opponents, on account of accidental injury caused to the applicant in the accident that occurred on 25/06/1996.
- (2) The brief facts of the present claim petition are that on 25/06/1996, the applicant had gone going to brought his wife to his home in jeep no.GJ-08-1397 and when the jeep reached on the patiya of Merwada, the driver of jeep lost control and jeep turned turtle. As a result, the applicant fell down from the jeep and sustained severe bodily injuries. This gave rise to the filing of a present claim petition by the applicant.
- (3) It appears from the record that opponents have been duly served with the notices.

Opponent No.1 has been deleted from the proceedings of the claim petition as per the order passed below Exh.16.

Learned Advocate Mr.A.M.Makwana for the opponent no.2 has appeared and filed the written statement vide Exh.23, wherein, he opposed the claim petition of the applicant.

Learned Advocate Mr.Y.L.Bachani for the opponent no.3 has appeared and filed his written statement vide Exh.34,

wherein, he denies each and every averments of the claim petition.

(4) In view of the pleadings of the parties, this tribunal has framed the following issues vide Exh.24, which are as under;

- (1) Whether the applicant proves that he sustained injuries due to rash and/or negligent driving of the vehicle involved in the accident ?
- (2) Whether the applicant proves that he is entitled to get compensation ? If yes, who is responsible to pay compensation and to what extent ?
- (3) What award ?

(5) My findings for the above noted issues are as under:-

- (1) In affirmative.
- (2) As per final order.
- (3) As per final order.

### **REASONS**

(6) The parties have led the following evidence to prove and disprove the contents of claim petition;

<b><u>Sr. No.</u></b>	<b><u>Oral Evidence</u></b>	<b><u>Exh.</u></b>
1.	Affidavit cum examination-in-chief of applicant.	26

<u>Sr. No.</u>	<u>Documents</u>	<u>Exh. Mark</u>
1.	Copy of complaint.	29
2.	Copy of panchanama of place of offence.	30
3.	Copy of MLC.	31
4.	Medical Bills.	32
5.	Income Certificate.	25/4
6.	Disability Certificate.	25/5

(7) **Issue No.1** :-

Heard, learned Advocate for the parties and perused the record. Perused the complaint, panchnama of place of offence etc., facts such as date, time, place, involvement of vehicles etc. are not disputed. Looking to the medical papers on record, the accidental injuries of applicant has also becomes undisputed.

Now, so far as the negligence which led to the fateful accident is concerned. Applicant has filed his affidavit-cum-examination-in-chief vide Exh.26, wherein he has reiterated the facts of the claim petition.

Learned Advocate Mr. Y.L.Bachani for the opponent no.3 has also cross-examined him, wherein, he has admitted that due to the curve and speed, the jeep got slipped from the road.

At this stage, it is worthwhile to note here that while deciding the point of negligence, it has to be borne in

mind that the negligence is required to be proved in claim petition under Section 166 of the Act only on the touchstone of the preponderance of probability and not beyond doubt. This tribunal has taken aid of the judgment in **Bimla Devi v/s HRTC, reported in AIR 2009 SC 2819 and Parmeshwari Devi v/s. Amir Chand, reported in 2011(11) SCC 635.**

Perusing the complaint, it is lodged against the driver of the jeep involved in the accident. As per the complaint, it reveals that the jeep turned turtle in the curve of village Mervada. Complaint also discloses the name of the applicant as passenger of the said jeep. Looking at the panchnama of the place of offence, it reveals that the jeep involved in the accident is lying on the spot of accident in damaged condition. It further reveals that the wheel marks of the jeep present on the spot of accident. The vehicle jeep suffered damages on its front side like mud guard and head lights. Despite being alleged with the allegations, the opponents have not challenged the allegations leveled on the driver of the jeep involved in the accident. It is relevant to observe that the driver of the jeep was duty bound to drive in a safe and non-hazardous manner. However, he failed to abide by the duty of care and an accident had occurred. It is also worthy to mention here that the applicant was traveling in the jeep and he was not driving the same, hence, no negligence can be attributed to the applicant. Thus, in the

facts and circumstances of the case, this tribunal has the reason to believe that the accident had occurred due to the sole negligent driving of the driver of the jeep involved in the accident. Thus, this tribunal decides Issue No.1 in "**AFFIRMATIVE**".

(8) **Issue No.2 :**

Learned Advocate for the applicant has stated that the applicant was doing diamond polishing and he was getting Rs.3000/- per month at the time of accident.

Per contra, learned Advocate for opponent no.3 has stated that applicant has not produced on record any cogent evidence to prove his income and hence, he has prayed to consider notional income of applicant.

Looking at the record, it reveals that the applicant has not produced any cogent evidence to prove his income. However, the applicant has produced the income certificate of the applicant, which is a handwritten document issued by the owner of the Diamond Polishing Factory. It is relevant to observe that the accident had occurred in the year 1996. The said document is a handwritten document. But considering the time of the accident, it would not be justified to get the print copy of the document. The accident had occurred in the year 1996. The act is also a beneficial piece of legislation. Therefore, this tribunal deems it fit to consider the

income of the applicant at Rs.2,500/- per month, which is just and proper.

- (9) So far the income of future prospect in injury case is concerned, in the case of **Pappu Deo Yadav vs. Naresh Kumar, AIR 2020 SC 4424**, the Hon'ble Apex Court has held in para 7 as under;

*“7: Two questions arise for consideration: one, whether in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding that Pranay Sethi involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-judge bench decision in Jagdish was not binding, but rather that the subsequent decision in Anant to the extent that it did not award compensation for future prospects, was binding. This court is of the opinion that there was no justification for the High Court to have read the previous rulings of this court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi is illogical, because it denies altogether the possibility of the living victim progressing further in life in accident cases - and admits*

*such possibility of future prospects, in case of the victim's death."*

- (9.1) This tribunal also places reliance on the judgment of the Hon'ble Supreme Court in the case of **Erudhaya Priya vs. State Express Transport Corp. Ltd., AIR 2020 4284**, wherein, the victim aged about 23, who sustained 31.1% permanent disability, the Hon'ble Apex Court granted 50% rise in the income of the claimant.
- (9.2) Even in the recent judgment in case of **Karthik Subramanian Vs. B. Sarath Babu & Anr., reported in 2021 ACJ 993**, the Hon'ble Apex Court has assessed compensation adding 50% amount of the actual income of the injured claimant. In the case before the Hon'ble Supreme Court, the injured claimant was aged about 34 years and had sustained permanent partial disablement to an extent of 40%.
- (10) The Hon'ble Apex Court in **National Insurance Co. vs. Pranay Sethi, 2017 (16) SCC 680**, has clearly provided the guidelines regarding the prospective income. Learned Adv. for the applicant has stated that the applicant was aged about 25 years old at the time of accident. There is no evidence produced by the applicant to prove the age of the applicant. Looking to the MLC of the applicant, it reveals that the applicant was aged about 25 years old at the time of accident. Therefore, as per the judgment of Hon'ble Apex Court in **Pranay Sethi(supra)**, the applicant is

entitled to get 40% income towards the prospective income of the applicant. Therefore, the total monthly income of applicant including the prospective income works out at **Rs.3500/- [i.e.Rs.2500 (per month) + Rs.1000/- (40%prospective)]**.

- (11) The applicant has produced disability certificate issued by Dr. A.I.Upadhyay M.S.(ortho), wherein the doctor has assessed the permanent disability of applicant at 17% of the whole body. The opponent has admitted the disability of the applicant to the extent of 9% of the whole body at Exh.25. Thus, in view of the aforesaid discussion as well as the evidence available on record, this tribunal is of the opinion that the disability of the applicant can be considered at 9% of the whole body.
- (12) As discussed above, applicant was aged about 25 years (approx) at the time of accident. So, keeping in view the judgment of **Sarla verma V/s. Delhi State Transport Corporation and another 2009 ACJ 1298**, as the age of the claimant was 25 years at the time of accident, I deem it fit to give **multiplier of 18**.
- (13) Therefore, **future loss of income** would come to **(Rs.3500/- x 12 x 9% x 18) = Rs.68,040/-**.
- (14) Now, so far as other pecuniary and non-pecuniary losses are concerned. The applicant has produced the medical bills worth Rs.500/-(approx). The applicant has not

produced any bills regarding his expenses like transportation charges, attendance charges, special diets etc. But it is established on record that the applicant has sustained left clavicle. Therefore, it is obvious that she must have taken medical treatment for his accidental injuries and has incurred expenses towards transportation, attendances charges, special diet etc. and certainly have suffered unbearable pain, shock and sufferings. Therefore, in the interest of justice, reasonable figures are required to be awarded under these heads. Hence, this tribunal upon considering the evidence on record as well as the arguments of both the sides, awards Rs.5,000/- towards medical expenses as the applicant has suffered grievous hurt, Rs.5000/- towards actual loss for two months, Rs.5,000/- towards pain, shock and suffering, Rs.5,000/- under the head of special diet, transportation and attendant charges in view of the prevailing inflation, which are just and proper.

- (15) Now, it is well settled principle of law that the *just compensation* should be awarded to the victim. Now, considering the above noted facts and foregoing reasons and keeping in mind the concept of the 'just compensation', this Tribunal has inclined the following quantum :-

1	Future Loss of Income	Rs.68,040/-
2	Actual Loss of Income	Rs. 5,000/-

3	Pain, Shock and Suffering	Rs. 5,000/-
4	Medical Expenses.	Rs. 5,000/-
5	Transportation, Special Diet and Attendance charges.	Rs. 5,000/-
<b>Total (Rupees Eighty Eight Thousand And Forty Only)</b>		<b>Rs.88,040/-</b>

### **INTEREST**

- (16) The applicant has prayed for interest at the rate of 18% per annum. Therefore, I have sought guidance from the judgment of Hon'ble Supreme Court in National Insurance Com. vs. Pranay Sethi (supra), wherein the Hon'ble Supreme Court has allowed the interest at the rate of 9% and hence, I hold that claimant is entitled to get 9%. It is apposite to observe here that as per passed below Exh.1 on 22.07.2025, the applicant is not entitled to get interest from 09.08.2016.

### (17) **LIABILITY**

Now so far the question of liability is concerned. As discussed above, the accident had occurred due to the sole negligent driving of driver of the jeep involved in the accident. It reveals that the opponent no.1, 2 and 3 are driver, owner and insurance company of the jeep involved in the accident. It is relevant to observe that though the applicant has not produced any evidence to show that the opponent no.3 is the insurance company of the jeep. But the opponent no.3 has not denied the fact that it was not the insurer of the jeep at the time of

accident in its written statement. Hence, the opponent no.2 and 3 are jointly and severally liable to pay compensation to the applicant.

Accordingly, the opponent no.1 is hereby exonerated from the liability from the payment of compensation as he has been deleted from the array of parties.

- (18) Based on the above discussion and observations, I accordingly give my findings for the Issue no.2 and Issue no.3 as per the following final order as under:

**-:ORDER:-**

1. This petition is allowed against opponent nos.2 and 3 with costs and interest. Petition qua opponent no.1 stands dismissed.
2. Opponents no.2 and 3 are directed to pay a compensation of ***Rs.88,040/- (Rupees Eighty Eight Thousand and Forty Only)*** to the applicant jointly and severally with costs and simple interest at the rate of 9% per annum from the date of filing to 09.08.2016, as per order below Exh.1 passed on 22.07.2025.
3. Opponents are hereby directed to deposit the above amount within 30 days from the date of award of this Tribunal.
4. The aforesaid opponents are directed to deposit the amount of compensation through RTGS / NEFT in Bank account details of Motor Accident Claims

Tribunal, Banaskantha at Palanpur, as under:

Name of Bank	STATE BANK OF INDIA
Name of Account	MACT, DISTRICT COURT, PALANPUR
Bank Branch Name	OPP. OLD GANJ BAZAR, MAIN BRANCH, PALANPUR
Bank Account No.	40902081331
IFSC No.	SBIN0000443
Email Address	mact-palanpur@gujarat.gov.in

5. The applicant is directed to furnish his bank particulars i.e.bank account number along with branch name, IFS Code, Copy of Pan Card before the Registry and thereafter, Registry is directed to make disbursement of the amount of compensation accordingly.
6. After the amount is deposited, requisite court fees, if any, and/or interim compensation received earlier, is ordered to be deducted first from the awarded amount.
7. After above deduction, the entire award be paid to the applicant by account payee cheque/NEFT/RTGS after due verification.
8. The opponents shall also bear costs of its petition as well as the petition of applicant.
9. Yadi incorporating this Order to accompany the cheque shall be furnished to the Bank and a copy thereof also be furnished to the applicant.
10. Opponents have to follow direction given by the

Hon'ble High Court of Gujarat in case of Hansa Gauri Prafulchandra Ladhani reported in 2007 ACJ 1897 regarding income tax liability.

11. Award is to be drawn accordingly.

Signed & pronounced today, on this 16th day of April,  
2026.

Place : Palanpur  
Date : 16/04/2026

(Piyushkumar A. Patel)  
*Chairman*  
M.A.C. Tribunal(Auxi.)  
Palanpur, Dist.Banaskantha.  
Code-GJ00803