

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
[3RD.AUXI], BANASKANTHA DISTRICT, AT PALANPUR.**

Motor Accident Claim Petition No.312 of 2023

with


Motor Accident Claim Petition No.313 of 2023

with

Motor Accident Claim Petition No.314 of 2023

with

Motor Accident Claim Petition No.317 of 2023

GJBK010033912023 	DATE OF INSTITUTION	20/10/2023		
	DATE OF REGISTRATION	20/10/2023		
	DATE OF JUDGMENT	10/03/2026		
	DURATION	DAYS	MONTHS	YEARS
		22	04	02

Motor Accident Claim Petition No.312 of 2023 [Main]

**Legal heirs of Deceased Bhavnaben Chhogabhai Patel,
Chhogabhai Rupaji Patel,
Age: 55 years, Occ.Agriculture,
R/o.Mithavirana, Post-Daiyap, Tal.Vav, Dist.Banaskantha.**

... APPLICANT

V/s

- 1) Pareshbhai Hemrajbhai Patel,
Age: 23 years, Occ. Agriculture,
R/o.Ratangadh, Tal.Vav, Dist.Banaskantha.

....CO-OPPONENT

- 1) Nandlal Chhagan Rupabhai,
Age: 52 years, Occ.Transport,
R/o.Ratnaal, Tal.Anjar, Dist.Kutch.

(Owner/policy holder of tanker No.GJ-12-BX-2888)

- 2) The Oriental Ins. Com. Ltd.,
Add.Sanskrit Complex, Abu Highway, Palanpur,
Dist.Banaskantha.
(Ins.Com. of tanker No.GJ-12-BX-2888)
- 3) Babulal Bhuraram Rabari,
Age: Adult, Occ.Driving,
R/o. Radka, Tal.Tharad, Dist.Banaskantha.
(Owner of Dala No.GJ-02-XX-5175)

...OPPONENTS


APPEARANCE :

Mr. T. R. Chavda, learned Adv. For the applicant.

None, for opponent no.1

Mr.A.M.Parmar, learned Adv. For the opponent no.2

Mr.P.G.Shrimali, learned Adv. For the opponent no.3

GJBK010034102023 	DATE OF INSTITUTION	21/10/2023		
	DATE OF REGISTRATION	21/10/2023		
	DATE OF JUDGMENT	10/03/2026		
	DURATION	DAYS	MONTHS	YEARS
		20	04	02

Motor Accident Claim Petition No.313 of 2023

Ramilaben Padmabhai Chaudhary,

Age: 19 years, Occ.Agriculture & Animal Husbandry,

R/o.Aakoli, Tal.Vav, Dist.Banaskantha.

... APPLICANT

V/s

- 1) **Nandlal Chhagan Rupabhai,**
Age: 52 years, Occ.Transport,
R/o.Ratnaal, Tal.Anjar, Dist.Kutch.
(Owner/policy holder of tanker No.GJ-12-BX-2888)
- 2) **The Oriental Ins. Com. Ltd.,**
Add.Sanskrit Complex, Abu Highway, Palanpur,
Dist.Banaskantha.
(Ins.Com. of tanker No.GJ-12-BX-2888)

- 3) **Babulal Bhuraram Rabari,**
Age: Adult, Occ.Driving,
R/o. Radka, Tal.Tharad, Dist.Banaskantha.
(Owner of Dala No.GJ-02-XX-5175)

...OPPONENTS


APPEARANCE :

Mr. T. R. Chavda, learned Adv. For the applicant.

None, for opponent no.1

Mr.A.M.Parmar, learned Adv. For the opponent no.2

Mr.P.G.Shrimali, learned Adv. For the opponent no.3

GJBK010034112023 	DATE OF INSTITUTION	21/10/2023		
	DATE OF REGISTRATION	21/10/2023		
	DATE OF JUDGMENT	10/03/2026		
	DURATION	DAYS	MONTHS	YEARS
		20	04	02

Motor Accident Claim Petition No.314 of 2023

Sagunaben, D/o.Padmabhai Chaudhary,
W/o.Narsinhbhai Chaudhary,
Age: 22 years, Occ.Tuition Class,
R/o.Patel Vas Aakoli, Tal.Vav, Dist.Banaskantha.

... APPLICANT

V/s

- 1) **Nandlal Chhagan Rupabhai,**
Age: 52 years, Occ.Transport,
R/o.Ratnaal, Tal.Anjar, Dist.Kutch.
(Owner/policy holder of tanker No.GJ-12-BX-2888)
- 2) **The Oriental Ins. Com. Ltd.,**
Add.Sanskrit Complex, Abu Highway, Palanpur,
Dist.Banaskantha.
(Ins.Com. of tanker No.GJ-12-BX-2888)
- 3) **Babulal Bhuraram Rabari,**
Age: Adult, Occ.Driving,

R/o. Radka, Tal.Tharad, Dist.Banaskantha.
(Owner of Dala No.GJ-02-XX-5175)

...OPPONENTS


APPEARANCE :

Mr. T. R. Chavda, learned Adv. For the applicant.

None, for opponent no.1

Mr.A.M.Parmar, learned Adv. For the opponent no.2

Mr.P.G.Shrimali, learned Adv. For the opponent no.3

GJBK010034142023 	DATE OF INSTITUTION	21/10/2023		
	DATE OF REGISTRATION	21/10/2023		
	DATE OF JUDGMENT	10/03/2026		
	DURATION	DAYS	MONTHS	YEARS
		20	04	02

Motor Accident Claim Petition No.317 of 2023

Bhagwanbhai Purabhai Patel,

Age: 34 years, Occ.Agriculture and Animal Husbandry,

R/o.Patel Vas Aakoli, Tal.Vav, Dist.Banaskantha.

... APPLICANT

V/s

- 1) **Nandlal Chhagan Rupabhai,**
Age: 52 years, Occ.Transport,
R/o.Ratnaal, Tal.Anjar, Dist.Kutch.
(Owner/policy holder of tanker No.GJ-12-BX-2888)
- 2) **The Oriental Ins. Com. Ltd.,**
Add.Sanskrit Complex, Abu Highway, Palanpur,
Dist.Banaskantha.
(Ins.Com. of tanker No.GJ-12-BX-2888)
- 3) **Babulal Bhuraram Rabari,**
Age: Adult, Occ.Driving,
R/o. Radka, Tal.Tharad, Dist.Banaskantha.
(Owner of Dala No.GJ-02-XX-5175)

...OPPONENTS

APPEARANCE :

Mr. T. R. Chavda, learned Adv. For the applicant.

None, for opponent no.1

Mr.A.M.Parmar, learned Adv. For the opponent no.2

Mr.P.G.Shrimali, learned Adv. For the opponent no.3

COMMON JUDGMENT

1. At the outset, the applicants have filed this group of claim petition under Section 164 of the Motor Vehicles Act, seeking compensation, from the opponents. Later, they have converted this group of claim petition under Section 166 of the Motor Vehicles Act, 1988, as per the order passed below Exh.12. As all these claim petitions have arisen from the same accident, therefore, they are consolidated together as per the order passed in MACP No.312/2023 and they are being disposed of by this common judgment.
2. The applicants of this group of claim petition have claimed compensation as mentioned in their respective claim petitions.
3. The brief facts of above these claim petitions are that on 23/07/2023, the deceased-Bhavnaben along with the applicants of this group of claim petition were returning to their home by paying visit to the temple of Ranuja by sitting in the dala no.GJ-02-XX-5175. When they reached near the patiya of village Jandi, at that time, a tanker

no.GJ-12-BX-2888, driven rashly and negligently, suddenly came and dashed the pickup of the deceased. Hence, the accident had occurred. In the said accident, deceased and other claimants sustained severe injuries. Hence, this gave rise to the filing of present claim petitions by the applicants.

4. It appears from the record that opponents have been duly served with the notice.

Despite being served with notice, opponent no.1 has chosen not to appear to contest the present proceedings.

Learned Adv. Mr.A.M.Parmar for the opponent no.2 has appeared and filed his written statement vide Exh.11, wherein, he denies each and every averments of the claim petition.

Learned Adv. Mr.P.G.Shrimali has appeared on behalf of opponent no.3 and he opposed the claim petition by denying each and every averments of the claim petition.

5. Based on the averments of the claim petition, this tribunal has framed the following issues for determination of the present claim petitions, which are as under;

- 1) Whether the applicant/s prove/s that he/she/ deceased sustained injuries/death due to rash and/or negligent driving of the vehicles involved in the accident ?

- 2) Whether the applicant/s prove/s that he/she/they is/are entitled to get compensation? If yes, who is responsible to pay compensation and to what extent ?
 - 3) What award ?
6. My findings to the above issues are as under:
- (1) In the affirmative.
 - (2) In the affirmative.
 - (3) As per final order.

REASONS

7. Since, all the issues are related with each other hence, for the sake of brevity and convenience, they are discussed together.
8. The parties have relied upon the following oral as well as documentary evidence to prove or disprove the facts of the claim petitions;

<i>Evidence led by applicants</i>		
	Oral Evidence	
1.	Deposition of claimant of MACP No.312/2023.	Ex.20
2.	Deposition of claimant of MACP No.313/2023.	Ex.24
3.	Deposition of claimant of MACP No.314/2023.	Ex.26
4.	Deposition of claimant of MACP No.317/2023.	Ex.28

8 M.A.C.P. No.312, 313, 314 & 317 of 2023

5.	Affidavit of Dr.Amrut A. Patel with respect to disability of Ramilaben.	Ex.71
6.	Affidavit of Dr.Amrut A. Patel, with respect to the disability of Sagunaben.	Ex.73
7.	Affidavit of Dr.Amrut A. Patel with respect to disability of Bhagwanbhai.	Ex.75
	Documentary Evidence	Exh.
1.	Certified copy of decree of cognate MACP No.308/2023	47
2.	Certified copy of complaint.	48
3.	Certified copy of panchanama of place of offence.	49
4.	Certified copy of report of police regarding non-performance of post-mortem report.	50
5.	Copy of RC of tanker.	51
6.	Copy of insurance policy of tanker.	52
7.	Copy of MLC of Ramilaben.	53
8.	Copy of MLC of Sugnaben.	54
9.	Copy of MLC of Bhagwanbhai Patel.	55
10.	Copy of death certificate of Bhavnaben Patel.	56
11.	Photograph of Ramilaben.	57
12.	Village Form No.8-A-Father of Ramilaben.	58
13.	Copy of MLC of Bhagwanbhai.	59
14.	Discharge Card of Bhagwanbhai.	60
15.	Prescriptions and Medical Reports of Bhagwanbhai.	61
16.	Medical Bills of Bhagwanbhai.	62
17.	Village Form No.8-A of Bhagwanbhai.	63
18.	Copy of MLC of Ramilaben.	64
19.	Copy of MLC of Sugnaben.	65
20.	Discharge card of Sugnaben.	66
21.	Medical Prescriptions of Sugnaben.	67

9 M.A.C.P. No.312, 313, 314 & 317 of 2023

22.	Medical Bills of Sugnaben.	68
23.	Village Agriculture Form No.8-A of Sugnaben.	69
24.	Disability Certificate of Sagunaben.	74
25.	Disability Certified of Bhagwanbhai.	76
26.	Laboratory Test Report of Ramilaben.	86
27.	Medical Bills of Ramilaben.	87
28.	Medical Bill of Sukanaben of Future Brain & Spine.	88
29.	Certified copy of Kabulat in CC No.650/2023.	91
30.	Village Agriculture No.8-A of Chhogabhai.	92

9. The claimants of this group of claim petitions have filed their affidavits vide Exh.20, 24, 26 and 28, wherein, they have stated the facts in support of their claim petition. Learned Advocate Mr.A.M.Parmar for of the opponent no.2, has also cross-examined, the applicants, wherein, applicant-Chhogabhai has admitted that he has not witnessed the occurrence of accident, whereas, the other applicants have stated that they are traveling in the dala and when they heard the sound of collision, they came to know about the accident. The other suggestions like the driver of pick up dala suddenly applied the brake, he negligently drove the pick up dala and dashed the pick up dala with divider of the road and thereafter dashed his pick up dala with the tanker. It is also denied by the injured claimants that the accident took place due to sole negligence of the driver of the pick up dala and there was no negligence on the part of the driver of the tanker.

Issue No.1(Common in all the Petitions)

10. Heard, learned Advocate for the parties and perused the record of the claim petitions. I have also gone through the written arguments submitted by the learned Advocates for the parties. The learned Advocate for the applicants has relied on the following judgments, as under;
- 1) Ranchodbhai Somabhai and Anr. vs. Babubhai Bhailalbai and Ors. Reported in 1982 GLH 28.
 - 2) GSRTC vs. Mariambai A. Adamji through his heirs and Anrs. Reported in 2003 (1) GLR VOL.XLIVC1.
 - 3) Khenyei vs. New India Assurance Co.Ltd., reported in ACJ 2015 P.1441.
11. Looking to the FIR and panchanama of place of offence, the facts of accident like date, time, place, involvement of vehicles etc. are not disputed. Now, looking to the death certificate of the Bhavnaben, her death become undisputed. Now, looking to the medical papers available on record, the accidental injuries of applicants are not disputed.
12. 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.

13. Perused the complaint, it is lodged against the driver of the tanker involved in the accident. As per the complaint, the tanker driven rashly and negligently suddenly came from the rear side of the dala and dashed it. Looking to the panchnama of the place of offence, it reveals that both the vehicles are lying on the spot of accident in damaged conditions. It further reveals that the pickup dala suffered huge damages on its dala whereas the tanker suffered damages on its front portion. Looking to the charge-sheet, it reveals that the police after investigation has filed the charge-sheet against the driver of the tanker involved in the accident. The charge-sheet is also suggesting that the tanker dashed the dala from rear side. Despite being alleged with rash driving, the driver of the tanker did not turn up to negate the manner of accident as is emerging out from the documentary evidence or narrated by the applicants in their claim petition. It is also relevant to observe that opponents have not challenged the charge-sheet so far before the Higher Authority. In case of **New India Assurance Co. Ltd. vs. Pazhaniammal (2012 ACJ 1370)**, it has been held that the filing of a charge-sheet by the police is prima facie evidence of negligence of the driver of the offending vehicle. The applicants were the passengers of the Jeep Dala and they are traveling by sitting in the dala. It is worthy to mention here that the

driver of the tanker was supposed to drive in slow and moderate speed by observing due care and caution. However, the driver of the tanker failed to abide by its duty of care. Moreover, in the same set of evidence, the insurance company has arrived at settlement with other claimant who sustained injuries in the same accident. Therefore, considering the overall evidence, this tribunal is of the opinion that the accident had occurred due to the sole negligent driving of driver of the tanker involved in the accident. Thus, this tribunal decides Issue No.1 in "**AFFIRMATIVE**"

Issue No.2 & 3:-

14. The next important question that requires determination is of just, fair and reasonable amount of compensation that what should be awarded to the claimants for causing the fatal injuries due to the alleged accident.

M.A.C.P. No.312/2023: (Claim Rs.20,00,000/-)

15. Learned Advocate Mr.T.R.Chavda for the applicant has stated that deceased was doing tailoring works at the time of accident. Apart from tailoring works, she was also doing agriculture and animal husbandry in her leisure time. By doing these works, she was earning Rs.18,000/- per month.
16. Per contra, learned Advocate for the insurance company has argued that the applicant has not proved the income of

the deceased at the time of accident. Therefore, notional income, as per the minimum wages at the prevalent time, of the deceased may be considered.

17. Looking to the record, it reveals that the applicant has not produced any cogent evidence to prove the income of the deceased. However, it is not the case of the opponents that the deceased was not working at all at the time of accident. It is relevant to observe that applicant has produced the village agriculture form which only suggests that deceased may be engaged in the agriculture and allied activities. It is relevant to observe that the accident had occurred in the year 2023. It is pertinent to note here that the deceased was married, her husband is joined as co-opponent/ co-claimant in this petition. He has not produced any evidence. It is also relevant to observe that act is beneficial and accident has occurred in the year 2023 and therefore, considering the inflation as well as prevalent minimum wages, this tribunal deems it fit to consider Rs.12,000/- as the monthly notional income of the applicant, which would be just and proper.
18. The applicant has stated in his claim petition that deceased was aged about 21 years old at the time of accident. Looking to the aadhar card of the deceased, it reveals that the deceased is 21 years old approx. So, by applying the legal principles laid down in the case of **Sarla Verma v.**

Delhi Transport Corporation reported in **AIR 2009 SC 3104**, the **multiplier of 18** is adopted by this tribunal.

19. It reveals from the record that deceased has studied upto standard 8th. She was married. Her Husband is co-opponent/ co-claimant. It is apt to mention here that the mother of the deceased though alive, she has not been joined as either applicant claimant or co-opponent claimant as her husband is joined as co-opponent claimant. It is declared by the applicant who is father of the deceased that he does not want to join her wife/ mother of the deceased as claimant vide exh. 95 pursis. Therefore, claimants are the father of the deceased and her husband. In cross-examination, father of the deceased Chhogabhai Rupaji Patel has admitted that he has three sons, all are married. They all are residing together and doing agricultural activities and animal husbandry together. Thus, the father is not dependent on the deceased-married daughter. In written argument at Exh. 93 it is stated that the co-opponent Pareshbhai Hemrajbhai Patel was dependent on the deceased. As the deceased was married and having only husband and no child/children 1/3 shall be deducted towards personal expenses from the income of the deceased as per the judgment of **Sarla Verma (supra)**.
20. As the deceased was 21 years old and she was not having a permanent job at the time of accident hence, as per the reported judgment of Hon'ble Apex Court in the case of

National Ins. Co. Ltd. Vs. Pranay Sethi and Ors. reported in AIR 2017 SC 5157, 40% prospective income is required to be added in the income of the deceased.

21. Therefore, the **Loss of dependency** would become *Rs.24,19,200/- [Rs.12000/- (monthly income) + Rs.4800/- (Prospective Income) - Rs.5600/- {1/3(Personal expense)}] X 12 X Multiplier = Rs.11200 X 12 X 18 (Multiplier)].*

Now so far as the conventional heads are concerned, the applicant is entitled to get Rs.18,000/- towards funeral expenses and Rs.18,000/- towards loss of estate as per the decision of Hon'ble Supreme Court in Pranay Sethi (Supra) including 20% increment on completion of six years as suggested by the Hon'ble Supreme Court in its above decision. Further, applicant and co-opponent are also entitled to get Rs.96,000/- towards filial and spousal consortium as per the judgment of Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram & Ors. And United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur and Ors.** reported in (2020) SCC Online 410.

22. Now, it is well-settled principle of law that just compensation should be awarded to the victim. Hence, considering the above noted facts and foregoing reasons

and keeping in mind the concept of 'just compensation', this Tribunal is inclined to grant the following quantum:-

Loss of dependency	Rs.24,19,200/-
Loss of Estate	Rs. 18,000/-
Funeral Expenses	Rs. 18,000/-
Loss of filial & Spousal consortium	Rs. 96,000/-
Total (Rupees Twenty Five Lakhs Fifty One Thousand Two Hundred Only)	Rs.25,51,200/-

M.A.C.P. No.313/2023: (Claim Rs.16,00,000/-)

23. Learned Advocate Mr.T.R.Chavda for the applicant has stated that applicant was fit and healthy at the time of accident and she was doing agriculture and animal husbandry in the agricultural lands of her father and she was earning Rs.18,000/- per month therefrom.

Per contra, learned Advocate for the insurance company has argued that the applicant has not proved her income and hence, notional income of the applicant may be considered.

In this regard, it is relevant to observe that it is true that applicant has not produced any evidence to show her income except the village agriculture form. But village agriculture form is not sufficient to ascertain any income based on this evidence. Even the agricultural land is running in the name of the father of the injured/applicant.

Simultaneously, it is also true that opponents have not disputed the fact that applicant was not working at all. It is also relevant to observe that act is beneficial and accident has occurred in the year 2023 and therefore, considering the inflation as well as prevalent minimum wages, this tribunal deems it fit to consider Rs.12,000/- as the monthly notional income of the applicant, which would be just and proper.

24. 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."

- (24.1) 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.
- (24.2) 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%.
- (24.3) To answer this issue reference is required to be made to the ratios laid down in the cases of **V.Mekala vs. Malathi, reported in 2014 ACJ 1441 (SC)**; **Sunita Tokas vs. New India Assurance Co. Ltd., 2019 (20)**

SCC 688; Rajendra Singh vs. N.I.Com., AIR 2020 SC 595 and Kirti vs. Oriental Insurance Com., ACJ 2021 1 (SC), Smt. Meena Pawaia vs. Ashraf Ali, Civil Appeal No.6724 of 2021, decided on 18th November, 2021, wherein it has been held that even in the case where notional income has been taken into account for calculation of amount of compensation, future prospect shall be taken into consideration.

- (25) 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. In addition to the minimum wages, the applicant who is 19 years old would be also entitled to 40% for future prospects in view of the judgment of Apex Court in National Insurance Company Limited v. Pranay Sethi & Ors. reported in (2017) 12 SCC 378.,
26. Thus, the compensation works out to be Rs.12000/- plus 40%, which amounts to Rs.4800/- per month.
27. Applicant has stated that she was 19 years old at the time of accident. Looking to the evidence on record, applicant has not produced any evidence to prove her age. However, looking to the medical papers available on record, it reveals that the applicant was 19 years old 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

19 years at the time of accident, I deem it fit to give **multiplier of 18.**

28. Looking to the record, it reveals that applicant has produced the disability certificate issued by Dr.Amrut A. Patel, M.S. (Ortho), who has assessed the permanent partial disability of the applicant to the extent of 70% of the affected limb. Looking to the papers available on record, the opponent has not admitted the disability certificate of the applicant. However, looking to the photograph of the applicant-Ramilaben, it reveals that the applicant has suffered amputation of right leg below knee. The applicant has also examined the Dr.Amrut A. Patel, vide Exh.71, who has given his evidence in support of the disability certificate issued by him. He has further admitted that applicant is not able to do agriculture and animal husbandry after treatment with full capacity as was doing before accident. Thus, this tribunal after considering the evidence on record, considers permanent disability of the applicant for functional disability due to amputation of right leg below knee from the accidental injuries at 50% of the whole body.

Thus, the loss of future earnings due to the Permanent Disability for life thus works out to be **Rs.18,14,400/-, i.e., (Rs.12000/- + Rs.4800 = Rs.16,800) x 50% X 12 x 18.**

29. Now so far as the non-pecuniary damages are concerned. The applicant has produced the medical bills worth Rs.2,77,500/- approx. The applicant has not produced any bills regarding his expenses of special diet, attendance charges, transportation etc. But it is crystal clear from the evidence on record that applicant has suffered fracture injury of her right leg and suffered imputation of right leg below knee and she has also taken treatment for the same at different hospitals. Therefore, it is obvious that she must have incurred expenses towards transportation, attendances charges, special diet etc. and certainly have suffered unbearable pain, shock and sufferings. Looking to the nature of injury sustained by injured applicant, it cannot be denied that injured applicant has remained away from her avocation for considerable period of time and suffered financial loss. 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.2,77,500/- towards medical expenses, Rs.60,000/- towards actual loss for a period of five months considering the gravity of disability and amputation injury suffered by the applicant, Rs.50,000/- towards pain, shock and suffering, Rs.50,000/- under the head of special diet, transportation and attendance charges considering the nature of injury and requirement of prolong attendant**

due to the amputation of right leg below knee, which are just and proper.

1	Actual Loss of Income.	Rs.18,14,400/-
2	Actual Loss of Income	Rs. 60,000/-
3	Pain, Shock and Suffering	Rs. 50,000/-
4	Medical Bills.	Rs. 2,77,500/-
5	Transportation, Special Diet and Attendance charges.	Rs. 50,000/-
Total (Rupees Twenty Two Lakhs Fifty One Thousand Nine Hundred Only)		Rs.22,51,900/-

M.A.C.P. No.314/2023: (Claim Rs.8,00,000/-)

30. Learned Advocate Mr.T.R.Chavda for the applicant has stated that applicant was fit and healthy at the time of accident and she was giving tuition classes. Apart from tuition classes, she was also doing agriculture and animal husbandry and she was earning Rs.18,000/- per month therefrom.

Per contra, learned Advocate for the insurance company has argued that the applicant has not proved her income and hence, notional income of the applicant may be considered.

In this regard, it is relevant to observe that it is true that applicant has not produced any evidence to show her income except the village agriculture form. But village agriculture form is not sufficient to ascertain any income

based on this evidence. There is no evidence regarding the income of applicant from tuition classes. Simultaneously, it is also true that opponents have not disputed the fact that applicant was not working at all. It is also relevant to observe that act is beneficial and accident has occurred in the year 2023 and therefore, considering the inflation as well as prevalent minimum wages, this tribunal deems it fit to consider Rs.12,000/- as the monthly notional income of the applicant, which would be just and proper.

31. In addition to the minimum wages, the applicant who is 22 years old would be also entitled to 40% for future prospects in view of the judgment of Apex Court in National Insurance Company Limited v. Pranay Sethi & Ors. reported in (2017) 12 SCC 378.,
32. Thus, the compensation works out to be Rs.12000/- plus 40%, which amounts to Rs.4800/- per month.
33. Applicant has stated that she was 22 years old at the time of accident. Looking to the evidence on record, applicant has not produced any evidence to prove her age. However, looking to the medical papers available on record, it reveals that the applicant was 22 years old 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

22 years at the time of accident, I deem it fit to give **multiplier of 18.**

34. Looking to the record, it reveals that applicant has produced the disability certificate issued by Dr.Amrut A. Patel, M.S. (Ortho), who has assessed the permanent partial disability of the applicant to the extent of 40% of the affected limb. Looking to the papers available on record, the opponent has not admitted the disability certificate of the applicant. The applicant has also examined the Dr.Amrut A. Patel, vide Exh.73, who has given his evidence in support of the disability certificate issued by him. He has further admitted that the capacity of the applicant to do agriculture and animal husbandry may be reduced by 80% after having such disability. Thus, this tribunal after considering the evidence on record, considers permanent disability of the applicant from the accidental injuries at 20% of the whole body.

Thus, the loss of future earnings due to the Permanent Disability for life thus works out to be **Rs.7,25,760/-, i.e., (Rs.12000/- + Rs.4800 = Rs.16,800) x 20% X 12 x 18.**

35. Now so far as the non-pecuniary damages are concerned. The applicant has produced the medical bills worth Rs.74,000/- approx. The applicant has not produced any bills regarding his expenses of special diet, attendance charges, transportation etc. But it is crystal clear from the

evidence on record that applicant has spine injury and she has also taken treatment for the same at different hospitals. Therefore, it is obvious that she must have incurred expenses towards transportation, attendances charges, special diet etc. and certainly have suffered unbearable pain, shock and sufferings. Looking to the nature of injury sustained by injured applicant, it cannot be denied that injured applicant has remained away from her avocation for considerable period of time and suffered financial loss. 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.1,00,000/- towards medical expenses, Rs.36,000/- towards actual loss for a period of three months, Rs.35,000/- towards pain, shock and suffering, Rs.35,000/- under the head of special diet, transportation and attendance charges,** which are just and proper.

1	Actual Loss of Income.	Rs.7,25,760/-
2	Actual Loss of Income	Rs. 36,000/-
3	Pain, Shock and Suffering	Rs. 35,000/-
4	Medical Bills.	Rs. 1,00,000/-
5	Transportation, Special Diet and Attendance charges.	Rs. 35,000/-
Total (Rupees Nine Lakhs Thirty One Thousand Seven Hundred Sixty Only)		Rs.9,31,760/-

M.A.C.P. No.317/2023: (Claim Rs.5,00,000/-)

36. Learned Advocate Mr.T.R.Chavda for the applicant has stated that applicant was fit and healthy at the time of accident. He was doing agriculture and animal husbandry and he was earning Rs.22,000/- per month therefrom.

Per contra, learned Advocate for the insurance company has argued that the applicant has not proved his income and hence, notional income of the applicant may be considered.

In this regard, it is relevant to observe that it is true that applicant has not produced any evidence to show his income except the village agriculture form. But village agriculture form is not sufficient to ascertain any income based on this evidence. Simultaneously, it is also true that opponents have not disputed the fact that applicant was not working at all. It is also relevant to observe that act is beneficial and accident has occurred in the year 2023 and therefore, considering the inflation as well as prevalent minimum wages, this tribunal deems it fit to consider Rs.12,000/- as the monthly notional income of the applicant, which would be just and proper.

37. In addition to the minimum wages, the applicant who is 34 years old would be also entitled to 40% for future prospects in view of the judgment of Apex Court in

National Insurance Company Limited v. Pranay Sethi & Ors. reported in (2017) 12 SCC 378.,

38. Thus, the compensation works out to be Rs.12000/- plus 40%, which amounts to Rs.4800/- per month.
39. Applicant has stated that he was 34 years old at the time of accident. Looking to the evidence on record, applicant has not produced any evidence to prove his age. However, looking to the medical papers available on record, it reveals that the applicant was 34 years old 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 34 years at the time of accident, I deem it fit to give **multiplier of 16.**
40. Looking to the record, it reveals that applicant has produced the disability certificate issued by Dr.Amrut A. Patel, M.S. (Ortho), who has assessed the permanent partial disability of the applicant to the extent of 25% of the whole body. Looking to the papers available on record, the opponent has not admitted the disability certificate of the applicant. The applicant has also examined the Dr.Amrut A. Patel, vide Exh.75, who has given his evidence in support of the disability certificate issued by him. He has further admitted that the applicant cannot do agriculture and animal husbandry after the accident as was

doing before the accident. Thus, this tribunal after considering the evidence on record, considers permanent disability of the applicant from the accidental injuries at 25% of the whole body. It is opined by the doctor that he cannot do the agricultural work as the injured is illiterate, has no avocation except the agricultural work, therefore, his functional disability is to be considered as 50%.

Thus, the loss of future earnings due to the Permanent Disability for life thus works out to be **Rs.16,12,800/-, i.e., (Rs.12000/- + Rs.4800 = Rs.16,800) x 50% X 12 x 16.**

41. Now so far as the non-pecuniary damages are concerned. The applicant has produced the medical bills worth Rs.16,000/- approx. The applicant has not produced any bills regarding his expenses of special diet, attendance charges, transportation etc. But it is crystal clear from the evidence on record that applicant has suffered cervical injury and he has also taken treatment for the same at different hospitals. Therefore, it is obvious that he must have incurred expenses towards transportation, attendances charges, special diet etc. and certainly have suffered unbearable pain, shock and sufferings. Looking to the nature of injury sustained by injured applicant, it cannot be denied that injured applicant has remained away from his avocation for considerable period of time and suffered financial loss. 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.16,000/- towards medical expenses, Rs.36,000/- towards actual loss for a period of three months, Rs.35,000/- towards pain, shock and suffering, Rs.35,000/- under the head of special diet, transportation and attendance charges**, which are just and proper.

1	Actual Loss of Income.	Rs.16,12,800/-
2	Actual Loss of Income	Rs. 36,000/-
3	Pain, Shock and Suffering	Rs. 35,000/-
4	Medical Bills.	Rs. 16,000/-
5	Transportation, Special Diet and Attendance charges.	Rs. 35,000/-
Total (<i>Rupees Seventeen Lakhs Thirty Four Thousand Eight Hundred Only</i>)		Rs.17,34,800/-

LIABILITY

42. As discussed above, the accident had occurred due to the sole negligent driving of the tanker involved in the accident. Looking to the record, it reveals that the opponents no.1 and 2 are the owner and insurance company of the tanker involved in the accident. It further reveals that the insurance policy of the tanker was also in force at the time of accident. The applicants are also traveling as passengers of the jeep dala involved in the accident. Therefore, opponents no.1 and 2 are jointly and severally liable to pay compensation to the applicants.

Simultaneously, the opponent no.3, who is the owner of the jeep is hereby exonerated from the liability of payment of compensation as the accident had occurred due to the sole negligent driving of driver of the tanker involved in the accident.

INTEREST

43. Applicants are also entitled to get interest over the award amount as per the settled principles of law. 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 claimants are entitled to get 9% and accordingly, I answer Issue No.2.
44. For Issue No.3, I pass the following final order as under;

ORDER

M.A.C.P No.312/2023:

1. This petition is allowed with costs and interest against opponents no.1 and 2. Petition qua opponent no.3 stands dismissed.
2. Opponents no.1 and 2 are directed to pay compensation of **Rs.25,51,200/- (Rupees Twenty Five Lakhs Fifty One Thousand Two Hundred Only)** to the applicant and co-opponent with costs and simple interest at the rate of 9% per annum

from the date of filing of the petition till actual realization.

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 and co-opponent are directed to furnish their 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 get deposited, requisite court fees, if any, and/or interim compensation received earlier, is ordered to be deducted first from the awarded amount. The amount is distributed in the ratio of 10:90 between the applicant/claimant who is the father of the deceased (10%) and co-

opponent/ claimant who is the husband of the deceased (90%).

7. After above deduction, 30% of the share of applicant shall be paid to him in his bank account through RTGS/NEFT, after due verification and the remaining 70% of the share of applicant be invested in FDR in his name in any nationalized bank as per his choice for a period of five years.

M.A.C.P No.313/2023:

1. This petition is allowed with costs and interest against opponents no.1 and 2. Petition qua opponent no.3 stands dismissed.
2. Opponents no.1 and 2 are directed to pay compensation of **Rs.22,51,900/- (Rupees Twenty Two Lakhs Fifty One Thousand Nine Hundred Only)** to the applicant with costs and simple interest at the rate of 9% per annum from the date of filing of the petition till actual realization.
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 her 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 get 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, 30% of the share of applicant shall be paid to her in her bank account through RTGS/NEFT, after due verification and the remaining 70% of the share of applicant be invested in FDR in his name in any nationalized bank as per her choice for a period of five years.

M.A.C.P No.314/2023:

1. This petition is partly allowed with costs and interest against opponents no.1 and 2. Petition qua opponent no.3 stands dismissed.
2. Opponents no.1 and 2 are directed to pay compensation of **Rs.9,31,760/- (Rupees Nine Lakhs Thirty One Thousand Seven Hundred**

Sixty Only) to the applicant with costs and simple interest at the rate of 9% per annum from the date of filing of the petition till actual realization.

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 get 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, 50% of the share of applicant shall be paid to him in his bank account

through RTGS/NEFT, after due verification and the remaining 50% of the share of applicant be invested in FDR in his name in any nationalized bank as per his choice for a period of five years.

M.A.C.P No.317/2023:

1. This petition is allowed with costs and interest against opponents no.1 and 2. Petition qua opponent no.3 stands dismissed.
2. Opponents no.1 and 2 are directed to pay compensation of **Rs.17,34,800/- (Rupees Seventeen Lakhs Thirty Four Thousand Eight Hundred Only)** to the applicant with costs and simple interest at the rate of 9% per annum from the date of filing of the petition till actual realization.
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
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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 get 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, 50% of the share of applicant shall be paid to him in his bank account through RTGS/NEFT, after due verification and the remaining 50% of the share of applicant be invested in FDR in his name in any nationalized bank as per his choice for a period of five years.

Opponents shall also bears the costs of their petition as well as the petitions of applicants.

The investment of Fixed Deposits shall carry the following terms and conditions:-

- (A) Applicants are entitled to get interest on the Fixed Deposit receipt quarterly if he desires without permission of this Tribunal.
- (B) No loan, overdraft or advance, known by any name or nomenclature shall be made available on the said FDR and the Bank

shall not allow any encumbrance on the said Fixed Deposit.

- (C) At the end of stipulated period of F.D., as aforesaid the Bank shall pay the total amount of F.D. with interest accrued thereon, if any by A/c Payee Cheque to be drawn in the name of the applicant without permission of the Tribunal.

Yadis of this order be furnished to the applicants.

The opponent shall 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.

Awards be drawn accordingly.

The main Judgment be kept with MACP No.312/2023 and the copies of this judgment be kept in the other claim petition of this group.

Pronounced in the open Court today, this **10th day of March, 2026.**

PALANPUR.

Date:10/03/2026

(Piyushkumar A. Patel)

Chairman

M.A.C. TRIBUNAL(Auxi.)
B.K.DISTRICT, PALANPUR.
(Code : GJ00803)