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	Registered on	15-04-2021
	Decided on	25-03-2026
	Duration	Y-04 , M-11, D-10

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**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUXI.) &
2nd ADDITIONAL DISTRICT COURT, KODINAR.**

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M.A.C.P. No. 6 of 2021

Exhibit :- _____

Petitioners : Heirs of decd. Nathabhai Bhimabhai Barad:-
Age:- 50 years :-

- 1. Bhimabhai Lakhmanbhai Barad,**
Age:-70 years, Occupation:-Agriculture,
- 2. Valiben Bhimabhai Barad,**
Age:-68 years, Occupation:-Agriculture,
- 3. Vanitaben Nathabhai Barad,**
Age:-45 years, Occupation:-Agriculture,
(Mother & Guardian of Minor Petitioner No.5)
- 4. Jashpalbhai Nathabhai Barad,**
Age:-19 years, Occupation:-Study,
- 5. Priyaben Nathabhai Barad,**
Age:-17 years, Occupation:-Study,

All residing at Sindhaj,
Ta.:-Kodinar, District Gir-Somnath.

Vs.

Respondents : Vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 :-

- (1) **Driver :-**
Jagsirsing Mandersing Sahota,
 Adult, Occupation:-Driving,
 Residing at:- Dhaipi, Ta.:- Jaito,
 District :- Fairdkot, State - Punjab.
- (2) **Owner :-**
Balvindarsing Sohansing,
 Adult, Occupation:-Transport,
 Residing at:- Dhanadakhurd,
 Ta.:- Jalalabad, District :- Fazilaka,
 State - Punjab.
- (3) **Insurance Company:-**
The United India Insurance Co. Ltd.,
 Rajmahal Road, Amrutdeep Complex,
 1st Floor, Opp. Public Garden,
 Near Tower Chowk, Veraval,
 District - Gir-Somnath.

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LD. ADVOCATES FOR THE PARTIES :-

For the Petitioners :- Mr. P. V. Chavda
 Ex-parte against the Respondents No.1 & 2.
 For the Respondent No.3 :- Mr. V. S. Jethva

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

1. The present petitioners being the heirs of deceased Nathabhai Bhimabhai Barad have filed this petition for getting compensation of Rs.45,00,000/- under the provisions of Section 166 of the Motor Vehicle Act, 1988 (Hereinafter referred in short as “the M. V. Act”).

2. Brief facts of the petition are such that, on 12.03.2021, at about 21:30 Hrs. deceased - Nathabhai Bhimabhai Barad was returning towards his home on his Motorcycle bearing registration No. GJ-32-M-4340 after completion of his duty at *Shapoorji Pallonji Company* and he was driving his Motorcycle in moderate speed and as per the traffic rules and when he reached near village Sindhaj, at that point of time the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 came by driving his vehicle Cutter (Harvester) after collecting the wheat from the field/farm and he was driving the said vehicle Cutter (Harvester) in full speed and also against the traffic rules, so as to endanger the human life and ultimately dashed with the Motorcycle of the deceased Nathabhai and caused the accident and due that accident deceased Nathabhai sustained serious and fatal injuries on his stomach and he was died due to that serious injuries. That the said accident was occurred due to negligence of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1 and complaint was also filed against the driver of said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. the respondent No.1 vide C.R. No. 11186002210301/2021 with the Kodinar Police Station. It is further submitted in the claim petition that at the time of accident, deceased Nathabhai was aged about 50 years old and he was serving in the *Shapoorji*

Pallonji Company and also doing the agriculture work and thereby total earned more than Rs.45,000/- per month. That, on account of ultimate death of deceased Nathabhai, the petitioners No.1 and 2 have lost their son, petitioner No.3 has lost her husband, while the petitioners No.4 and 5 have lost their father. So, the claim of Rs.45,00,000/- under different Heads as compensation with interest at the rate of 12% from the respondents.

3. Notices have been duly served upon the respondents. Though the public notices were also dully served upon the respondents No. 1 & 2, neither the respondent No. 1 & 2 nor their advocates appeared before the Tribunal and thus, the present claim petition proceeded as an *Ex-parte* against the respondents No.1 & 2.
4. The respondent No. 3 - The United India Insurance Co. Ltd. appeared through its Ld. Advocate and filed written statement vide Exh.9 and thereby, denied most of the statements, averments and allegations leveled against it. It is not admitted by the respondent No.3 - Insurance Company that, the Vehicle No. PB-22-K-6079 was insured with the respondent No.3 at the time of accident. It is also submitted that, at the time of alleged accident, the driver of said vehicle was not holding valid driving license and thereby breach the terms and conditions of the Insurance Policy, under such circumstance, the respondent No.3 -

Insurance Company cannot be held liable. The respondent No. 3 - Insurance Company has also denied the age and income of the deceased. The respondent No.3 has also submitted that the vehicle No. PB-22-K-6079 was not involved in the accident and also denied the facts of the occurrence of the accident and also stated that it is not true that driver of the said vehicle was driving his vehicle rashly and negligently and he was not liable at all for the alleged accident. It is also contended that another vehicle Motorcycle No. GJ-32-M-4340 was also involved in the accident and the accident took place due to sole negligence of the driver of Motorcycle, therefore, the Insurance Company is not liable to pay compensation to the petitioner. That, as per Section 134(C) of the M. V. Act, 1988 it is the mandatory duty of the insured to furnish the particulars of policy, date, time and place of incident, particulars of the deceased and the name of the driver and particulars of driving license, but the insured has not produced the same and hence the Insurance Company is not liable to pay any compensation for non compliance of the statutory provision. It is also submitted that, the claim of the petitioners is highly exaggerated too broad and too vague and therefore, the petitioners are not entitled to compensation of Rs.45,00,000/- or any amount, or any other relief or any other interest as prayed for and so the claim petition of the petitioner be dismissed with costs.

5. In view of the above facts of the case, the following issues have been framed at Exh. 17.

-:: ISSUES ::-

1. Whether it is proved that deceased died due to injuries on account of rashness or negligence in driving on the part of the driver of the vehicle involved in accident ?
 2. What amount, the claimants are entitled to by way of compensation and from which of the opponents ?
 3. What order ?
6. The findings of the aforesaid issues are as under.
1. In the Affirmative.
 2. As per final order.
 3. As per final order.
7. To prove the claim petition, the petitioners have produced the following oral as well as documentary evidences.

Sr. No.	PARTICULARS	Exh.
<u>Oral Evidence</u>		
1.	Deposition of the petitioner No.4 - Jashpalbhai Nathabhai Barad	26
2.	Deposition of witness - Mr. R. R. Garchar, P.S.I., A.T.S. Ahmedabad, (Investigating Officer of the present offence)	66
<u>Documentary Evidence</u>		
1.	Copy of F.I.R.	42
2.	Copy of Inquest Panchnama	43
3.	Copy of Spot Panchnama	44

4.	Copy of P. M. report of deceased Nathabhai Bhimabhai Barad	45
5.	Copy of Form No.54	46
6.	Copy of the chargesheet	47
7.	Copies of the Bank Statements of deceased Nathabhai Bhimabhai Barad	48
8.	Village Form No. 7, 8-A and 12 of the agriculture land of revenue survey No.41/paiki-1, situated at village Govindpur (Bhandariya)	49
9.	Copy of driving license of respondent No.1	50
10.	Copy of R. C. Book of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079	51
11.	Copy of Insurance Policy of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079	52
12.	Copy of Accident Report Form	53,54
13.	Copy of the Forensic Report	55
14.	Copy of school leaving certificate of deceased Nathabhai Bhimabhai Barad	56

8. The Respondent No.3 - Insurance Company has produced the following oral as well as documentary evidences.

Sr. No.	PARTICULARS	Exh.
<u>Oral Evidence</u>		
1	Affidavit of Mr. Jigar Sharadbhai Vagadiya, Divisional Manager, United India Insurance Company Ltd.,	19
<u>Documentary Evidence</u>		
1.	Copy of the letter written by the authorised officer of respondent No. 3 - Insurance Company to the Kodinar Police Station.	70
2.	Window Slip of RPAD	71

3.	Copy of tracking report of consignment No.EG596845169IN.	72
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-:: REASONS ::-

ISSUE NOS. 1 TO 3 :-

9. All these issues are interconnected and interwoven with each other and so, for the sake of convenience, these issues are discussed and decided together.
- 10.Ld. Advocate Mr. P. V. Chavda appeared on behalf of the petitioners has filed his written arguments vide Exh.75; wherein it is contended that, on 12.03.2021, at about 21:30 Hrs. when deceased - Nathabhai Bhimabhai Barad was returning towards his home on his Motorcycle bearing registration No. GJ-32-M-4340 after completion of his duty at *Shapoorji Pallonji Company* and he was driving his Motorcycle in moderate speed and as per the traffic rules and when he reached near village Sindhaj, at that point of time the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 came by driving his vehicle Cutter (Harvester) after collecting the wheat from the field/farm and he was driving the said vehicle Cutter (Harvester) in full speed against the traffic rules, so as to endanger the human life and dashed with the deceased Nathabhai and caused the accident and due that accident deceased Nathabhai sustained serious and fatal injuries on his stomach and he was died due to that serious injuries.

That the said accident was occurred due to sole negligence of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1 and FIR was also filed against the driver of said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. the respondent No.1 vide C.R. No. 11186002210301/2021 with the Kodinar Police Station. It is further submitted in the claim petition that at the time of accident, deceased Nathabhai was aged about 50 years old and he was serving in the *Shapoorji Pallonji Company* and also doing the agriculture work and thereby total earned more than Rs.45,000/- per month. That, on account of ultimate death of deceased Nathabhai, the petitioners No.1 and 2 have lost their son, petitioner No.3 has lost her husband, while the petitioners No.4 and 5 have lost their father. So, the petitioners being the heirs of deceased Nathabhai Bhiambhai Barad entitled to get the amount of of Rs.45,00,000/- as compensation under different heads as compensation with interest at the rate of 12% from the respondents. Ld. Advocate for the petitioners relied upon the oral evidences vide Exh.26 and Exh.66 and documentary evidences vide Exh.42 to 56 produced on behalf of the petitioners. Ld. Advocate Mr. Chavda has also submitted that, looking to the Spot Panchnama, it is clear that the alleged accident occurred due to sole negligence on the part of the driver of vehicle Cutter

(Harvester) bearing registration No. PB-22-K-6079 and there is no negligence found on the part of the deceased Nathabhai being the driver of vehicle Motorcycle. He has also submitted that, the petitioners have proved the facts of the present claim petition by producing the oral as well as documentary evidences produced on record. That, as per copy of the school leaving certificate of deceased Nathabhai produced vide Exh.56, at the time of alleged accident, age of deceased Nathabhai was 50 years. He has also submitted that, deceased Nathabhai was serving in the *Shapoorji Pallonji Company* and also doing the agriculture work and thereby total earned more than Rs.45,000/- per month and the said amount deposited in his bank account and it appears from the copies of bank account of deceased Nathabhai produced vide Exh.48 that, such amount have been deposited in the bank account of deceased Nathabhai. He has also submitted that, as per the facts of the application Exh.18, the respondent No.3 - Insurance Company has submitted that, they have not issued the policy produced vide Exh.52 or there is no any records that the issued branch has issued the said policy and in support of the said application Exh.18, the officer of Insurance Company filed his affidavit vide Exh.19 and thereby prayed to delete the insurance company, but the said application Exh.18 came to be rejected by this Tribunal and thereafter the respondent No.3 - Insurance Company has not

produced any documents on records, to prove that, they have not issued the policy produced vide Exh.52 and the respondent No.3 - Insurance Company has also not taken contention in this regard in their reply filed at Exh.9 and therefore as there is no pleading for the same, the said contention raised by the respondent No.3 - Insurance Company cannot be considered. He has also submitted that, the respondent No.3 - Insurance Company has considered the affidavit of it's officer vide Exh.19 as an affidavit of evidences, but the said affidavit cannot be considered as the affidavit of evidences as per Order 18, Rule 4 of the Code of Civil Procedure. Ld. Advocate for the petitioners Mr. Chavda has also submitted that, after the deposition of petitioners witness vide Exh.66, the respondent No.3 - Insurance Company filed an application regarding Insurance Policy before the Kodinar Police Station on 08/01/2026 and the said application is completely "after thought" application, which cannot be considered at the stage of arguments. He has also submitted that, the petitioners have produced the certified/true copies of the documents received from the police and produced the said documents at Exh.42 to 47 and Exh.50 to 55 and the witness of the petitioners vide Exh.66 has also supported the said documents. He has also submitted that, the policy produced at Exh.52 is duly signed and stamp of the company's letter pad, which was

received by the police from the respondents during the course of investigation and the police has also obtained other documents from the respondents, which are on records and the petitioners have duly proved the said documents. While, the respondent No.3 - Insurance Company has not proved the facts that, they have not issued the said policy and therefore, the respondent No.3 - Insurance Company cannot escape from its liability and the same ratio has been held by the Hon'ble Supreme Court as well as Hon'ble High Courts. In support of his arguments, Ld. Advocate Mr. Chavda for the petitioners have relied upon the following judgments of the Hon'ble Supreme Court as well as Hon'ble High Courts.

- i. *Ranjit & Anr. Vs. Abdul Kayam Neb & Anr. SC, Civil Appeal No. of 2025 (Arising out of SLP (C) No. 10351 of 2019)*
- ii. *ICICI Lombard General Insurance Company Ltd., Vs. Sampat and G. Selvaraj, High Court of Madras, C.M.A. No. 1354 of 2025 to C.M.P. No. 11561 of 2025.*
- iii. *Oriental Insurance Company Ltd., Vs. Padam Bahadur Rai and others - Karma Tshering Tamang and others, M.A.C. No. 7 of 2020 to 09 of 2020 High Court of Sikkim.*
- iv. *Oriental Insurance Company Vs. Jayeshbhai Bhagubhai Patel & Others. R/First Appeal No. 4114 of 2009 with R/First Appeal No. 4115 of 2009, High Court of Gujarat.*

11. Per contra, Ld. Advocate appeared on behalf of the respondent No.3 - Insurance Company has also filed his written arguments vide Exh.77; wherein it is mainly submitted that, the respondent No.3 - United India

Insurance Company has not issued the Insurance Policy or certificate for vehicle No. PB-22-K-6079 at the time of accident. It is also submitted that, the petitioners have applied to join the Insurance Company only on the basis of Xerox copy of the policy from the police record, which is not primary evidences and the same is not proved. That, the Investigating Officer has also not identified the policy on record and he has denied that, the same was certified by him. It is also submitted that, the respondent No.3 - Insurance Company has filed its written statement vide Exh.9 and denied the claim of the petitioners in toto, wherein it is specifically pleaded that, the vehicle No. PB-22-K-6079 was not insured with the respondent No.3 - United India Insurance Company. It is also submitted that, the driver and owner of the vehicle No. PB-22-K-6079 not appeared before the Tribunal and the owner of the said vehicle has not produced any insurance policy. It is also submitted that, the respondent No.3 - Insurance Company has examined legal officer of the Insurance Company in support of the documents produced on records he was not cross-examined by the petitioners and hence the facts as stated by him remain unchallenged. It is also submitted that, the respondent No.3 - Insurance Company has informed the concern police station for the policy on record that, this policy in question was not issued by the respondent No.3 - Insurance Company and the same is

fake. In support of this submission, the respondent No.3 - Insurance Company has produced the documents vide Exh.70 to 72. It is also submitted that, it is cardinal principal of law that, the burden of proof on the petitioners to prove the insurance policy allegedly issued by the respondent No.3 in favour of vehicle No. PB-22-K-6079, but the petitioners failed to discharge his burden and the respondent No.3 - Insurance Company succeed to prove the same. In support of his arguments, Ld. Advocate Mr. V. S. Jethva has relied upon the following judgments of the Hon'ble Supreme Court as well as Hon'ble High Courts.

- i. *Oriental Insurance Company Ltd., Vs. Devaraja, High Court of Karnataka, MFA No. 420 of 1999.*
- ii. *Oriental Insurance Company Ltd., Vs. Mst. Fazi, reported in 2020 AAC 2126 (J & K).*
- iii. *The Manager - Claim, TATA AIG General Insurance Company Ltd., reported in 2021 AAC 1313 (MAD).*
- iv. *Darilina Passah Vs. Batriti Lyngdoh & Ors. reported in AIR 2010 (NOC) (SUPP) 54 (GAU).*
- v. *The New India Assurance Company Ltd., Vs. Sumanbai Sahadu reported in AIR Online 2019 Bom. 2559.*
- vi. *Bharti Axa General Insurance Company Ltd., Vs. Gayabai Devrao Weldode and Ors. High Court of Bombay, First Appeal No. 4447 of 2019 with Civil Application No. 12001 of 2016 and Civil Application No. 15575 of 2016.*
- vii. *Shriram General Insurance Co. Ltd., Vs. Kamlesh Jha, reported in LAWS (DLH) 2023-5-188.*
- viii. *The New India Assurance Co. Ltd., Vs. Thakor Kanaji Viraji, High Court of Gujarat, R/Special Civil Application No. 16750 of 2019 with R/First Appeal No. 3153 of 2019.*

- ix. *Bakshish Singh and others Vs. Balwander Singh and others, reported in 2013 ACJ 2542.*
- x. *K. Devadas Krishnappa Vs. United India Insurance Co. Ltd., reported in AIR 2009 (NOC) 1721 (KAR).*
- xi. *National Insurance Co. Ltd., Vs. Sunita Devi and others. reported in 2025 AAC 1400 (SC).*

12.I have heard the Ld. Advocates for both the contesting parties at length and also consider their oral as well as written arguments along with the judgments of the Hon'ble Apex Court as well as Hon'ble High Courts cited by them. I have also taken into consideration the oral as well as documentary evidences produced by the parties on records.

13.In view of the above rival grievances of the parties to the petition, as to the negligence of the driver of the vehicle involved in the accident, liability of the respondents etc., it is clear that the petitioners have availed the remedy to claim compensation of death of deceased Nathabhai Bhimabhai Barad, under Section 166 of the M. V. Act. It would be advantageous to refer the relevant provisions of this Section, which reads as under :-

“Section 166 : Application for compensation.

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 may be made,-

- (a) by the person who has sustained the injury; or*
- (b) by the owner of the property ; or*

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits or whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed :

Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

(3) x x x x

(4) x x x x”

14. Thus, from the conjoint reading of the above provisions and provision of sub-section (1) of the Section 165 of the M. V. Act, it becomes clear that injured or legal representatives of the deceased may make an application for compensation in respect of accident involving the death of, or bodily injury to, persons arising out of the use of the motor vehicle. Here, in the matter on hand, the deceased - Nathabhai Bhimabhai Barad, died in vehicular accident arising out of the use of the vehicle i.e. Cutter (Harvester) bearing registration No. PB-22-K-6079.

15. Moreover, the vehicular accident was occurred within the territorial jurisdiction of this Tribunal. So, this claim petition of the petitioners is very well maintainable. Thus, bearing in mind the provision of Section 166 of the M. V. Act, in the circumstances of the case as such, it is now for the tribunal to see as to whether the petitioners have succeeded in proving their claim. It is an admitted position of law that the burden of proof to prove the claim including the fault and negligence on the part of the respondents is lying on the shoulder of the claimant of the claim petition. The Hon'ble Supreme Court in the case of *Sunita & Ors. Vs Rajasthan State Road Transport Corporation & Anr.*, reported in *AIR 2019 SC 994*, has held that ;

"It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."

16. The Hon'ble Supreme Court has also considered the issue of degree of burden of proof to prove the claim under the M. V. Act lying on the shoulder of the claimant in the case of *Bimla Devi and Ors. Vs. Himachal Road Transport*

Corporation and Ors., reported in (2009) 13 SCC 530.

The Hon'ble Supreme Court has held that :

"In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties."

17. In this respect our own the Hon'ble Gujarat High Court in the case of *The New India Assurance Co. Ltd. Vs. Meenaben Pankajkumar Joshi*, reported in *MANU/GJ/0797/2007* has held that :

"Strict rules of evidence, such as proof beyond reasonable doubt in criminal cases and preponderance of probabilities in civil cases would not apply in the claim proceedings under the Motor Vehicles Act."

18. So, the legal proposition is now settled as per the principles enunciated by the Hon'ble Apex Court as well as our own the Hon'ble High Court that, the rule of proof of evidence applicable to the petition under the M. V. Act is not strict as applicable in the Criminal and Civil cases.

19. In order to succeed in claim petition, the petitioners have to prove and establish that the accident is occurred because of rash and negligent driving of the offending vehicle involved

in the accident and deceased died due to said accident. The petitioners have examined petitioner No. 4 - Jashpalbhai Nathabhai Barad vide Exh.26. In his deposition on oath, the petitioner No.4 has deposed that the accident was occurred on 12.03.2021, at about 21:30 Hrs. when deceased - Nathabhai Bhimabhai Barad was returning towards his home on his Motorcycle bearing registration No. GJ-32-M-4340 after completion of his duty at *Shapoorji Pallonji Company* and he was driving his Motorcycle in moderate speed and as per the traffic rules and when he reached near village Sindhaj, at that point of time the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 came by driving his vehicle Cutter (Harvester) after collecting the wheat from the field/farm and he was driving the said vehicle Cutter (Harvester) in full speed against the traffic rules, so as to endanger the human life and dashed with the deceased Nathabhai and caused the accident and due that accident deceased Nathabhai sustained serious and fatal injuries on his stomach and he was died due to that serious injuries. That, the said accident was occurred due to negligence of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1 and FIR was also lodged against the driver of said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. the respondent No.1 vide C.R. No.11186002210301/2021 with Kodinar

Police Station. The petitioner No.4 has also deposited on oath that, at the time of accident, his father - i.e. deceased Nathabhai was aged about 50 years old and he was serving in the *Shapoorji Pallonji Company* and also doing the agriculture work and thereby total earned more than Rs.45,000/- per month. That, on account of ultimate death of deceased Nathabhai, the petitioners No.1 and 2 have lost their son, petitioner No.3 has lost her husband, while the petitioners No.4 and 5 have lost their father and therefore, being the heirs of deceased Nathabhai Bhimabhai Barad, the present petitioners entitled to get the amount of Rs.45,00,000/- under different heads as compensation from the respondents.

20.The petitioner No.4 has also been cross-examined by the Ld. Advocate for the respondent No.3 - Insurance Company wherein, he has denied that, the alleged accident occurred due to the negligence on the part of his father - i.e. deceased Nathabhai Bhimabhai Barad.

21.From the credible and trustworthy testimony of the petitioner No.4, it clearly proves that the said accident was occurred due to negligent driving of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079. As against this credible deposition nothing rebuttal to this fact is came out on record as the respondents No.1 and 2

being the driver and owner of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 did not choose to appear in the matter, so, the submissions made by the petitioner No.4 remain unchallenged.

22.Now, on perusal of the FIR and Chargesheet produced at Exh.42 and 47 respectively, it appears that the complaint for the alleged accident has been lodged against the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1 and after thorough investigation, chargesheet is filed against the respondent No.1 being the driver of said vehicle vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079. Having further verified the contents of the complaint and the chargesheet it evince that specific statement is made in the said complaint that said accident is caused by the driver of the vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 by driving his vehicle in rash and negligent manner and in excessive speed.

23.The petitioners have also produced Panchnama of the spot of the accident vide Exh.44, which also supports the case of the petitioners. From the contents of the said Panchnama, it divulges that the said accident was occurred on Sindhaj-Kodinar road and width of the said road is about 20 Ft. and both the involved vehicles - i.e.

Motorcycle No. GJ-32-M-4340 and Cutter (Harvester) bearing registration No. PB-22-K-6079 were found at the accidental place and there were blood spots shown on that road.

24. Documentary evidences on record clearly support the version on oath of the petitioner No.4. The petitioners have also produced the copy of chargesheet filed against the present respondent No.1 for the said offence registered with Kodinar Police Station in connection with the said accident vide Exh.47. The factum of filing of chargesheet against the driver of the said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 also substantiate that said accident was occurred due to negligence on the part of the driver of the said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. the respondent No.1. It is pertinent to be noted that chargesheet against accused person is filed only after detailed investigation conducted by the investigating agency.

25. As against the above reliable documentary evidences of the petitioners, not any cogent and convincing evidences produced by the respondents. So, it is proved that the said accident was occurred due to rash and negligent driving of the respondent No. 1 being driver of the vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079.

26. The petitioners have also produced certified copy of postmortem report of deceased Nathabhai Bhimabhai Barad vide Exh.45. From the said document, it is established that, deceased Nathabhai Bhimabhai Barad died due to vehicular accident. Furthermore, as discussed above the burden of proof to prove the negligence is not as much as strict in comparison to the Civil and Criminal matters, hence, the petitioners have successfully discharged their burden to prove that, the said accident was occurred due to rash and negligent driving of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079. Therefore, as per the above discussion this Tribunal comes to the conclusion that the alleged accident has been occurred due to sole negligence on the part of the driver vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1. **Hence, the issue No.1 is answered in the affirmative accordingly.**

27. Determination of just, fair and reasonable amount of compensation is one of the most important aspect to be considered in the claim petition under the M. V. Act. Ld. Advocate Mr. Chavda for the petitioners has argued on the point of compensation that, deceased Nathabhai Bhimabhai Barad was aged about 50 years old and he was serving in the *Shapoorji Pallonji Company* and also doing the agriculture work and thereby total earned more than

Rs.45,000/- per month. For deciding the amount of compensation, the prime factor to be considered is the age of the victim or deceased. The petitioners have produced the copy of School leaving certificate of deceased Nathabhai vide Exh.56; wherein the date of birth of Nathabhai is mentioned as 01/06/1970 and hence on the date of alleged accident - i.e. on 12/03/2021 deceased Nathabhai Bhimabhai Barad was aged about 50 years, 9 months and 11 days. So, the age of deceased is considered as 50 years.

28.Now, so far as the income of the deceased is concerned, it is the claim of the petitioners that at the time of death the deceased, he was serving in the *Shapoorji Pallonji Company* and also doing the agriculture work and thereby total earned more than Rs.45,000/- per month. In support of the submission regarding the income of the deceased, the petitioners have produced the copies of the bank account statements of deceased vide Exh.49 and village forms No.7/12 and 8-A of the agriculture land of revenue survey No.41/paiki-1, situated at village Govindpur (Bhandariya) but the petitioners have not produced any evidences to prove the exact income of the deceased. Besides, it is not the specific case of the respondents that the deceased was not serving in the *Shapoorji Pallonji Company* and also not doing the agriculture work or any

other work for earning livelihood for himself and for his family. Therefore, considering all the above facts of the matter on hand and also in absence of material evidence on record and considering the age of the deceased and year of accident and nature of work done by deceased and availability of work in the month and looking to the rate of minimum wages for the skilled labour and unskilled labour prevalent at the time of the accident, it would be just and reasonable to assess the monthly income of the deceased - Nathabhai Bhimabhai Barad as Rs.9,000/- which comes to Rs.1,08,000/- per annum and it would not be at very high side.

29.It is one of the contention of the Ld. Advocate for the petitioners that the prospective income of the deceased should be considered. To resolve the controversy regarding whether an addition as regards the future prospects is to be added while determining the income of the deceased. In the matter on hand, it would be imperative to apply the principles enunciated by the Hon'ble Supreme Court in the decision in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi and others* reported in (2017) 16 SCC 680. The Hon'ble Supreme Court has considered the controversy regarding the issue where the deceased was self employed or was a person on fixed salary without provision for annual increment, what should be the

addition as regards the future prospects. The Hon'ble Supreme Court has culled out the guiding principles in this decision and relevant principles to decide the controversy prevailing in this matter regarding addition of future prospect is required to reproduce here as under :-

“61. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i)

(ii)

(iii)

(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 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. The established income means the income minus the tax component.”

30.As discussed herein above, the deceased was self employed and as per the copy of birth certificate of deceased Nathabhai Bhimabhai Barad vide Exh.56, the age of deceased is considered as 50 years on the date of alleged accident. Therefore, in view of the above settled principles enunciated by the Hon'ble Apex Court in the case of *Pranay Sethi* (Supra) the deceased between the age of 50 to 60 years, hence, he is also entitled to get 10% addition towards future prospects and accordingly, the monthly income of the deceased is required to be determined as Rs.9,000/- + Rs.900/- (10% of Rs.9,000/-) aggregating to

Rs.9,900/- per month. So, the yearly income of the deceased including future prospects would come Rs.1,18,800/- (Rs.9,900/- x 12 = Rs.1,18,800/- per annum).

31. The Hon'ble Supreme Court in case of *Sarla Verma Vs. Delhi Transport Corporation* reported in *2009 A.C.J. 1298* has held that the amount of personal expenses which the deceased would have spent on himself had he been alive from his monthly income should be determined on the basis of number of dependents. Here, in the present case on hand it appears from the oral as well as documentary evidences that deceased was married and the petitioners No.1 and 2 are parents of the deceased, petitioner No.3 is wife of the deceased, while the petitioners No.4 and 5 are children of the deceased. So, the number of dependents are Five. Hence, as per the principles enunciated by the Hon'ble Supreme Court in the case of *Sarla Verma* (Supra), in the present case 1/4 from the income of the deceased is required to be deducted. Accordingly, the dependency would come to Rs.89,100/- (i.e. Rs.1,18,800/- - Rs.29,700/-).

32. As discussed above, the age of the deceased was 50 years at the time of accident, so, as per the principles articulated by the Hon'ble Supreme Court in the case of *Sarla Verma* (Supra), the **multiplier of 13** will be applicable. Loss of

dependency would come to Rs.89,100 x 13 = Rs.11,58,300/-. Hence, the petitioners being the parents of the deceased are entitled to get **Rs.11,58,300/- under the Head of Loss of dependency.**

33.The Hon'ble Supreme Court has considered the issue of entitlement for loss of consortium in the case of *New India Assurance Company Limited Vs. Somwati Sangita and others*. The Hon'ble Supreme Court has considered the issue of entitlement for loss of consortium in this case.

34.In view of the principles articulated by the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi and others* (Supra) and in the case of *New India Assurance Company Limited Vs. Somwati Sangita and others* the petitioners No.1 and 2 being parents of the deceased, petitioners No.3 being wife of the deceased and petitioners No.4 and 5 being children of the deceased are entitled for the amount of compensation under the head of loss parental consortium and the petitioner is also entitled for the amount of compensation towards loss of estate and funeral expenses.

35.The Hon'ble Supreme Court in the case of *National Insurance Co. Ltd. Vs. Pranay Sethi and others* (Supra) has held that :

"59.8. 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."

36.In view of the above principle laid down by the Hon'ble Supreme Court the amount of Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- is fixed by the Hon'ble Supreme Court towards compensation under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses respectively and as per the decision in the case of *Pranay Sethi* (Supra) this Tribunal deem it fit to enhance the amount of compensation to be paid under the conventional head at the rate of 10%. Therefore, as per the direction of the Hon'ble Supreme Court in the case of *Pranay Sethi* (Supra), the petitioner is entitled for **Rs.16,500/- towards loss to estate and Rs.16,500/- towards funeral expenses.**

37.So far as the grant of consortium to the petitioners is concerned, in view of the above settled principles, all the petitioners are entitled for getting the amount of compensation under the head of loss of filial consortium, spousal consortium and parental consortium. Hence, all the petitioners are entitled to get the amount of Rs.2,20,000/- (Rs.44,000/- x 5) for loss of filial consortium, spousal consortium and parental consortium.

38. Thus, in view of the above discussions, the petitioner is entitled for **Rs.14,11,300/-** as compensation for following particulars.

Sr. No.	Particulars.	Amount (Rs.)
1.	Loss of Dependency.	11,58,300/-
2.	Loss of Estate.	16,500/-
3.	Funeral Expenses.	16,500/-
4.	Loss of consortium	2,20,000/-
TOTAL		14,11,300/-

39. So far the liability of paying the compensation is concerned, as discussed above in foregoing paras of this judgment, wherein it is held that, the alleged accident occurred due to sole negligence on the part of the driver vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 - i.e. respondent No.1. It appears from the entire records that, the respondents No.1 and 2 are driver and owner of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079, while the respondent No.3 has been joined as the Insurance Company of said vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079.

40. It is the foremost contention of the Ld. Advocate Mr. V. S. Jethva appeared on behalf of the Insurance Company that, the respondent No.3 - United India Insurance Company has not issued the Insurance Policy or certificate for vehicle No. PB-22-K-6079 at the time of accident but the

petitioners have applied to join the Insurance Company only on the basis of Xerox copy of the policy from the police record, which is not primary evidences and the same is not proved. Mr. Jethva has also submitted that, the Investigating Officer has also not identified the policy on record and he has denied that, the same was certified by him. He has also submitted that, the driver and owner of the vehicle No. PB-22-K-6079 not appeared before the Tribunal and the owner of the said vehicle has not produced any insurance policy, while the respondent No.3 - Insurance Company has examined legal officer of the Insurance Company in support of the documents produced on records and he was not cross-examined by the petitioners and hence the facts as stated by him remain unchallenged. He has also argued that, the respondent No.3 - Insurance Company has informed the concern police station for the policy on record that, this policy in question was not issued by the respondent No.3 - Insurance Company and the same is fake. He has also submitted that, it is cardinal principal of law that, the burden of proof on the petitioners to prove the insurance policy allegedly issued by the respondent No.3 - United India Insurance Company in favour of vehicle No. PB-22-K-6079, but the petitioner failed to discharge his burden and the respondent No.3 - Insurance Company succeed to prove the same.

41. On the other hand, Mr. N. S. Pandya and Mr. P. V. Chavda appeared on behalf of the petitioners has also argued that, the respondent No.3 - Insurance Company has submitted that, they have not issued the policy produced vide Exh.52 or there is no any records that the issued branch has issued the said policy and in support of the said application Exh.18, the officer of Insurance Company filed his affidavit vide Exh.19 and thereby prayed to delete the insurance company, but the said application Exh.18 came to be rejected by this Tribunal and thereafter respondent No.3 - Insurance Company has not produced any documents on records, to prove that, they have not issued the policy produced vide Exh.52 and the respondent No.3 - Insurance Company has also not taken contention in this regard in their reply filed at Exh.9 and therefore as there is no pleading for the same, the said contention raised by the respondent No.3-Insurance Company cannot be considered. Ld. Advocate Mr. Chavda has also submitted that, the respondent No.3 - Insurance Company has considered the affidavit of it's officer vide Exh.19 as an affidavit of evidences, but the said affidavit cannot be considered as the affidavit of evidences as per Order 18, Rule 4 of the Code of Civil Procedure. Ld. Advocate for the petitioners Mr. Chavda has also submitted that, after the deposition of petitioners witness vide Exh.66, the respondent No.3-Insurance Company filed an application regarding

Insurance Policy before the Kodinar Police Station on 08/01/2026 and the said application is completely “after thought” application, which cannot be considered at the stage of arguments. He has also submitted that, the petitioners have produced the certified/true copies of the documents received from the police and produced the said documents at Exh.42 to 47 and Exh.50 to 55 and the witness of the petitioners vide Exh.66 has also supported the said documents. He has also submitted that, the policy produced at Exh.52 is duly signed and stamp of the company’s letter pad, which was received by the police from the respondents during the course of investigation and the police has also obtained other documents from the respondents, which are on records and the petitioners have duly proved the said documents, while, the respondent No.3 - Insurance Company has not proved the facts that, they have not issued said policy and hence, the respondent No.3 - Insurance Company cannot escape from it’s liability.

42.Now, considering the entire records, it appears that, the respondents No.1 and 2 - i.e. the driver and owner of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 were duly served by publication of notice through Newspaper - i.e. Time of India, but in spite of that, they have chosen not to remain present before this Tribunal. Further, the petitioners have filed an application to exhibit

their documents produced at mark-6/1 to 6/7, 16/1, 27/1 to 27/5, 39/1 to 39/7. Then-after hearing of the Ld. Advocates of the parties, the documents of mark-6/1 to 6/4 & mark 27/1, 27/2, 27/4, 27/5 & mark-39/1 to 39/7 were ordered to be exhibited with condition to prove contentions of said documents for deciding admissibility of those documents in accordance with law. Therefore, the burden is lied upon the petitioners to prove the said documents of Exh.52 - i.e. copy of Insurance Policy. Then the Ld. Advocate for the respondent No.3 - United India Insurance Company has filed discovery application as per Order 11, Rule 12 of the Code of Civil Procedure for producing the original insurance policy of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 and driving license of the driver of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 and in reply to the said application, the petitioner No.4 - Jashpalbhai Nathabhai Barad has filed his affidavit vide Exh.60, wherein he has deposed and declared that, the original insurance policy of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 remain with the owner of said vehicle Cutter or with the Insurance Company and he has produced the certified copies of insurance policy and driving license obtained from the police and then after produced the said documents on record. But the petitioners have not produced any other documents regarding contract of insurance.

43.Further, the Investigation Officer Mr. R. R. Garchar, who has conducted the investigation of the offence registered for the said accident, has deposed on oath vide Exh.66 and he has been cross-examined by the Ld. Advocate for the respondent No.3 - Insurance Company. During his cross-examination, he has admitted that, during the course of investigated, he has not seized/collect the original insurance policy and the copy of insurance policy cannot be said the true copy of original. He could not say about the policy is fraud. He identified the said copy as true copy without verifying the original.

44.Looking to the entire records, it appears that, the original insurance policy of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 has not been produced on records by the parties. Moreover, in support of the documents produced on records, the respondent No.3 - Insurance Company has also examined legal officer of the Insurance Company vide Exh.19, wherein he has clearly stated that, he has verified the policy which was produced by the petitioners, but the said policy is not verified and the policy produced by the petitioners on records was having issuing office address which was Gurgram and the policy having round stamp of Taran Tran branch office and he has also communicated with the their branch offices and Divisional Office but, both the offices have not issued the

said policy and the said policy was not verified in their company's record. Further, said legal officer of the respondent No.3 - Insurance Company has not been cross-examined by the petitioners and hence the facts as stated by him remain unchallenged.

45.Ld. Advocate Mr. Jethva relied upon the case of *The Oriental Insurance Co. Ltd. vs N. S. Devaraja And Ors.*, reported in (1998) ACC 338, wherein the issue relating to the liability of the insurer in fake insurance policy of the vehicle has been discussed by the Hon'ble Karnakaka High Court and it is observed and held that, "*The first question which I put to myself is had the parties not led any evidence in the case what would have been the consequence that may indicate the burden of proof. If none of the parties would have led the evidence to prove the case, the claim would have had to be dismissed. If the claimant wanted a decree against all the respondents' that is the owner as well as the insurance company, then firstly the burden was on the claimant to prove that the vehicle in question was insured, then he could have got a decree against respondent no.3. If the claimant would have failed to prove, but has established the occurrence and succeeds in proving the negligence of the driver of the vehicle and causing injury because of rash and negligent driving, then the claimant may be entitled to get compensation and decree for compensation against the owner of the vehicle, and against the driver of the vehicle, but if the owner of the vehicle denies and wants that for whatever he has to pay, he has got to be indemnified or whatever liability is fastened on him should be borne by the insurance company, then the burden apart from on being the*

claimant, the burden did lay on the owner of the vehicle to have produced the evidence and the fact that the vehicle in question was insured one and was covered by the insurance policy on the date of the incidence or occurrence.”

46. Further, in the case of ***ICICI Lombard General Insurance Vs. Ashokan and others***, decided on 3 December, 2020, the Hon'ble Madras High Court has observed and held that, “ 7. *When the Insurance Company has taken a specific defense that the vehicle was not covered under them and prima facie established before the Tribunal that the policy relied by the claimant is not the document issued by the insurance company, the Tribunal ought not to have accepted the in-genuine policy. The owner of the vehicle has remained ex-parte, so the Tribunal ought to have suspected the source through which Exh.10 came to the hands of the claimant.”*

47. It is also pertinent to note at this stage that, the respondents No.1 and 2 - i.e. the driver and owner of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 were duly served by publication of notice through Newspaper - i.e. Time of India, but in spite of that, they have chosen not to remain present before this Tribunal and therefore, nothing is on record to clarify the above situation and therefore also the contention of the respondent No.3 - Insurance Company, which is otherwise found absolutely correct is remained unchallenged. Therefore, the petitioners have failed to prove the copy of policy document produced vide Exh.52.

48.In view of the aforesaid facts and circumstances of the case, the respondent No. 3 - Insurance Company cannot be held liable to pay compensation to the petitioners. Therefore, as per the above discussion and considering the principles laid down in aforesaid decisions, the respondent No.3 - United India Insurance Company Ltd., cannot be held liable to indemnify the respondents Nos.1 and 2. Admittedly, the respondents No.1 and 2 were the driver and owner of vehicle Cutter (Harvester) bearing registration No. PB-22-K-6079 at the time of accident and, therefore, they are liable to pay the amount of compensation to the petitioners. Hence, in view of the discussion made above, the respondent No. 3 - United India Insurance Company Ltd., is hereby exonerated in toto from its liability to pay the compensation to the petitioners and required to be exonerated from its liability. The petitioners are entitled to recover the awarded amount with interest and costs from the respondents Nos.1 and 2 who are held to be jointly and severally liable the awarded amount of compensation to the petitioners in accordance with law. Hence, **the issue No.2 is answered** accordingly.

INTEREST ON AWARDED AMOUNT :-

49.Ld. Advocate for the Petitioners would submitted that petitioners be awarded the amount of compensation with interest at the rate of 12%. While Ld. Advocate Mr. V. S.

Jethva for the Insurance Company has submitted that, presently the rate of interest in the Nationalized Bank are reduced, so the rate of interest should not be more than the rate of interest of the Nationalized Bank. Having considered the contention in this regard, the provisions of Section 171 of the M. V. Act is required to take into consideration. Section 171 of the M. V. Act, deals with the award of interest where any claim is allowed, it reads as follows :

“Section - 171. Award of interest where any claim is allowed :-

Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.”

50. Under the said provision no rate of interest has been fixed and its duty is bestowed upon the Tribunal to fix the rate of interest. In ***Abati Bezbaruah Vs. Dy. Director General, Geological Survey of India and Another***, reported in ***(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.”

51. The Hon'ble Supreme Court has by applying the principles as enunciated in the case of *Abati Bezbaruah (Supra)* also held in the case of *Puttamma and others Vs. K. L. Narayana Reddy and another*, reported in *AIR 2014 Supreme Court 706* as under :

“61. In Supe Dei v. National Insurance Co. Ltd. and Anr. (2009) 4 SCC 513, this Court held that proper interest would be 9% per annum.*

62. In view of the aforesaid provisions of the Act, 1988 (Section 171) and the observation of this Court, as noticed above, we keep this question open for Tribunals and Courts to decide the rate of interest after taking into consideration the rate of interest allowed by this Court in similar case and other factors such as inflation, change in economy, policy adopted by the Reserve Bank of India from time to time and the period since when the case is pending.”

52. Therefore, having regards to the facts and circumstances of the case, by keeping in mind the above principles enunciated by the Hon'ble Supreme Court, it would be just and proper to award the simple interest at the rate of 7.5 % per annum. Hence, the petitioner shall be entitled to get simple interest at the rate of 7.5 % per annum on the awarded amount of claim from the date of filing of claim petition till payment of awarded amount.

TAX DEDUCTED AT SOURCE:

53. In the case of *Smt. Hansaguri Prafulchandra Ladhani & Others Vs. Oriental Insurance Company Limited &*

Others, reported in *2007 (2) GLH 291*, our own the Hon'ble High Court of Gujarat has laid down the guidelines regarding the Tax Deducted at Source.

54.In this decision, the Hon'ble High Court has 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 / respondent at the time of depositing the awarded amount along with interest in the Tribunal. The same principles have been reiterated by our own the Hon'ble High Court in the case of *New India Assurance Co. Ltd. Vs. Bhoyabhai Haribhai Bharvad and others reported in 2017 ACJ 1727*. Therefore, in view of the ratio laid down in these decisions, the respondent/Insurance company is/are hereby directed not to deduct the TDS if the amount of interest does not exceeds Rs.50,000/- per year per petitioner. In view of the above discussion, all the points are answered accordingly and in the interest of justice following order is passed.

-:: ORDER ::-

1	The present Claim Petition No.6 of 2021 of the petitioners is hereby partly allowed with costs and interest only against the respondents No.1 and 2.
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2	The respondent No.3 - United India Insurance Company Ltd., is hereby exonerated from the liability to pay the amount of compensation to the petitioners.
3	The Petitioners do recover total of Rs.14,11,300/- (Rupees Fourteen Lakhs Eleven Thousand Three Hundred only) as compensation along with a simple interest to be calculated @ 7.5% per annum from the date of filing of the claim petition till payment from the respondents No.1 and 2 jointly and severally.
4	The respondents No.1 and 2 are hereby directed to deposit the above amounts of award jointly and severally after deducting the amount of interim compensation, if any paid under the M. V. Act, in the Bank Account of this Tribunal directly by NEFT or RTGS maintain with State Bank of India, Main Branch, Kodinar, within one month from the date of this order.
5	On depositing of the above amount of award by the respondents No.1 and 2 in this Tribunal, the deficit amount of Court Fee Stamp, if any, on the awarded amount be deducted first and thereafter, the remaining amount be disbursed to the Petitioner. The 60% of the amount of the share of the petitioners be deposited in the names of the Petitioners, in any nationalized bank of the choice of the petitioners for the period of 5 years and the remaining 40% amount of the shares of the petitioners shall be made directly to the credit of the

	Bank Account of the respective Petitioners by NEFT or RTGS.
6	The Petitioners shall be entitled to receive periodical interest on the Fixed Deposits, but shall not be entitled to raise loan or advance without the prior permission of this Tribunal.
7	<p>The petitioners are directed to submit following details of their bank accounts to this Tribunal within one week from today in compliance of the Circulars of the M.A.C.T., Kodinar :</p> <p>(1) Name of the claimants/victims with address: (2) Account Number of the claimants/victims: (3) Name of the Bank & Branch: (4) Bank IFSC Code: (5) First page of Bank Passbook, which will compulsorily contain photograph of the claimants/victims duly attested by the Bank concerned:</p>
8	The respondents (the Insurance Company / transport corporations /such other entities) shall deposit the awarded amount of compensation, as directed in Circular No.22 of 2022 of District Court, Gir-Somnath, dated 03.02.2022 in Account Name : Motor Accident Claim Tribunal, Kodinar , Account No. 40745501739 , IFS Code: SBIN0060033 , MICR : 362002141 and on such deposits being made, the respondents (the insurance company / transport corporations / such other

	<p>entities) shall submit a letter to the Registry of District Court, Kodinar enclosing a copy of the Bank Advice, in prescribed format as below, as per which the deposit was made to the Bank Account of this Claims Tribunal, to enable the Registry of Claims Tribunal (M.A.C.T., Kodinar) to keep tab on the deposits made and the M.A.C.Ps for which they were made, which is a fundamental need for a smooth implementation.</p> <p>PAYMENT ADVICE FOR REMITTANCE OF COMPENSATION From : (Name of Bank) To : (Name of Court)</p> <p>We confirm remittance of compensation as follows on instructions of Insurance Company/Transport Corporation :</p> <ol style="list-style-type: none"> 1. M.A.C.P. Number 2. On the file of (Name of Claims Tribunal) 3. Place 4. Date of Award 5. Amount Deposited 6. Income Tax Deduction at Source, if any Unique Transaction Reference (UTR) No.
<p>9</p>	<p>The Insurance Companies, Transport Corporations or such other entities making such deposit, shall also send a copy of the PAYMENT ADVICE in the aforesaid Clause to this Claims Tribunals and serve a copy of the same on the claimants or their counsel as the case may be.</p>
<p>10</p>	<p>Award be drawn accordingly.</p>

11	PDF file of this judgment and award be sent to the respondent No.3 - Insurance Company through email.
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Pronounced in the Open Court on this 25th March, 2026.

Date : 25.03.2026.

Place : Kodinar.

(Atulkumar R. Patel)
M.A.C.T. (Aux.) &
2nd Additional District Judge,
Gir-Somnath at Kodinar.
[UIC No. GJ-00710]