



Received On	01.09.2022		
Registered On	01.09.2022		
Decided On	17.06.2026		
Duration	Days	Months	Years
	16	09	03



सत्यमेव जयते

**BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL
(AUX.) & 3RD ADDITIONAL DISTRICT JUDGE,
AT DAHOD.**

**M. A. C. Petition No.69/2022
Exh.**

CLAIMANT :- Shankerlal Ramji Garasiya
Aged 53 Years, Occupation: Carpentering
Residing at Gamniyahamira, Tal. Gagadtalai,
Dist. Banswada.

VERSUS

OPPONENTS :- 1. Lalabhai Rayjibhai Patel
Aged Adult, Occupation : Driver of S.T.
Bus No. GJ-18 Z-4989
At present : Jambusar Depot,
Address : Toch Nagorada, Tal. Lunawada

2. The Gujarat State Road Transport Corporation.
Address : Bhuravav, Godhra.

Claim for Rs.5,00,000/-

LEARNED ADVOCATES FOR THE PARTIES

For Claimant : Ld. Adv. Mr. B.V. Kalal
Opponent No. 1 & 2 : Ld. Adv. Mr. S. S. Thakor

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

1. The present claim petition is filed by claimant Shankerlal Ramji Garasiya against opponent Nos. 1 & 2 being driver & owner - Transport Corporation of vehicle S. T. Bus bearing registration No. GJ-18 Z-4989 to recover compensation of Rs.5,00,000/- under Section 166 of the Motor Vehicles Act (herein after referred to as 'the M. V. Act' in short) for the injuries sustained by him in a vehicular accident, which took place on 30.06.2022.

2. The short facts of claim petitions are as under :

(2.1) On 30.06.2022, the claimant was traveling in S.T. Bus No. GJ-18 Z-4989 for Halol, and when the said bus was passing from village Pipliya at that time, the driver of S.T.Bus - Opponent No. 1 was driving his bus in rash and negligent manner, therefore, he lost control over the vehicle and the S.T.Bus was turned turtled. Thus, the accident took place as averred in the claim petition and in the said accident, the claimant sustained injuries and so, the present claim petition. The police complaint was lodged in Limdi Police Station vide C. R. No. I - 11821033220243/2022.

(2.2) It is the case of claimant that he sustained fractural injuries, so, he was admitted and treated in Zydus Hospital, Dahod. He had incurred expenses towards medical treatment, attendants, transportation and taking special diets. He has sustained permanent disablement due to accidental injury and will have to suffer loss of future income. Therefore, he has claimed compensation of Rs.10,00,000/- from the opponents for the accidental injuries along-with interest at the rate of 18% p.a.

3. Looking to the record of claim petition, notices were served upon the opponents. **The Opponent No. 1 & 2 - The Gujarat State Road Transport Corporation** have filed appearance through learned Advocate Mr. S.S.Thakor, who has filed written statement on behalf of the opponents vide Exh.14 and thereby denied the nature of accident together with negligence in driving on the part of the driver of offending vehicle in the accident. It is contended that, the said accident was not occurred due to negligence on the part of driver of the S.T. Bus, but, in fact at the time of accident the driver of one motorcycle was driving Motorcycle in rash and negligent manner with full speed and came near the Bus, therefore, to save this motorcyclist the driver of S.T.Bus applied short break, so, the bus lost the road and turned turtled, thus, the said accident was not occurred due to negligence on the part of Opponent No.1. The claimed amount is alleged to be highly exaggerated. It

is accordingly urged to dismiss the claim petition with costs against the opponent S. T. Corporation.

4. From the above referred pleadings of the parties to the claim petition, the learned M. A. C. Tribunal has framed issues vide Exh.15 as under.

1	Whether it is proved that, the claimant sustained injuries on account of rashness or negligence in driving on the part of the driver of the vehicle involved in the accident ?
2	What amount, if any, the applicant is entitled to by way of compensation and from which of the Opponent ?
3	What order ?

5. Findings of this Tribunal to the above issues are as under.

1	In the affirmative.
2	As per final order.
3	As per final order.

6. The claimant in support of his pleadings has produced following oral and documentary evidence.

ORAL EVIDENCE

Sr. No.	Name of Witness	Exh.
01	Affidavit of claimant - Shankerlal Ramji Garasiya	16

DOCUMENTARY EVIDENCE

Sr. No.	Description of Document	Exh.
01	Copy of Complaint	18
02	Copy of Panchnama of place of accident	19
03	CT Scan Report	20
04	Discharge Card	21
05	Medical Bills	22
06	Disability Certificate	24

7. The opponent No. 1 & 2 have chosen not to adduce any oral or documentary evidence. After adducing the aforesaid evidence, the learned Advocate on behalf of claimant as well as Opponents has filed closing pursis vide Exh.25 & 27, respectively.
8. Heard the arguments of the learned Advocate for the claimant and the learned Advocate appearing on behalf of the Opponent - Gujarat State Road Transport Corporation. Respective counsels have tried to impress upon this Tribunal by highlighting the key points in view of the evidences available on record.
 - (8.1) Learned Advocate for the claimant has submitted in his arguments that, the claimant has proved rash and negligent driving on the part of the driver of S.T.Bus and

the accidental injuries are also proved by the claimant. The claimant has proved his age as well as income in his evidence and looking to the documents produced on record, there is no reason to disbelieve such documents.

(8.2) He has also submitted that, at the time of accident the claimant was aged 53 years and getting monthly income of Rs.10,000/- by carpentering, which would have increased from time to time. He had sustained severe fractural injury and he had sustained 23.82% permanent disability as described in Disability Certificate and had suffered severe pain and agony during treatment period. He had incurred expenses towards various heads. Therefore, he is entitled to get the compensation as prayed for from the opponents. So far as the liability is concerned, it is submitted that the opponents are liable to pay compensation to the claimant.

(8.3) As against this, learned Advocate Mr. S.S.Thakor for the Opponents - S. T. Corporation has submitted that, the said accident was occurred due to negligence on the part of driver of one unknown motorcycle, as at the time of accident the driver of Motorcycle driven his motorcycle in rash and negligent manner with full speed and came near the Bus, therefore, to save this motorcyclist the driver of S.T.Bus applied short break, so, the bus lost the road and turned turtled, thus, the said accident was occurred due to sheer negligence on the part of the driver of the

motorcycle. It is accordingly urged to dismiss claim petition against the opponents.

Issue No.1 : Negligence :-

9. It is settled position of law that while deciding the point of negligence, Tribunal has to borne in mind that negligence issue in claim petition under Section 166 of the Motor Vehicles Act is to be decided only on the touch stone of preponderance of probability and not beyond the reasonable doubts. The above position of law is laid down by the Hon'ble Apex Court in the following cases :
 - (i) **Bimladevi vs. H.R.T.C., AIR 2009 SCC 2819.**
 - (ii) **Parmeshwari Devi vs. Amirchand, 2011 (11) SCC 635.**
 - (iii) **Kusum Lata and Ors. Vs. Satbir & Ors., 2011(2) T.A.C. 1 (S.C.)**
10. It is the case of the claimant that, the accident occurred due to rash and negligent driving of driver of offending vehicle involved in the accident. To prove the issue of negligence, claimant - Shankerlal Ramji Garasiya in his evidence on affidavit vide Exh.16 has stated that on 30.06.2022, he was traveling in S.T. Bus No. GJ-18 Z-4989 and going toward Halol and when the said bus was passing from village Pipliya at that time, the driver of S.T.Bus - Opponent No. 1 was driving his bus in rash and negligent manner, therefore, he lost control over the vehicle and the S.T.Bus

was turned turtled, hence, he was sustained grievous injuries.

(10.1) In cross-examination, he admits that on the day of incident when they were traveling in the bus rain was falling. He admits that at the place of accident there was a curve. He denies that one motorcyclist came from opposite direction in wrong side and the driver of bus tried to save him so the bus left the road. He denies that the accident was not occurred due to negligence of the driver. He admits that he has not produced any income proof. He admits that he has not produced any medical bill except the bills produced on record.

11. Over and above the ocular evidence, the claimant has produced documentary evidence in support of his case. On perusal of F.I.R. lodged by Mukeshkumar Ranchhodbhai Patel and stated all the facts of accident that, on the day of accident, the driver and conductor along with 30 - 35 passengers were going toward Jambusar from Jhalod by S.T. Bus No. GJ-18 Z-4989 and when they were passing from the bridge one motorcyclist came from opposite side, therefore, the driver of bus tried to save him, therefore, the bus fall into the field, so, the passengers traveling in the bus sustained injuries.
12. Looking to the Panchnama of place of incident (Exh.19), the accident occurred at village Pipliya on Limdi

- Limkheda Road. Moreover, Discharge Card (Exh.21) substantiates accidental injuries to the claimant.

13. On perusal of the above evidence, it reveals that, this accident occurred when the claimant was traveling in the S.T. Bus No. GJ-18 Z-4989 as a passenger and the said bus was turned turtled whereby, the claimant sustained injuries. So far as negligence is concerned, admittedly, the F.I.R. was lodged against the driver of S. T. Bus. In view of the above factual aspect, bare reading of the FIR and Local Spot Panchnama, it clearly depicts the fact that, the driver of vehicle involved in the accident was plying the vehicle in rash and negligent manner and was in excessive speed. Perusing the same, involvement of vehicle and place of accident is duly proved. It is undisputed fact that present accident occurred on the open road and the bus turned turtled in which the claimant was traveling. Nothing contrary fact is brought on record to show that vehicle S.T. Bus bearing registration No. GJ-18 Z-4989 was falsely implicated.
14. Here in this case, except contention raised on behalf of the S.T. Corporation regarding negligence on the part of driver of one motorcycle, no documentary evidence is produced by the opponent S.T. Corporation to prove the contention. The opponent No.2 - S.T. Corporation has failed to prove negligence on the part of the driver of Motorcycle.

15. Having heard learned advocates at length and perusing documents on record, the complaint has been filed against S.T. driver. As per the Complaint Exh-18, it is revealed that the S.T. Bus was turned turtled due to rash and negligent driving on the part of Opponent No.1, hence, it transpires that because of the negligence on the part of the driver of the S.T. Bus the accident took place. Hence, the facts stated by claimant in his petition and affidavit have been corroborated by the contents of the Exhibit-18's complaint, Exhibit-19's Panchnama. The Ld. Advocate appearing for the Opponent No.2 has cross-examined the claimant but nothing fruitful to the case of Opponent No. 2 could be traced out on record from cross-examination. Further, in the present case, complaint has been filed against the Opponent No.1 who was driving S.T. Bus bearing registration No. GJ-18 Z-4989. The S. T. Corporation - Opponent No.2 has not preferred to examine the driver of offending vehicle who is the best witness to say about the negligence, and therefore, adverse inference is required to be drawn against tortfeasor. The version of claimant in his affidavit as well as the contents of F.I.R. filed against the Opponent No.1 which clearly establish the rashness and negligence on the part of Opponent No.1 who was driving S.T. Bus bearing registration No. GJ-18 Z-4989. Thus, it can be said that the Driver of S.T. Bus was rash and negligent and driving his S.T. Bus at full speed. Hence, looking to the totality of the circumstances and aforesaid evidence on record, this Tribunal is inclined

to consider 100% negligence on the part of the Driver of S.T.Bus – Opponent No.1.

16. In view of the above discussion, this Tribunal holds that the accident occurred due to rash and negligent driving of the opponent No.1 i.e. the driver of S.T.Bus bearing registration GJ-18 Z-4989 and the claimant sustained injuries in this accident. I therefore answered the Issue No.1 in the affirmative.

Quantum of Compensation :-

17. So far as quantum is concerned, Ld. Advocate Mr. B.V.Kalal has submitted that considering monthly income of Rs.15,000/- from carpentering with 23.82% permanent partial disability and applying appropriate multiplier, whatever amount comes may be granted under the head of future economic loss. He has also submitted that the claimant had sustained fracture of spine of scapula on right side for which he was admitted in the hospital as indoor patient from 30.06.2022 to 07.07.2022. He has further submitted that during treatment, the claimant has incurred expenses on various heads and due to these injuries he is not able to do his work for livelihood as he was doing before the accident and he has lost all income together with future income, for which, he is entitled to get the compensation as prayed for.
18. Ld. Advocate Mr. S.S.Thakor of Opponent No.2 has submitted that since, the claimant was doing carpentering

at the time of accident, but, there is no ample evidence of monthly income of the claimant, considering notional monthly income with 10% disability and applying appropriate multiplier, whatever amount comes may be granted under the head of future economic loss.

19. To decide the just compensation the important factor is the income of the injured. It is incumbent upon the claimant to prove his actual income. The claimant is required to lead cogent evidence to establish his actual income. The claimant has to produce reliable material before the Tribunal upon which the tribunal can rely and assess his income.
20. **Age** : It is stated by claimant - Shankerlal Ramji Garasiya that he was aged 53 years at the time of accident. He has stated his age to be 57 years in his affidavit filed in year 2026. Looking to the Aadhar Card of claimant produced at Mark-17/9, the date of birth of the claimant is 19.10.1967, while the accident was occurred on 30.06.2022, so, on the date of accident the age of claimant was 54 years and 08 months. Therefore, the same age is taken for the purpose of multiplier as well as deciding the income.
21. **Income** :- Now, so far as the income of the claimant is concerned, it is the claim of the claimant that at the time of accident he was doing carpentering and thereby he earned

Rs.15,000/- per month. The claimant has admitted in his cross examination that, he has not produced any documentary evidence to prove his income. The claimant has also not produced any documentary evidence to show that he was doing carpentering at the time of accident. Moreover, no effective cross-examination of the claimant has been made by the Ld. Advocate for the Opponent No.2 for the aspect of his income. Besides, it is not the case of the Opponent No.2 that the claimant was not doing carpentering or any other work for earning livelihood for his family.

22. Considering the rulings of the **Hon'ble Gujarat High Court** in the case of ***Vanitaben Wd/o. Kamleshbhai Parsingbhai Bhabhor & Ors. v. Ramavatar Chiranjilal Sharma & Anr. in R/First Appeal No. 4115 of 2025 (Order dated 12.01.2026)***, wherein the Hon'ble the Gujarat High Court has referred the law laid down by the Hon'ble Supreme Court in case of ***Govind Yadav Vs. National Insurance Co. Ltd.***, reported in **2012(1) TAC 1 (SC)** and the Hon'ble Gujarat High Court has assessed the income of the deceased as Rs. 8,400/- per month as per the Government approved minimum wages. Therefore, in the present case, it would be just and proper to consider prevalent minimum wages in absence of ample evidence of monthly income of the claimant, as per the law laid down by the Hon'ble Supreme Court in the case of ***Govind Yadav (supra)***. Hence, considering the age of the claimant, year of

accident and nature of work done by him and looking to the rate of minimum wages for unskilled labour prevalent at the time of the accident, it would be just and reasonable to assess the monthly income of the claimant as Rs. 10,540/-.

(22.1) So far as the future prospects is concerned, learned Advocate Mr. B.V.Kalal for claimant has submitted that looking to the nature and age of occupation of claimant, there are chances to have earned more income in future, therefore, future prospective income should be considered. In this regard, this Tribunal is of the view to consider the judgments of the Honourable Apex Court in the case of **Pappu Deo Yadav Vs. Naresh Kumar** reported in AIR 2020 SC 4424, **Erudhaya Priya V. State Express Transport Corporation Ltd.** reported in AIR 2020 4284 & **Karthik Subramanian vs B. Sarath Babu & Anr.** reported in 2021 ACJ 993 and the ratio laid down by the Honourable Apex Court in the said decisions, which are based on the judgment of the Larger Bench of the Honourable Supreme Court rendered in the case of **National Insurance Company Limited vs. Pranay Sethi** reported in 2017 ACJ SC 2700 and while taking into consideration the judgments referred above, it becomes clear that even in injury case, which has resulted into permanent partial disablement, future prospect can be taken into consideration. Here in this case, as stated by the claimant in his affidavit of evidence and as per medical papers, he had severe injury of fracture and he

has sustained permanent disability, which is supported by the medical document. So, considering the age of the claimant at the time of accident, this is a fit case to give rise of 10% in actual income of the claimant, which comes to Rs.1054/- (10% of Rs.10,540/-) and the monthly prospective income of the claimant can be worked out as Rs.11,594/- (Rs. 10,540 + Rs.1,054).

23. Now, considering 10% disability for body as a whole as per the joint pursis given by the learned Advocates appearing on behalf of the parties vide Exh.23 and multiplier of 11 as per **Sarla Varma's** Case, the future loss of income will be as follows and it is awarded to the claimant.

Loss of Future Income = Rs.11,594/- (monthly prospective income) x 10% disability x 12 months X 11 (multiplier applicable) = **Rs.1,53,040/-**, which is to be granted under the head of future economic loss.

24. So far as the pain, shock and suffering is concerned, as per medical evidence on record, the claimant had sustained fracture of spine of scapula on right side. He was treated as indoor patient from 30.06.2022 to 07.07.2022. In such circumstances, this Tribunal considering the nature of injury as well as period of treatment, awards **Rs.15,000/-** to the claimant towards pain, shock and suffering.
25. The claimant has produced medical bill of total Rs.4,300/- vide Exh.22 with regard to his medical treatment. Looking

to the nature of injury and treatment period of indoor patient, and considering the medical bill of Rs.4,300/-, this Tribunal awards **Rs.4,300/-** to the claimant towards medical treatment expenses. He was treated for 07 days in hospital and he would have taken follow-up treatment after discharging from the hospital. He resides at Gamniyahamira, Tal. Gagadtalai, Dist. Banswada and had taken treatment at Dahod. He might have incurred expenses on attendants, transportation and taking special diets for speedy recovery. No document is placed on record regarding expenses incurred on such heads. Therefore, considering the nature of injury and disability as sustained by him, the claimant is awarded **Rs.15,000/-** towards expenses on attendants, transportation and special diets expenses. The claimant has stated in his affidavit of evidence in chief-examination that, he remained under treatment for long period and he had lost his income for that period. He has claimed actual loss of income for 06 months. He has sustained fracture of spine of scapula on right side and was treated for 07 days as indoor patient. Therefore, according to the opinion of this Tribunal, two months would be just and reasonable period, for which, he might have lost his income and it comes to **Rs.21,080/-** and it is awarded to the claimant under actual loss of income.

26. As per above discussion, the claimant is entitled to the following amount of compensation :

Sr. No.	Description	Amount
1	Future loss of income	Rs. 1,53,040/-
2	Pain, shock and suffering	Rs.15,000/-
3	Expenses on Medical Treatment	Rs. 4,300/-
4	Expenses on, Transport, Attendants and Special Diets	Rs. 15,000/-
5	Actual loss of income	Rs. 21,080/-
	Total Compensation	Rs. 2,08,420/-

Liability To Satisfy The Award :-

27. This Tribunal while deciding the Issue No.1 has come to the conclusion that, the driver of S.T.Bus bearing registration No. GJ-18 Z-4989 involved in the accident was solely liable for the occurrence of accident.
28. Looking to the evidence, Opponent No.1 is the driver of S.T. Bus i.e. Employee of Gujarat State Road Transport Corporation, so, he must have driving license.
29. As discussed above in issue No.1, present accident occurred on account of negligence on the part of the driver of the S. T. Bus driver. i.e. Opponent No.1. At the material point of time, opponent No.2 Gujarat State Road Transport Corporation was owner of S. T. Bus No. GJ-18 Z-4989 and therefore, the Opponent No.2 is vicariously liable for the act of driver of the bus and is also responsible to pay

compensation to the claimant. Thus, Opponent No.2 is liable to pay amount of compensation to the claimant together with proportionate cost and interest as awarded above.

30. So far as the interest on awarded amount is concerned, having regards to the facts and circumstances of the case, by keeping in mind the principles enunciated by the Honourable Supreme Court in the case of **Abati Bezbaruah Vs. Dy. Director General, Geological Survey of India and Another**, reported in (2003) 3 SCC 148, and change of policy adopted by the Reserve Bank of India with regard to rate of interest with effect from 01.04.2021, it would be just and proper to award the simple interest at the rate of 9% per annum to the claimant on the awarded amount of claim from the date of filing of claim petition till 31.03.2021 and at 7% from 01.04.2021 till payment of awarded amount.
31. As a sequel to the above discussion, the issues are answered accordingly and following order is passed in the interest of justice.

-: ORDER :-

1	The present Claim Petition No. 69 of 2022 of the claimant is hereby partly allowed .
2.	The claimants do recover Rs.2,08,420/- (Rupees Two Lac Eight Thousand Four Hundred Twenty only) as

	compensation along-with proportionate costs and interest thereon @ 9% per annum from the date of filing of claim petition till 31.03.2021 and at the rate of 7% per annum from 01.04.2021 till its realization.
3.	The Opponents are hereby directed to deposit the above amount of award, after deducting the amount of interim compensation, if any paid under the M. V. Act within one month from the date of this order.
4.	On depositing of the above amount of award by the opponents in this Tribunal, the deficit amount of Court Fee Stamp, if any, on the awarded amount be deducted first and out of the remaining amount, 70% amount shall be invested in any of the nationalized bank of the choice of the claimant in fixed deposit receipt for a period of 5 years and remaining 30% amount shall be paid to the claimant by way of directly crediting in his Bank Account through NEFT or RTGS facility.
5.	The claimant shall be entitled to get interest payable periodically from his Fixed Deposit but he will not be entitled to withdraw any amount before Maturity or raise any loan from the said investment without prior permission of this Tribunal.
6	The claimant is directed to submit following details within one week having account in any Nationalized Bank from today : (1) Name of the claimant/victim with address:

	(2) Account Number of the claimant/victim: (3) Name of the Nationalized Bank & Branch: (4) Bank IFSC Code: (5) First page of Bank Passbook, which will compulsorily contain photograph of the claimant/victim duly attested by the Bank concerned:
7	The Insurance Company and/or such other entities shall deposit the amount as directed in circular dated 19.01.2022 in Account Name : Motor Accident Claim Tribunal, Dahod Account No.40714029534, IFS Code : SBIN0000368, MICR : 389002021 and on such deposits being made, the Insurance Company and/or such other entities shall submit a letter to the Registry of District Court, Dahod enclosing a copy of the said bank advice, in prescribed format as above, as per which the deposit was made to the bank account of the Claims Tribunal, to enable the Claims Tribunal to keep tab on the deposits made and the MACPs for which they were made, which is a fundamental need for a smooth implementation. The Payment advice for remittance of compensation is as under: PAYMENT ADVICE FOR REMITTANCE OF COMPENSATION From : (Name of Bank) To : (Name of Court) We confirm remittance of compensation as follows on instructions of opponent Insurance Company.

	1. M.A.C.P. Number 2. On the file of (Name of Claims Tribunal) 3. Place 4. Date of Award 5. Amount Deposited (A) The Insurance Company and/or such other entities making such deposit, shall also send a copy of the payment advice in the aforesaid Clause to the Claims Tribunal concerned and serve a copy of the same on the claimant or his counsel as the case may be.
8.	In view of the judgment delivered by the Division Bench of Hon'ble Gujarat High Court in the case of Oriental Insurance Co. Ltd. Vs. Chief Commissioner of Income Tax (TDS) in <u>Special Civil Application No. 4800 of 2021</u> , the interest awarded by the Motor Accident Claims Tribunal U/Sec. 171 of the Motor Vehicle Act, 1988 is not taxable under the Income Tax Act, 1961.
9.	Award be drawn accordingly.
10.	PDF Copy of this Judgment and Award be sent to opponent Insurance Company through email.

Signed and pronounced in open Court on this 17th Day of June, 2026.

Dt. 17-06-2026

Place : Dahod

[**Sandipsinh G. Dodiya**]

M. A. C. Tribunal (Auxi.),

Dahod

(Code No.GJ00902)