


GJBK010042002021 	DATE OF INSTITUTION	14/12/2021		
	DATE OF REGISTRATION	14/12/2021		
	DATE OF JUDGMENT	18/03/2026		
	DURATION	DAYS	MONTHS	YEARS
		04	03	04

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

M.A.C.P.No.335/2021

Ex.: _____

Claimant.

Mukeshbhai Joitabhai Prajapti,
Age: 30 years, Occ.Diamond Polishing & Farming,
R/o.Prajapativas, Mumanvas, Tal.Vadgam,
Dist.Banaskantha.

Versus

Opponents.

- 1) **Legal heirs of Patel Bharatbhai Prahladbhai,**
1/1 Ramilaben Wd/o.Bharatbhai Patel,
Age: Adult, Occ.Households,
1/2 Sandipbhai Bharatbhai Patel,
Age: Adult, Occ.business,
Both are residing at:
C/o. Ghanshyam Travels, Office No.3, Aashirvad
Chambers, Behind Paras Police Station, Katargam
Road, Katargam, Tal./Dist.Surat
(Owner of Luxury Bus No.GJ-14-V-8600)
- 2) **National Ins. Com. Ltd.,**
Add:Panchavati Complex, Gathamam Gate,
Palanpur, Ta.Palanpur, Dist.Banaskantha.
(Ins. Com. Of Luxury Bus No.GJ-14-V-8600)
- 3) **Saddam Billiyadkhan,**
Age: Adult, Occ. Driving,
Add: Plot No.72, Near GEB Office, Jawahar
Road No.4, Udhna, Tal.Udhna, Dist.Surat.
Permanent Residence: Raysina, Sohna Gurugram,

	Haryana, (Owner of container No.RJ-14-GJ-8311)
4)	Rakesh Trilokchand Gowardhan Bansal, Age: Adult, Occ.Transport, R/o.Plot No.72, Near GEB Office, Jawahar Road No.4, Udhna, Tal.Udhna, Dist.Surat. (Owner of container No.RJ-14-GJ-8311)
5.	The New India Assurance Com. Ltd., Add.First Floor, H.K.Tower, Hanuman Tekri, Palanpur, Tal.Palanpur, Dist.Banasakantha. (Ins. Com. of container No.RJ-14-GJ-8311)

Subject : Claim petition filed u/s.164 of the Motor Vehicles Act, 1988, to get compensation of Rs.2,50,000/-.

<i>Appearance:-</i>	
Ld. Adv. for the applicant.	Mr.B.J.Diyol.
Ld. Adv. for the Opponent No.1	None.
Ld. Adv. for the Opponent No.2	Mr.B.S.Solanki.
Ld. Adv. For the Opponent No.3	Mr.K.A.Dabhi
Ld. Adv. For the Opponent No.4	Mr.K.A.Dabhi.
Ld. Adv. For the Opponent No.5	Mr.R.A.Thakkar.

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

- (1) Present claim petition is filed by the applicant, under Section 164 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,50,000/- from opponents, on account of accidental injuries caused to the applicant in the accident occurred on 03/12/2019 involving vehicles mentioned in the petition.
- (2) The brief facts of the present claim petition are that on 03/12/2019, the applicant was traveling in luxury no.GJ-14-V-8600 from Surat to Harigadh. When the bus was

passing through Golden Circle Bridge to Dena Circle, at that time, a container no.RJ-14-GJ-8311, driven rashly and negligently heading ahead of luxury bus, violently hit a truck no.MH-12-FC-7341, which was heading ahead of container. As a result of this collision, the speed of the container suddenly retarded and luxury bus dashed the container heading ahead of it. Hence, the accident had occurred and applicant suffered severe injuries all over his body in the said accident. This gave rise to the filing of the present claim petition by the applicant.

- (3) It appears from the record that opponents have been duly served with the notices.

Despite being served with the notice, opponent no.1 has chosen not to appear in this proceeding to contest the claim petition filed by the applicant.

Learned Advocate Mr. T.M.Joshi initially and thereafter Ld. Advocate Mr. B.S.Solanki for the opponent no.2 has appeared and filed his written statement vide Exh.24 and opposed the claim petition.

Learned Advocate Mr.K.A.Dabhi for the opponent no.3 and 4 has appeared and filed his written statement vide Exh.15, wherein, he opposed the claim petition of the applicant.

Learned Advocate Mr.R.A.Thakkar for the opponent no.5 has appeared and filed his written statement vide Exh.13 and opposed the claim petition by denying each and every averments of the claim petition.

(4) In view of the pleadings of the parties, this tribunal has framed the following issues at Exh.28, 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 is entitled to get compensation of Rs.2,50,000/- as per Section 164 of the M.V.Act, 1988 ? If yes, than who is responsible to pay comensation ?
- (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;

<u>Sr. No.</u>	<u>Oral Evidence</u>	<u>Exh.</u>
1.	Affidavit cum examination-in-chief of the applicant.	48

<u>Sr. No.</u>	<u>Documents</u>	<u>Ex.</u>
1.	Copy of complaint.	50
2.	Copy of injury certificate.	51
3.	Copy of treatment certificate.	52

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

Heard, learned Advocate for the parties and perused the record. Perused the complaint, panchnama of place of accident, charge-sheet 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 become undisputed.

Applicant has filed his affidavit-cum-examination-in-chief at Exh.48, wherein he has reiterated the facts of the claim petition. Learned Adv. Mr.B.S.Solanki for the opponent no.2 has also cross-examined him, wherein, he has admitted that he was traveling from Surat to Mumanvas in Ghanshyam Travels. He has further admitted that he does not know the exact time of accident as he was sleeping in the bus at the time of accident. He has further admitted that he does not know as to how the accident had occurred.

- (8) It is relevant to observe that the applicant have filed the present claim petition under Section 164 of the Motor Vehicles Act and as per subsection 2 of Section 164 of the Motor Vehicles Act, in any claim for compensation

under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

Therefore, considering the aforesaid facts and circumstances, this tribunal is not required to decide the point of negligence which led to the fateful accident but to mere confirm the involvement of vehicles in the accident to succeed in this issue. This is on record and not disputed by any opponent. Thus, this tribunal decides Issue No.1 in "**AFFIRMATIVE**".

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

Quantum of Compensation :-

This Tribunal is aware of principles of awarding just compensation. So keeping in view the fact of case that the Tribunal has a duty to grant a just and reasonable compensation. What would, however, be a just and reasonable compensation depends upon the fact-situation obtaining in each case. No hard and fast rule therefore can be laid down. The compensation under Section 164(1) is based on amended provisions of the Motor Vehicles Act. In this case, the applicant has stated that he has sustained severe injuries in the accident. Looking to the treatment certificate of the applicant at Exh.52, which

shows that the applicant has suffered fracture injury in right leg. The X-Ray also shows that the applicant has suffered fracture injury of 3rd MT and 4th PP. Hence, the applicant has suffered grievous hurt as per Section 116 of the BNS, 2023. Now, if we peruse the new amendment by the the Ministry of Road Transport and Highways, vide Notification dated 22nd May,2018, amended the Second Schedule of Section 163A of the Motor Vehicles Act, 1988, as under:

1.(a) Fatal Accidents: Compensation payable in case of Death shall be Five Lakh Rupees.

(b) Accidents resulting in permanent disability: Compensation payable shall be = [Rs. 5,00,000/- X percentage disability as per Schedule I of the Employee's Compensation Act,1923 (8 of 1923)]: Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.

(c) Accidents resulting in minor injury: A fixed compensation of twenty five thousand rupees shall be payable:"

- (10) Therefore, in view of the aforesaid amendment in this case the applicant are entitled to get total amount of compensation of **Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only)** along with interest.

Liability:

- (11) In the case on hand, it is established that the accident had taken place involving luxury bus and vehicle and he had suffered serious injuries. Therefore, he is entitled to get compensation as per the provision of M.V.Act.
- (12) Looking to the record, it reveals that the opponents no.1 to 5 are the driver, owners and insurance companies of both the vehicles luxury bus and container involved in the accident. The insurance policies of both the vehicles are also in force at the time of accident. Hence, opponents no.1, 2, 3, 4 and 5 are jointly and severally liable to pay compensation to the applicant.

INTEREST

- (13) 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%.
- (14) Based on the above discussion and observations, I accordingly give my findings for the Issue no.2 & Issue no.3 as per the following final order as under:

:-ORDER:-

1. This petition is allowed against opponent Nos.1, 2, 3, 4 and 5 with costs and interest.
2. Opponent Nos.1, 2, 3, 4 and 5 are directed to pay a compensation of ***Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only)*** to the applicant jointly and severally 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.

5. After above deduction, entire compensation amount shall be paid to the applicant in his bank account by way of NEFT/RTGS mode on due and proper verification.
6. The opponents shall also bear costs of their petition as well as the petition of applicant.
7. Yadi incorporating this Order to accompany the cheque shall be furnished to the Bank and a copy thereof also be furnished to the applicant.
8. 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.
9. Award is to be drawn accordingly.

Signed & pronounced today, on this 18th day of March, 2026.

Place : Palanpur
Date : 18/03/2026

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