

GJBK010034952024



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Received On: 23-08-2024

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Decided On: 30-03-2026

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**BEFORE THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL [MAIN], BANASKANTHA DISTRICT, AT
PALANPUR.**

MACP No.207/2024

Heirs of deceased Taral Balavantbhai
Batukbhai:

1. Shardaben Balvantbhai Taral,
Age -26 years, Occu. Household work,
2. Shivaniben Balvantbhai Taral,
Age - 10 months, Occu. Nothing,
3. Taral Batukbhai Padabhai,
Age-47 years, Occu. Agriculture,
4. Leelaben Batukbhai Taral,
Age - 45 years, Occu. Household work,

Petitioner No.2 being minor through her
natural guardian & next friend petitioner No.4.

All are R/o Sanali, Tal. Danta,
Dist. Banaskantha.

...Petitioners

Versus

1. Pawankumar Balkrishna Dave,
Age - Adult,
R/o Gayatri Nagar Society, Vadali,
Dist. Sabarkantha, Guajrat, Pin-383235.
(Owner of MV No.GJ-09-BC-6586)

2. SBI General Insurance Co.Ltd.
Office No.1, Ground Floor, Near
Way-wait Hotel, Palanpur,
Gujarat - 385001.
(Insurer of MV No.GJ-09-BC-6586) **...Opponents**

Claim for Rs.40,00,000 u/s.166 of M.V.Act.

Appearances:

Learned Advocate, Mr. R.J. Barad, for the claimants.
Learned Advocate, Mr. V.K. Vora for opponent No.1.
Learned Advocate, Mr. B.A. Raval for the opponent No.2.

JUDGMENT

[1] The petitioners, who are heirs and legal representatives of the deceased, have filed the present claim seeking compensation to the tune of Rs.40,00,000/- from the opponents on account of death of deceased Taral Balvantbhai Batukbhai, due to the injuries sustained by him in an accident that took place on 23.04.2024 at the time and place specified in para-7 of the petition involving MV No.GJ-09-BC-6586 which was being driven in a rash and negligent manner by driver of opponent No.1, which was also of the ownership of the opponent No.1, and which according to claim petition was duly insured by the opponent No.2, insurance company, and therefore, it is urged that all the opponents be held jointly and severally liable to pay the amount of compensation so required to be awarded herein.

[2] It is the case of the petitioners that on 23.04.2024 deceased Balvantbhai was pillion rider over motorcycle bearing registration No.GJ-08-DF-3616 of one Sanjaybhai and at that

time the said motorcycle was driven by Sanjaybhai slowly and correct side of the road. It is also case of the petitioners that at that time the driver of one MV No.GJ-09-BC-6586 had driven his vehicle at a very high and excessive speed, in rash and negligent manner and dashed with the motorcycle of the deceased. As a result of which the deceased fell down on the road and he had suffered serious fatal injuries over head and died due to the accidental injuries. It is also stated that after the accident the driver of the said MV No.GJ-09-BC-6586 fled away from the place of accident.

[3] It is also the case of the petitioners that the deceased was aged about 26 years at the relevant point of time and was earning Rs.25,000/- per month by doing agriculture and animal husbandry work. On account of his untimely death the petitioners are deprived of his income and have suffered great mental shock. Therefore, the petitioners have claimed Rs.40,00,000/- from all the opponents as compensation for the loss of dependency, loss of expectation of life, funeral expenses etc.

[4] The opponents are duly served.

[5] The opponent No.1, is the owner of the car No.GJ-09-BC-6586, and is duly served and has, in fact, appeared on the record of the proceedings and has contested the petition by filing written statement which is on the record of the proceedings at Ex-9. The opponent No.1 has taken up all available defences and has, generally speaking, denied any liability to pay any amount much less the amount of compensation claimed. It is submitted that the driver of the vehicle was holding valid driving licence. It is specifically stated that there was no negligence on the part of the car driver and the accident occurred due to sole negligence of

driver of the motorcycle who was driving his motorcycle at a very high and excessive speed and in wrong side dashed with the car and as a result of which the deceased who seated behind the motorcycle fell down on the road. Thus, it is submitted that in this case the driver of the car No.GJ-09-BC-6586 was not at all liable. The age and income of deceased is also denied. It is also stated that at the time of accident the said car was duly insured with the opponent No.2 and hence, the opponent' No.2 is liable to pay compensation. The opponent has, generally speaking, sought for a dismissal and rejection of the present application.

[6] The opponent No.2, is the insurance company of car No.GJ-09-BC-6586, and is duly served and has, in fact, appeared on the record of the proceedings and has contested the petition by filing written statement which is on the record of the proceedings at Ex-18. The opponent insurance company has taken up all available defences and has, generally speaking, denied any liability to pay any amount much less the amount of compensation claimed. It is submitted that the driver of the vehicle was not holding valid driving licence. It is specifically stated that looking to the complaint and panchnama the car is not involved in the accident and applicants had wrongly joined the insurance company to get compensation. Thus there was no negligence on the part of the car driver and the accident occurred due to sole negligence of the driver of the motorcycle. The age and income of deceased is also denied. It is also stated that the driver of the motorcycle was also contributory liable for the accident. The opponent has, generally speaking, sought for a dismissal and rejection of the present application.

[7] It is in the background of such rival pleadings that this Tribunal was pleased to frame the issues as follows at Ex.13.

- (i) Whether the applicants prove that deceased died due to rash and/or negligent driving by driver of the vehicle involved in the accident?
- (ii) Whether the applicants are entitled for compensation? If yes, than who is responsible to pay compensation and up to what extent?
- (iii) What award?

[8] My findings on each of the issues are as hereinafter follows:

- (i) In the affirmative. Driver of car No.GJ-09-BC-6586 is solely liable for the accident.
- (ii) In the affirmative and as per the amount quantified.
- (iii) As per final judgment and award.

[9] The petitioners have relied both on oral and documentary evidence in an effort to establish their entitlement to the claim. It would be necessary, at the outset, and before ascribing my reasons for arriving at the findings above, to refer to the documentary evidence which are in the shape of :-

Sr. No.	Description	Exh./ Mark
1	Complaint	19
2	Panchnama of place of accident	20
3	Inquest Panchnama	21
4	Postmortem Note	22

5	R.C.Book of car No.GJ-09-BC-6586	23
6	Leaving certificate of deceased	31
7	Revenue records	32

[10] The oral evidence on the record of the proceedings are as under:

Sr. No.	Description	Exh.
1	PW1, Taral Batukbhai Padabhai, Petitioner No.3	14
2	PW2, Arjunbhai Vishnubhai Joshi, I.O. of criminal case	27

[11] This set of evidence is required to be considered to decide fate of the present petition.

REASONS

Issues No.1 and 2:

[12] Since the evidence, both documentary and oral, is germane and common to these issues, they are dealt with together for the sake of convenience.

[13] I have heard counsels for the parties, perused the record and considered arguments of both the parties. I have also gone through the written arguments advanced by L.A. for the petitioners at Ex.36 and L.A. for the opponent No.2 on record. The issue-wise findings of this Tribunal are as under:

[14] Learned advocate for the opponent No.2 insurance company has contended that looking to the deposition and cross-examination of the petitioner he has admitted that he has not seen the accident. He has admitted that the unknown vehicle dashed with the motorcycle and fled away. He has also admitted that

there is no evidence produced on record that the vehicle No.GJ-09-BC-6586 was involved in the accident. It is also contended that looking to the deposition of the Investigating officer at Ex.27 in his cross-examination he has admitted that no helmet was found at the place of accident. He has admitted that in his investigation it was found that accident occurred in the turning while Swift car came in the turning and dashed in the right side. He has admitted that he has recorded statement of the motorcycle driver Sanjaybhai he had not written the number of the vehicle. He has also admitted that the witness has only stated that four wheeler was involved in the accident. He has also admitted that in the charge-sheet he did not join CDR. He has also not obtained CDR of the accused. It is also contended that the I.O. has obtained the number through private informer and no statements of the witnesses were recorded by the I.O. and falsely involved the vehicle in the accident. Thus, it is contended that actually the vehicle car No.GJ-09-BC-6586 was not involved in the accident. Therefore, it is submitted that the petition is required to be dismissed against the opponent No.2.

[15] Per contra, learned advocate for applicants has contended that considering the pleadings and contents of charge-sheet, statement of eye witness, deposition of the Investigating officer, it is clearly established that the car No.GJ-09-BC-6586 was involved in the accident. It is also contended that in the panchnama it is clearly mentioned that the car is damaged in the accident. It is further argued that the investigating officer has also supported the involvement of the car in his deposition and cross-examination. Hence, the accident occurred due to the negligent driving on part of driver of the car.

[16] I have considered the rival submissions. The petitioners have pleaded negligence on the part of driver of the car No.GJ-09-BC-6586. Petitioner No.3 has deposed before this Tribunal same as his pleadings. Nothing adverse has come out from her cross-examination. He has admitted that he has not seen the accident. He has admitted that in the accident the unknown vehicle dashed with the motorcycle of his son and fled away.

[17] The petitioners have also examined Mr. Arjunbhai Vishnubhai Joshi who is Investigating officer of the criminal case and he has also stated in his deposition that in the complaint it is mentioned that the accident occurred due to the involvement of unknown vehicle. He has stated that he came to know by reliable sources that one Mustakmiya Usmanmiya Chauhan who was serving in the shop of Navdurga Fertilizer shop which is in the ownership of one Balkrushna Dave of village Vadali and said Mustakmiya was driver of the Swift car No.GJ-09-BC-6586 and on the date of accident on 23.4.2024 he was driving the said car and was returning towards Vadali from Radhivad and at about 5-00 p.m. near Radhivad to Savjipura road from Khedbrahma side one motorcycle came and dashed with the said car and on the said motorcycle two persons were riding and they fell down on the road and at that time many persons gathered at the place and due to fear he fled away from the place of accident. He has also stated that on 2.5.2024 said Mustakmiya came at the Police station and he admitted the offence. He has also stated that he had recorded statements of the witnesses and other persons and filed charge-sheet against the driver of the car. In his cross-examination this witness has admitted that he has admitted that

no helmet was found from the place of accident. He has admitted that during his investigation it has come on record that accident occurred in the turning when motorcycle dashed with the Swift car on right side. He has admitted that he had collected the CDR of the driver of the Swift car. He has admitted that he has not collected the CCTV footage of the accident because there was darkness and there was no CCTV at the place of accident. He has denied that in the accident the said Swift car was not involved. He has admitted that he has received the number through private informer. He has denied that though there was no sufficient evidence against the Swift car driver, false charge-sheet is filed against him.

[18] Now on perusal of the complaint it is mentioned that the accident occurred with one Four wheeler car who dashed with the motorcycle and did not stop his car and fled away from the place of accident. It appears that the complainant is not an eye witness to the accident. The complaint is filed against driver of unknown four wheeler. Now Panchnama of place of accident shows that at the place of accident one motorcycle No.GJ-08-DF-3616 was lying in the damaged conditions. But the offending car was not found at the place of accident. It further appears from the record that the charge-sheet at Ex.29 is filed against the driver of the car. Moreover, driver or owner of the car No.GJ-09-BC-6586 have not stepped into the witness box in order to negate allegations of negligence made against the car driver. An adverse inference is, therefore, required to be drawn against the driver of the car. Further it also appears that after the accident the driver of car fled away from the place of accident. Thus, this is a clear case of hit and run. Further Investigating officer has admitted in his

cross-examination that the accident occurred due to the involvement and sole negligence on part of driver of the car No.GJ-09-BC-6586 and hence, he has filed charge-sheet against the driver of the car. But the opponents have not challenged the charge-sheet.

[19] In any case, the documentary evidence in the shape of certified copy of the depositions of the witnesses especially investigating officer and charge-sheet and PM Report of the deceased, clearly establish that the deceased died in an accident that took place at the time and place, and in a manner specified in the petition, and succumbed to it. Hence, I hold that in this case the driver of the car No.GJ-09-BC-6586 was solely and only liable and responsible for happening of the accident. It is in the background of such facts and circumstances that I am required to answer the issue No.1 in the affirmative, which I hereby do so.

[20] As a natural consequence, and since having found issue No.1 in favour of the petitioners and in the affirmative, it necessarily follows that the petitioners are entitled to the compensation as claimed. The only question that now remains is computing and assessing the quantum of compensation which is required to be awarded herein. Each of the learned advocates for the contesting parties have made submissions under separate heads, which I propose to deal with as hereinafter follows, and after considering the rival submissions, I propose to make a specific award under each head as hereinafter follows.

[21] Age of the deceased at the time of accident is pleaded as 26 years. In Leaving certificate of deceased at Ex.31 his date of

birth is mentioned as 13.10.1997. The accident taken place on 23.04.2024. Therefore, on the date of accident, age of the deceased was about 27 years.

[22] Income of the deceased is claimed to be Rs.25,000/- per month by doing agriculture and animal husbandry work. The petitioners have produced revenue record at Ex.32 which shows that the agriculture land is running on the name of father of deceased along with many other co-owners. Thus, there is no proof of income of deceased produced on record. But in view of the facts and circumstances of the case and also in view of the year of accident. I am of the opinion that ends of justice would meet if notional income of deceased is assessed at Rs.13,000/- per month and Rs.1,56,000/- p.a.

[23] The Hon'ble Supreme Court in the case of National Insurance Co. Ltd. v. Pranay Sethi, 2017(4) TAC 673 (SC), held that; *“Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life etc., an addition of 40% of the established income of the deceased towards future prospects where the deceased was below 40 years, an addition of 25% where the deceased was between 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation.”*

[24] Thus, in the light of the aforesaid judgment of the Hon'ble Apex Court, since the petitioner was below 40 years at the time of the accident, 40% is required to be added to his income in order to arrive at future prospective income of the deceased. Thus, the monthly income of the deceased after

considering the future prospects is assessed as Rs.18,200/- p.m., i.e. Rs.2,18,400/- p.a., for the calculation of the loss of dependency.

[25] Here in this case total 4 dependents of the deceased. Therefore, in this case, as per settled legal position, one-fourth of the income is required to be deducted which the deceased would have spent for his own maintenance and personal expenses. Therefore, taking one-fourth of the annual income of Rs.2,18,400/- it would come to Rs.54,600/- and yearly dependency would come to Rs.1,63,800/-.

[26] In order to capitalize the loss of dependency, appropriate multiplier is required to be adopted. In Sarla Verma's case, for the age group of 26 years to 30 years, multiplier 17 is provided. Therefore, we may adopt multiplier 17 for capitalizing the loss of dependency. On multiplying Rs.1,63,800/- by multiplier 17, the loss of dependency would come to Rs.27,84,600/-. Therefore, the petitioners are entitled to get Rs.27,84,600/- as compensation under the head of loss of dependency.

[27] In the judgment of Pranay Sethi, Hon'ble Supreme Court has held in para 54 as under:

"It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have

quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

[28] The above referred judgment was delivered in the year 2017, and it is already more than six years. Therefore, in view of the ratio laid down by the Hon’ble Supreme Court, the petitioners are awarded Rs.18,000/- towards loss of estate, Rs.18,000/- towards funeral expenses and Rs.48,000/- towards loss of consortium.

[29] Under the circumstances, the claimants are entitled to the following amount of compensation:

Rs.	
37,12,800	Loss of Future Income (Rs.18200 x 12 x 17)
9,28,200	1/4 th Personal Expenses

27,84,600	3/4 th Loss of Dependency
18,000	Loss of Estate
18,000	Funeral Expenses
48,000	Loss of Consortium

28,68,600	Total Amount
=====	

[30] The petitioners have claimed an amount of Rs.40,00,000. However, in view of the above discussion, the claimants are entitled to get compensation of Rs.28,68,600/- only.

Liability:

[31] The insurance policy at mark 5/6 issued by the opponent No.2 shows that it is issued in the name of the opponent No.1 for the car No.GJ-09-BC-6586 and the opponent No.2 was insurer of the car. Further the said vehicle was being insured by the opponent No.2 for the period from 04.03.2024 to 03.03.2025, covering the date of accident 23-04-2024. Therefore, opponents No.1 and 2, who are respectively owner and insurer of car No.GJ-09-BC-6586, are held jointly and severally liable to pay compensation to the claimants.

Rate of Interest:

[32] Learned Counsel for the Petitioners submitted that petitioners be awarded interest at the rate of 24% on the awarded amount. On the other hand Learned Counsel for the opponent No.2 submitted that the petitioners may be awarded the interest at the rate of 6% on the awarded amount. I have considered the rival contentions and perused the records. It shows that the accident took place in the year 2024. In the year 2024, the rate of interest in FDR was on a higher side. In *Abati Bezbaruah v. Dy. Director General, Geological Survey of India and Another* [(2003) 3 SCC 148], the Hon'ble Supreme Court has held that -

“The rate of interest must be just and reasonable depending upon the facts and circumstances of each case and taking all relevant factors including inflation, change of economy, policy being adopted by Reserve Bank of India from time to time, how long the case is pending, permanent injuries suffered by the victim, enormity of

suffering loss of future income, loss of enjoyment of life etc., into consideration.”

[33] Thus, having regard to the facts and circumstances of the case, in the light of the judgment of Abati Bezbaruah (*supra*), it would be just and proper to award the simple interest at the rate of 9% p.a. Accordingly, the petitioner shall be entitled to get simple interest at the rate of 9% p.a. on the awarded amount of claim from the date of filing of claim petition till payment of awarded amount.

Tax to be Deducted at Source:

[34] In Hansaguri Prafulchandra Ladhani v. Oriental Insurance Company Limited, reported as 2007 ACJ 1897, the Division Bench of Hon'ble Gujarat High Court has laid down the guidelines regarding the Tax Deducted at Source. In this judgment, the Hon'ble High Court directed that if amount of interest calculated on the awarded amount does not exceeds Rs.50,000 per year per petitioner, then no TDS shall be deducted by the Insurance Company/ Respondents at the time of depositing the awarded amount along with interest in the Tribunal, therefore, in view of this Judgment, the Respondents/ Insurance company is hereby directed not to deduct the TDS if the amount of interest does not exceeds Rs.50,000/- per year per petitioner.

[35] In the event, and in light of my findings above, I deliver the following final order:

FINAL ORDER

- (i) The petition is hereby partly allowed.
- (ii) The opponents No.1 and 2 are hereby ordered to pay jointly and severally a sum of Rs.28,68,600/- (Rupees Twenty-eight Lacs Sixty eight Thousand Six hundred Only), less principal amount awarded u/s 140 of the MV Act, if any paid, within 30 days with interest at the rate of 9% per annum from the date of petition till the date of payment to the petitioners.
- (iii) The opponents do pay costs of the claimants and also bear that of their own.
- (iv) Out of the above said amount, after deducting deficit Court fees if any, claimant No.1 would be entitled to the 40%, and remaining amount be apportioned equally amongst the claimants No.2, 3 and 4 equally, i.e. 20% each.
- (v) Total amount of interest accrued on the principal amount of compensation is to be apportioned on financial year to financial year basis, and if the interest payable to the respective petitioner for any financial year exceeds Rs.50,000/-, insurance company/ owner is/are entitled to deduct appropriate amount under the head of 'Tax Deducted at Source' as provided u/s 194A(3)(ix) of the Income Tax Act, 1961. If the amount of interest does not exceed Rs.50,000/- in any financial year, Registry of this Tribunal is directed to allow the respective

petitioner to withdraw the amount, as directed hereinafter, without producing the Certificate from the concerned Income Tax Authority.

- (vi) It is further directed that compensation amount shall be deposited directly into the bank account maintained by this Tribunal by RTGS or NEFT mode within 30 days in compliance with the directions given by Hon'ble Supreme Court in Bajaj Alliance General Insurance Co. v. Union of India, Writ Petition (s) (Civil) No. 534 of 2020 as well as directions given by Hon'ble High Court of Madras in Civil Misc. Appeal No.428 of 2016 decided on 11th March, 2016 titled as Divisional Manager, The Oriental Insurance Co. Ltd. v. Rajesh & Ors.
- (vii) The aforesaid opponent/s is/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 GANZ BAZAR, MAIN BRANCH, PALANPUR**
Bank Account No.: **40902081331**
Bank IFSC Code No.: **SBIN0000443**
Email address: **mact-palanpur@gujarat.gov.in.**

- (viii) On such realization of the above said amount, after deducting deficit Court fees if any, **30%** amount of their share shall be paid in cash by RTGS or NEFT mode to the petitioners No.1, 3 and 4, while

remaining 70% amount be deposited in their names in Fixed Deposit Receipt for a period of 5 years in any nationalized bank with liberty to withdraw interest periodically by the applicants. The bank shall not allow any loan or advances against the above said Fixed Deposit Receipt without previous permission of this Tribunal.

- (ix) Entire amount falling to the share of petitioner No.2 being minor be deposited in her name in Fixed Deposit Receipt initially for a period of 5 years in any nationalized bank, and be renewed periodically till the respective minor attains age of majority, with liberty to withdraw the interest periodically. The bank shall not allow any loan or advances against the above said Fixed Deposit Receipt without previous permission of this Tribunal.
- (x) Award be drawn accordingly.

Pronounced in the open Court today this **30th day of March, 2026.**

PALANPUR.

Date:30/03/2026

(Shubhada Krishnakant Baxi)

Chairman

M.A.C. TRIBUNAL (MAIN)
B.K.DISTRICT, PALANPUR.
(Code : GJ00377)

SNJ