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**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL [AUX-III]  
AT GANDHINAGAR**

**Motor Accident Claim Petition No.315 of 2017**

**Exh.57**

Legal heirs of Ramanbhai Kalabhai Chaudhari,

1. Chaudhari Bhupendrakumar Ramanbhai,  
Age : 39 years, Occupation : Farming,
2. Chaudhari Ashokbhai Ramanbhai,  
Age : 42 years, Occupation : Service,
3. Chaudhari Vijiben Ramanbhai,  
Age : 30, Occupation : Housework,

...Petitioners

Vs.

1. Chavda Jaydipsinh Ramansinh,  
Age : 32, Occupation : Driving,  
Residing at Madhma, Post : Varsoda,  
Taluka : Mansa, District : Gandhinagar.  
(Owner and Driver of Maruti Suzuki Car  
Eco bearing No.GJ-18-BC-7036)
2. The Tata AIG General Insurance Company Ltd.,  
(Insurance Company of Maruti Suzuki Car  
Eco bearing No.GJ-18-BC-7036)  
Central 2-B, Second Floor, Turkish, Panchvati Crossing,  
S. G. Road, Ellisbridge, Ahmedabad - 380006.

...Opponents

**Subject : Claim petition under Section 166 of Motor Vehicle Act, to get  
compensation of Rs.40,00,000/-.**

**Appearance :**

Learned Advocate A. V. Thakor for Petitioners.

Learned Advocate K. R. Raol for Opponent no.1.

Learned Advocate Y. N. Shah for Opponent no.2.

## JUDGMENT

1. This claim petition has been filed by the legal heir and representative of the deceased Chaudhari Ramanbhai Kalabhai for getting compensation to the tune of Rs.40,00,000/- [ RupeesFortyLacs Only ] under Section 166 of the M.V.Act for the death of deceased Chaudhari Ramanbhai Kalabhai, who died in the accident, which took place on 31/03/2017.

### **Brief facts of the case are as under:**

2. The present claim petition emanates from the following facts:-
  - 2.1 It is the case of the applicants that on 31.03.2011 at about 11:15 AM, the deceased was proceeding on his motorcycle bearing no.GJ-18-CG-1660, while following traffic rules, on the road from Balva to Manekpur. At that time, a Maruti Suzuki Eco car bearing no.GJ-18-BC-7036 came from the right side of the road near Mubarakpur Patiya. The said vehicle was being driven by opponent No.1 in a very rash and negligent manner so as to endangering human life, and dashed the motorcycle driven by deceased. As a result, deceased sustained grievous injuries on vital part of body. The local people called ambulance 108 and deceased was taken to Civil Hospital, Gandhinagar, however he succumbed to the injuries and was declared dead by the attending medical officer. Thereafter, complaint regarding the accident was filed before Kalol Taluka Police Station vide Ist-C.R.No.53/2017 and chargesheet is filed vide C.C. No.756/2017.
  - 2.2 It is stated that deceased was 70 years old at the time of the accident. The petitioners were supported by the income of the deceased. At the time of accident deceased was very fit and fine, he was doing farming work and by selling agricultural produce he was earning Rs.5,00,000/- per year, additionally he was also into animal husbandry from which he was earning Rs.1,00,000/- per year thereby his annual income was

Rs.6,00,000/-. Thus, with the aforesaid contentions, this claim petition has been filed.

3. The notices were served to the opponents. The opponent no.1 and 2 appeared through their Ld. Advocate and filed written statement.
- 3.1 Ld. Advocate for opponent no.1 filed the written statement at exh.19 and denied the facts with respect to accident, stated that opponent no.1 is not liable to pay the compensation. His car is insured by insurance company hence Insurance Company is liable to pay the compensation. Further petitioners have to prove the facts of the accident. The facts stated by the petitioners regarding the accident is just to get the compensation, fact is opponent no.1 is not in fault during the accident, it was deceased who not driving the motorcycle carefully, deceased was driving in wrong side and dashed on the car of opponent no.1 from front side. Therefore opponent no.1 plead to reject the petition.
- 3.2 On behalf of opponent No.2, Ld. Advocate appeared and filed the written statement at Ex.22 and denied the facts with respect to the accident, negligence of driver of the insured vehicle, age, income and nature of work of the Deceased. The petitioners have to prove the income stated by them by producing effective documentary evidence. It is submitted that the driver - opponent no.1 was not holding a valid and effective driving license at the time of accident, hence insurance company is not liable to pay the compensation. On the basis of these pleadings, the opponent No.2 Insurance company has prayed to reject the present claim petition.
4. On the basis of the pleadings of the parties, following issues have been framed at Ex.22.

## ISSUES

1. Whether it is proved that the deceased died on account of rashness or negligent driving on the part of the driver of the vehicle involved in the accident ?
2. What amount, if any, the claimant/s is / are entitled to by way of compensation and from which of the opponent ?
3. What Order and Award ?

4.1 My answers to the above points are as under.

1. **Partly in affirmative.**
2. **As per final order.**
3. **As per final order.**

5. On behalf of the petitioners following oral as well as documentary evidences has been adduced -

### Oral Evidence on behalf of petitioners

Sr.No	Particular	Exhibit
1	Affidavit of petitioner no.1 i.e. Chaudhari Bhupendra	26
2	Affidavit in chief of petitioner's Witness i.e. Rameshbhai Nathabhai Chaudhari	51

### Documentary Evidence on behalf of petitioners

Sr.No	Particular	Exhibit
1	FIR / complaint	32
2	Panchnama	33
3	Inquest Panchnama	34
4	P. M. Note	35
5	R.C. of car bearing no.GJ-18-BC-7036	36
6	Copy of license of opponent no.1	37
7	Copy of charge-sheet	38

8	Copy of Voter ID of petitioners	39 - 41
9	Copy of deceased School Leaving Certificate	42
10	Copy of deceased death certificate	43
11	Copy of pedigree table	44
12	Copy of Postmortem certificate	45
13	Accident report form both vehicles	46 - 47

- 5.1 Ld. Advocate for the for claimants and insurance company i.e opponent no.2 have placed on record closing pursis at Ex.53 and Ex.54 respectively.
6. Heard Ld. Advocate for the petitioners and opponent no.2 insurance company.
- 6.1. Ld. Advocate for the petitioner argued that at the time of accident deceased was was driving his motorcycle bearing no.GJ-18-CG-1660 in proper manner on the highway from Balva to Manekpur, at that time Maruti Suzuki Eco car bearing no.GJ-18-BC-7036 came from the right side of the road near Mubarakpur Patiya in a negligent manner. It was driven by opponent No.1 in a manner endangering human life and dashed the motorcycle driven by deceased, thereby causing road accident. As a result of this accident, deceased sustained severe injuries. Ambulance was called 108 and deceased was taken to Civil Hospital, Gandhinagar, where deceased was declared dead. It is argued that at the time of accident deceased was very fit and fine. He was earning Rs.6,00,000/- per year. He would have live more. Claimants were financially supported by the income of deceased, the death of deceased has brought severe financial constrain on the claimants. It has caused emotional, financial and physical hardships. So considering petition memo as well as on record, compensation be awarded.

6.2 It has been argued by the Ld. Advocate for the opponent no.2 that claimants have to prove that deceased was riding the motorcycle no.GJ-18-CG-1660 by producing reliable documentary evidence. The driver of the car in no manner was negligent. The deceased was driving in reckless manner that resulted in the accident. Further, the income of the deceased stated by the claimants is not admitted to be true. The claimants have to prove the income of deceased by producing trustworthy documentary evidence. Hence, opponent no.2 is not liable for the same and shall be exonerated.

### **Issue No.1**

7. While deciding the point of negligence, it has to be borne in mind that the negligence is required to be proved in claim petition u/s 166 of the Act only on the touchstone of the preponderance of probability and not beyond doubt. Above referred ratio is laid down by Hon'ble Apex Court in the cases of **Bimla Devi v/s H.R.T.C., reported in AIR 2009 SC 2819 and Parmeshwari Devi v/s Amir Chand, reported in 2011 (11) SCC 635.**
8. So far as the negligence is concerned, the Petitioner No.1 - Chaudhari Bhupendrabhai has deposed on oath vide Exh.26 and thereby reiterated the averments made in the claim petition.
- 8.1 I have perused the complaint (Exh.32). The same was lodged by Nileshbhai Kantibhai Chaudhari against Driver of car bearing no.GJ-18-BC-7036. In the complaint it is stated that opponent no.1 dashed his car with the motorcycle which was driven by deceased. After filing of chargesheet, I.O investigated and found sufficient material against the accused. Chargesheet was filed against the driver of the car. On perusal of the panchnama of the scene of offence (Exh.33), it appears that the accident took place on the road going towards Balva from Manekpur. At

the accident spot broken body parts of vehicle were seen lying on the road. Bonnet of car bearing no.GJ-18-BC-7036 had a dent on the front side, bumper of the car, head light were broken. Motorcycle no.GJ-18-CG-1660 was found at the place of incident in damaged condition. On considering the panchnama, FIR and PM report on record, it appears that accident was caused due to the negligence of car driver who dashed the motorcycle due to which deceased sustained serious injuries on head thus causing his death. Had the driver of the car would have been more careful, this accident could have been averted. Therefore, this Tribunal holds that, opponent no.1 driver solely negligent for the accident. Therefore, I decide Issue No.1 accordingly.

### **Issue No.2**

#### **9. Income of the deceased**

It has been stated in the claim petition that, deceased was doing farming and animal husbandry work and thereby earning Rs.6,00,000/- per year as stated in the petition. Further in the affidavit in chief of the petitioner no.1 it is averred that deceased was earning Rs.6,00,000/- per year. Hence, in support of income there is no proof produced on record. Here, petitioners have not produced any I.T Return or Account Books as well as other related documents to prove the income of deceased. Petitioners have examined his witness at Exb.51. He has deposed that the deceased was regularly supplying milk in his dairy unit. He has also admitted that the milk supply is now being delivered by the heirs of deceased. This brings two facts on record . One, that the deceased was indulged into the business of animal husbandry and second that even after his death, the supply of milk to the dairy unit has not stopped. Hence, considering the totality of the facts narrated above, admittedly, there is no proof of income of the deceased on record. Hence, it would be wise to consider the minimum wages prevalent at the time of accident. However, considering the fact that

the accident occurred on 31.03.2017 and considering the nature of work as well as rates of minimum wages prevalent at the time of accident, the income of the deceased can safely be assessed as **Rs.5,500/-** per month. Therefore, I assess **Rs.66,000/-** per annum is just and proper.

#### 10. **AGE AND FUTURE PROSPECTS OF THE DECEASED**

The guidelines issued by the Hon'ble Supreme Court in the Case of **National Insurance Co. Ltd. Vs. Pranay Sethi & Ors., reported in 2017 ACJ 2700** have been duly considered while deciding the point of age and future prospects of the deceased.

10.1 The age of the deceased has been shown as 70 years in the claim petition and in the affidavit filed by the petitioner at Ex.26. The claimants have produced copy of School Leaving Certificate of deceased at Exh.42 wherein the Date of Birth of deceased is shown as 01/06/1948 whereas the accident was occurred on 31/03/2017. Therefore, it can be said that, deceased was 69 years at the time of accident **and therefore, multiplier of 5 is applicable.**

10.2 So far as addition towards future prospects is concerned, in view of the decision of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi, reported in 2017 ACJ 2700** and considering the fact that the deceased was 69 years at the time of accident and the deceased was doing farming and animal husbandry work, looking to age of deceased no future prospects could be added to the income of the deceased

#### 11. **Calculation of compensation :-**

The yearly income of the deceased is assessed at Rs.66,000/- p.a. and no future prospect. Considering the number of dependents and considering the fact that deceased was married and considering the number of

claimants / dependent, 1/3 amount is required to be deducted towards personal expenses of the deceased and therefore, **after deducting 1/3 amount, i.e Rs.22,000/-, the Loss of dependency would come to Rs.44,000 X 5 (Multiplier) = Rs.2,20,000/-.**

- 11.1 As this Tribunal is deciding the claim petition in the year 2019, as held in para No.61(viii) of the Pranay Sethi's case 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 aforesaid amounts should be enhanced at the rate of 10% in every three years. As six years have been passed from the date of the pronouncement of the Pranay Sethi's case, I deem it fit to enhance the amount to be paid under the conventional head at the rate of 10%. Therefore, as per the directions of Hon'ble Supreme Court in Pranay Sethi's case, petitioners are entitled for Rs.18,150/- towards loss of estate, Rs.48,400/- towards loss of consortium and Rs.18,150/- towards funeral expenses.
- 11.2 So far as the grant of consortium to the applicants / petitioners is concerned, the Hon'ble Apex Court in the latest judgment in case of **Magma General Insurance Com. Ltd. V/s. Nanu Ram @ Churhu Ram, 2018 (18) SCC 130 and United India Insurance Co. Ltd. V. Satinder Kaur @ Satwinder Kaur, 2020 SCC Online 410 (SC) (FB) and N.I.A Com. V/s. Smt. Somwati, 2020 (9) SCC 644** has categorically held that in addition to spouse, the children are entitled for parental consortium in case of death of a parent and Filial consortium is the right of the parents to compensation in case of death of a child and the amount to be awarded for loss of consortium will be as per the amount fixed in Pranay Sethi's case.

- 11.3 At the cost of repetition, it is observed that the Hon'ble Supreme Court has categorically held in Pranay Shethi's case that there shall be 10% rise in the conventional heads i.e. loss of estate, loss of consortium, funeral expenses, after the lapse of every three years. Hence, this Tribunal has incorporated 10% rise in the said conventional heads as per the directions of the Hon'ble Supreme Court in Pranay Shethi case.
- 11.4 Considering the fact that deceased was having two son and wife Rs.48,400/- can be awarded under the head of Parental Consortium to each dependent respectively.
12. Hence, the applicants / petitioners are entitled to the total amount of compensation as under :

<b>PATICULARS</b>	<b>AMOUNT</b>
Future loss of dependency	Rs.02,20,000/-
Loss of estate	Rs.00,18,150/-
Funeral expenses	Rs.00,18,150/-
Consortium	Rs.01,45,200/-
<b>Total amount of compensation</b>	<b>Rs.04,01,500/-</b>

13. **Liability to pay the compensation**

In the issue no.1, it has been held that, the accident had taken place due to negligence on the part of the driver of eco car bearing registration no.GJ-18-BC-7036 was negligent for the accident. It appears from the copy of the policy placed on record that, at the time of accident, opponent no.1 was driving the Eco car was insured with the opponent No.2 - Insurance Company and insurance policy produced at Mark 7/7 was in force at the time of accident, therefore opponents shall pay the compensation jointly or severally to the applicants / claimants. **I answer the Issue No.2 in affirmative accordingly.**

14. **Interest**

The claimants have prayed for interest at the rate of 18% per annum. Therefore, I have sought guidance from the judgment of the Hon'ble Constitutional Bench of the Hon'ble Apex Court, in the case of **Pranay Sethi (supra)**, wherein, the Hon'ble Apex Court has allowed interest at the rate of 9% p.a. Hence, I hold that the claimants are entitled for interest at the rate of 9% p.a. The Issue No.2, is, therefore, answered accordingly and the following final order is passed in the interest of justice.

**:- ORDER :-**

1. This claim petition is hereby partly allowed.
2. The applicants / petitioners of respective claim petition do recover the awarded amount of Rs.4,01,500/- from opponents with proportionate costs and with simple interest at the rate of 9% per annum from the date of the application till realization from the opponent.
3. The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of ***Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors.***
4. The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
5. The amount of interim compensation, if any, paid to the claimants, shall be adjusted towards this final award.
6. On deposition of the amount of compensation in the office of this Tribunal, the office shall first recover the amount of court fees, if any, due from the claimants and from remaining amount 70% of compensation amount shall be invested in any of the nationalized bank of the choice of the claimants in fixed deposit receipt for a period of 5 years

and remaining 30% amount shall be paid to the claimants by account payee cheque in their name, after due verification.

7. The claimants will be entitled to get interest payable periodically from the said investment. However, they will not be entitled to withdraw any amount before maturity or raise any loan from the said investment, without prior permission of this Tribunal.
8. Award to be drawn accordingly.

Signed and pronounced in the open court today i.e. on 22<sup>nd</sup> Day of April, 2026.

Place: Gandhinagar  
Date : 22.04.2026

**[ Piyush Mahendrabhai Unadkat ]**  
M.A.C.Tribunal (Aux.IV)  
Gandhinagar (GJ00716)