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

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Motor Accident Claim Petition No. 22 of 2024
Consolidate with....
Motor Accident Claim Petition No. 23 of 2024

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M.A.C.P. No. 22 of 2024

GJGS090008532024



Petitioner : **Jayeshbhai Lakhabhai Parmar,**
Age:-23 years,
Occupation:-Labour work/Construction,
Residing at:-Sindhaj, Ta.: -Kodinar,
District Gir-Somnath.

M.A.C.P. No. 23 of 2024

GJGS090008542024



Petitioner : **Vishvaskumar Lakhmanbhai Bambhaniya,**
Age:-18 years, Occupation:-Study,
Residing at:-Sindhaj, Ta.: -Kodinar,
District Gir-Somnath.

Vs.

Respondents : **Vehicle S. T. Bus bearing registration**
No. GJ-18-Z-4274 :-

- (1) **Driver :-**
Sanjaybhai Kanabhai Vadhel,
Age:- 45 years, Occupation:-Driving,
Residing at:-Panadar,
Ta.:-Kodinar, District Gir-Somnath.
- (2) **Owner :-**
Gujarat State Road Transport Co.,
At:- Divisional Manager,
Amreli.

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LD. ADVOCATES FOR THE PARTIES :-

For the Petitioners :- Mr. P. V. Chavda
For the Respondents No.1 & 2 :- Mr. P. P. Bhatt

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

1. The petitioners of both the aforesaid claim petitions - i.e. M.A.C.P. No.22 of 2024 and M.A.C.P. No.23 of 2024 have filed their respective claim petitions against the respondents for getting compensation as mentioned in their respective petitions under the provisions of Section 166 of the Motor Vehicle Act, 1988 (Hereinafter referred in short as the "M. V. Act") for the injuries sustained by them in the accident, occurred on 06.08.2024, on Sindhaj-Vadnagar highway road.
2. Both the aforesaid claim petitions, filed by the respective petitioners, are arising out of one and same accident,

hence, for the sake of convenience and brevity, both these claim petitions are tried together as per the order passed by this Tribunal below Exh.1 in M.A.C.P. No.22 of 2024 on dated - 04.07.2025 and therefore, both these claim petitions are decided by this common judgment.

3. Brief facts of both the petitions are such that, on 06.08.2024, at about 8:30 O'clock in the morning, petitioners were coming towards Kodinar on Motorcycle No. GJ-11-AJ-9016 and the said Motorcycle was driven by petitioner of M.A.C.P. No. 23 of 2024 - i.e. Vishvaskumar Lakhmanbhai Bambhaniya in moderate speed, while the petitioner of M.A.C.P. No. 22 of 2024 - i.e. - Jayeshbhai Lakhabhai Parmar was sitting as a pillion rider on the said vehicle Motorcycle. When they reached near the place of accident, i.e. on Sindhaj-Vadnagar highway road at that time the driver of vehicle S. T. Bus No. GJ-18-Z-4274 was came by driving the said vehicle S. T. Bus in rash and negligent manner and ultimately dashed the said S. T. Bus with the Motorcycle of the petitioners and caused the accident. Due to this accident both the petitioners sustained serious injuries on various parts of their body. Therefore, the petitioners of M.A.C.P. No.22 of 2024 and M.A.C.P. No.23 of 2024 were hospitalized by 108 Ambulance at Ambuja Multi-specialist Hospital, Kodinar and then-after the petitioner of M.A.C.P. No. 22 of 2024

referred at Shiv Multi-specialist Hospital, Rajkot for further medical treatment, where they were given necessary medical treatments. The FIR of this accident was lodged against driver of vehicle S. T. Bus at Kodinar Police Station vide C.R. No. 11186002241518/2024. It is further pleaded by the petitioners that, the said accident was occurred due to negligent driving of the driver of vehicle S. T. Bus bearing registration No. GJ-18-Z-4274 and therefore, the petitioners have filed both these claim petitions. The petitioner of M.A.C.P. No.22 of 2024 claims that, he was 22 years old and earning more than Rs.30,000/- per month by doing the construction work and masonry work. So, he claimed the compensation of Rs.50,00,000/- from the respondents under different heads. It is submitted that the petitioner of M.A.C.P. No.23 of 2024 was 18 years old and he was studying in 12th (Science) and he was also serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month. So, he claimed the compensation of Rs.5,00,000/- from the respondents under different heads.

4. Notices have been duly served upon the respondents. The respondents No.1 and 2 have appeared before this Tribunal through Ld. Advocate Mr. P. P. Bhatt and filed their reply/objection vide Exh.12 in both the claim petitions; wherein they have denied most of the facts as mentioned in both the claim petitions. It is also submitted that, as per the

Spot Panchnama the vehicle S. T. Bus was in its correct side - i.e. left side but the driver of vehicle Motorcycle was lost the control over the Motorcycle in curve of “*Manvo no pa*” and dashed with the S. T. Bus and thereby caused the accident. Lastly, the respondents have prayed to dismiss both these claim petitions filed by the petitioners.

5. It is pertinent to be noted that, on being scrutinized both the matters and records of both these claim petitions, this Tribunal found that, both these matter are suitable for referring for the Mediation and accordingly the same were referred for Mediation, but, the Mediator has reported that the matters are unsettled in Mediation process. Thereafter, both these claim petition were took up for further proceedings.
6. In view of the above facts of both the cases, following common issues have been framed by this Tribunal in both the claim petitions vide Exh.14.

-:: ISSUES ::-

1. Whether the petitioner proves that claimant sustained injuries because of rash and negligent driving of the driver of the vehicle involved in the accident ?
2. Whether the petitioner is entitled to get the compensation as prayed for or any part thereof from the respondent or any of them ?
3. What order and award ?

7. The findings of the aforesaid issues in all these claim petitions are as under.

1. Partly in Affirmative.
2. As per final order.
3. As per final order.

8. To prove the claim petition, the petitioner of M.A.C.P. No.22 of 2024 has produced the following oral as well as documentary evidences.

Sr. No.	PARTICULARS	Exh.
<u>Oral Evidence</u>		
1.	Deposition of petitioner - Jayeshbhai Lakhabhai Parmar	20
<u>Documentary Evidences</u>		
1.	Bills of medicines and other medical expenses for total of Rs. 3,00,072/-.	21 to 94
2.	Copy of discharge summary.	95,96
3.	Copy of M.L.C. certificate of the petitioner issued by the Ambuja Hospital.	97
4.	Copy of M.L.C. certificate of the petitioner issued by the Shiv Hospital.	98
5.	Copy of F.I.R.	99
6.	Copy of Spot Panchnama	100
7.	Copy of Log Book of vehicle S. T. Bus No. GJ-18-Z-4274.	101
8.	Copy of driving license of the driver of vehicle S. T. Bus - i.e. respondent No.1.	102
9.	Copy of Form No.54.	103
10.	Copy of the charge-sheet.	104
11.	Copy of Aadhar Card of petitioner - Jayeshbhai Lakhabhai Parmar	105
12.	Copy of PAN Card of petitioner - Jayeshbhai Lakhabhai Parmar	106

13.	Disability Certificate of the petitioner - Jayeshbhai Lakhabhai Parmar	107
14.	Photographs of injuries	108
15.	Bills of medicines for total of Rs.1,18,333/-.	134
16.	Copies of the discharge summaries of the petitioner issued by the Shiv Hospital.	135

9. The petitioner of M.A.C.P. No.23 of 2024 has also produced following oral as well as documentary evidences.

Sr. No.	PARTICULARS	Exh.
<u>Oral Evidence</u>		
1.	Deposition of petitioner - Vishvaskumar Lakhmanbhai Bambhaniya.	110
<u>Documentary Evidences</u>		
1.	Bills of medicines and other medical expenses for total of Rs. 4,443/-.	111 to 118
2.	Copy of discharge summary.	119
3.	Copy of M.L.C. certificate of the petitioner issued by the Ambuja Hospital.	120
4.	Copy of F.I.R.	121
5.	Copy of Spot Panchnama	122
6.	Copy of Log Book of vehicle S. T. Bus No. GJ-18-Z-4274.	123
7.	Copy of driving license of the driver of vehicle S. T. Bus - i.e. respondent No.1.	124
8.	Copy of Form No.54.	125
9.	Copy of the charge-sheet.	126
10.	Copy of Aadhar Card of petitioner - Vishvaskumar Lakhmanbhai Bambhaniya	127
11.	Copy of PAN Card of petitioner - Vishvaskumar Lakhmanbhai Bambhaniya	128
12.	Disability Certificate of the petitioner - Vishvaskumar Lakhmanbhai Bambhaniya	129

10.The respondent No.1 has produced the following oral evidences.

Sr. No.	PARTICULARS	Exh.
<u>Oral Evidence - Respondent No.1</u>		
1.	Deposition of respondent No.1 - Sanjaybhai Kanabhai Vadhel vide Exh.137 in M.A.C.P. No.22 of 2024 and Exh.138 in M.A.C.P. No.23 of 2024.	137 & 138

∴ REASONS ∴

ISSUE Nos. 1 to 3 :-

11.All these issues in both the claim petitions are interconnected and interwoven with each other and so, for the sake of convenience, these issues are discussed and decided together.

12.Ld. Advocate Mr. P. V. Chavda appeared on behalf of the petitioners has filed his written arguments vide Exh.141 in M.A.C.P. No.22 of 2024 and Exh.142 in M.A.C.P. No.23 of 2024; wherein it is submitted that, on 06.08.2024, at about 8:30 O'clock in the morning, when the petitioners were coming towards Kodinar on Motorcycle No. GJ-11-AJ-9016 and the said Motorcycle was driven by the petitioner of M.A.C.P. No.23 of 2024 - i.e. - Vishvaskumar Lakhmanbhai Bambhaniya in moderate speed, while the petitioner of M.A.C.P. No.22 of 2024 - i.e. - Jayeshbhai Lakhabhai Parmar was sitting as a pillion rider on the said

vehicle Motorcycle. When they reached near the place of accident, i.e. on Sindhaj-Vadnagar highway road at that time the driver of vehicle S. T. Bus No. GJ-18-Z-4274 was came by driving the said vehicle S. T. Bus in rash and negligent manner and ultimately dashed the said S. T. Bus with the Motorcycle of the petitioners and caused the accident. Due to this accident both the petitioners sustained serious injuries on various parts of their body. Therefore, the petitioners of M.A.C.P. No.22 of 2024 and M.A.C.P. No.23 of 2024 were hospitalized by 108 Ambulance at Ambuja Multi-specialist Hospital, Kodinar and then-after the petitioner of M.A.C.P. No. 22 of 2024 referred at Shiv Multi-specialist Hospital, Rajkot for further medical treatment, where they were given necessary medical treatments. The FIR of this accident was lodged against the driver of S. T. Bus at Kodinar Police Station vide C.R. No.11186002241518/2024 and after the investigation, police has also filed chargesheet against respondent No.1. Ld. Advocate Mr. Chavda has also submitted that, at the time of alleged accident, petitioner of M.A.C.P. No.22 of 2024 was 22 years old and he was earning more than Rs.30,000/- per month by doing the construction work and masonry work. It is also submitted that, he was hospitalized at Ambuja Multi-specialist Hospital, Kodinar and then-after he was referred at Shiv Multi-specialist Hospital, Rajkot for further medical

treatment and he has also taken medical treatment for a long time and due to the accidental injuries, he become partial disabled in future. It is also submitted that, Dr. Pravin M. Vainsh has issued Disability Certificate of the petitioner, which is produced vide Exh.107, wherein 50% disability of body as a whole is counted and the respondents have given consent to count and assess the said disability of the petitioner as 25% body as half and thereby the petitioner lost 25% permanent loss of his future income. It is also submitted that, the petitioner has also incurred the amount of Rs.4,18,405/- towards medical treatments. That, so far as the income of the petitioner is concerned, the petitioner has stated that, at the time of alleged accident, he was 22 years old and earning more than Rs.30,000/- per month by doing the construction work and masonry work. So, the petitioner is entitled to get the amount of Rs.18,98,400/- as compensation from the respondents under different heads with interest at the rate of 9% and he has lastly urged to allow the claim petition.

13.Ld. Advocate Mr. P. V. Chavda appeared on behalf of the petitioners has also submitted that, the petitioners of M.A.C.P. No.22 of 2024 and M.A.C.P. No.23 of 2024 were hospitalized by 108 Ambulance at Ambuja Multi-specialist Hospital, Kodinar, where they were given necessary medical treatments. The FIR of this accident was lodged

against the driver of S. T. Bus at Kodinar Police Station vide C.R. No.11186002241518/2024 and after the investigation, police has also filed chargesheet against respondent No.1. Ld. Advocate Mr. Chavda has also submitted that, at the time of alleged accident, petitioner of M.A.C.P. No.23 of 2024 was 18 years old and he was studying in 12th (Science) and he was also serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month. It is also submitted that, he was hospitalized at Ambuja Multi-specialist Hospital, Kodinar and he has also taken medical treatment for a long time and due to the accidental injuries, he become partial disabled in future. It is also submitted that, Dr. Pravin M. Vainsh has issued Disability Certificate of the petitioner, which is produced vide Exh.129, wherein 15% disability of body as a whole is counted and the respondents have given consent to count and assess the said disability of the petitioner as 7.5% body as half and thereby the petitioner lost 7.5% permanent loss of his future income. It is also submitted that, the petitioner has also incurred the amount of Rs.4,443/- towards medical treatments. That, so far as the income of the petitioner is concerned, the petitioner has stated that, at the time of alleged accident, he was studying in 12th (Science) and he was also serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month. So, the petitioner is entitled to get the amount of Rs.4,72,640/- as

compensation from the respondents under different heads with interest at the rate of 9% and he has lastly urged to allow the claim petition.

14.Per contra, Ld. Advocate Mr. P. P. Bhatt for the respondents has also submitted that, it appears from the Spot Panchnama that, the road on which the alleged accident was occurred is single lane road and though the driver of vehicle S. T. Bus trying to avoid the alleged accident but, as the driver of vehicle Motorcycle lost the control over his vehicle Motorcycle and thereby he caused the accident. He has also submitted that, the alleged accident happened due to equal negligence (ratio of 50%-50%) on the part of both the vehicle's drivers.

15.I have heard the Ld. Advocates for both the contesting parties at length and also consider their oral as well as written arguments. I have also taken into consideration the oral as well as documentary evidences produced by both the parties on records.

16.In view of the above rival grievances of the parties to the petitions, as to negligence of the drivers of the vehicles involved in the accident, liability of the respondents etc., it is clear that the petitioner has availed the remedy to claim compensation, under Section 166 of the M. V. Act.

17. 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”

18. 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 petitioners sustained injuries in the vehicular accident arising out of the use of the vehicle S. T. Bus bearing registration No. GJ-18-Z-4274. Moreover, the vehicular accident was occurred within the territorial jurisdiction of this Tribunal. So, this claim petition of the petitioner 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 petitioner has succeeded in proving her 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."

19. 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."

20. 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."

21. 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. In order to

succeed in claim petitions, 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 they have sustained bodily injury due to said accident. Jayeshbhai Lakhabhai Parmar being petitioner of M.A.C.P. No. 22 of 2024 and Vishvaskumar Lakhmanbhai Bambhaniya being petitioner of M.A.C.P. No. 23 of 2024 has deposed on oath that, on 06.08.2024, at about 8:30 O'clock in the morning, when they were coming towards Kodinar on Motorcycle No. GJ-11-AJ-9016 and the said Motorcycle was driven by him in moderate speed, while the petitioner of M.A.C.P. No.22 of 2024 - i.e. - Jayeshbhai Lakhabhai Parmar was sitting as a pillion rider on the said vehicle Motorcycle. When they reached near the place of accident, i.e. on Sindhaj-Vadnagar highway road at that time, driver of vehicle S. T. Bus No. GJ-18-Z-4274 was came by driving the said vehicle S. T. Bus in rash and negligent manner and ultimately dashed the said S. T. Bus with the Motorcycle of the petitioners and caused the accident. It is also deposed that, due to this accident both the petitioners sustained serious injuries on various parts of their body and they were hospitalized by 108 Ambulance at Ambuja Multi-specialist Hospital, Kodinar and then-after the petitioner of M.A.C.P. No. 22 of 2024 referred at Shiv Multi-specialist Hospital, Rajkot for further medical treatment,

where they were given necessary medical treatments. The FIR of this accident was lodged against the driver of S. T. Bus at Kodinar Police Station vide C.R. No. 11186002241518/2024 and after investigation the police has also filed chargesheet against the driver of vehicle S. T. Bus - i.e. the respondent No.1. The petitioner Jayeshbhai has also stated on oath that, he sustained serious injury of fracture on right Leg, by which the right leg has been cut-off from ankle and plastic surgery was also performed. It is also deposed by the petitioner on oath that, the said accident was occurred due to sole negligence on the part of the respondent No.1 being driver of vehicle S. T. Bus and the FIR was lodged against him and thereafter chargesheet was also filed against the respondent No.1 being the driver of vehicle S. T. Bus.

22.The petitioners have been cross-examined by the Ld. Advocate for the respondents No.1 & 2, wherein they had admitted that, the alleged accident happened due to on head collision between the vehicle Motorcycle and vehicle S. T. Bus.

23.On the other hand, the respondent No.1 - i.e. the driver of vehicle S. T. Bus No. GJ-18-Z-4274 examined vide Exh.137 in M.A.C.P. No.22 of 2024 and Exh.138 in M.A.C.P. No.23 of 2024, wherein he has deposed on oath

that, as per the Spot Panchnama the vehicle S. T. Bus was in its correct side - i.e. left side but the driver of vehicle Motorcycle was lost the control over the Motorcycle in the curve of “*Manvo no pa*” and dashed with the S. T. Bus and thereby caused the accident.

24.The respondent No.1 has been cross-examined by the Ld. Advocate for the petitioners, wherein he has admitted that, at the time of alleged accident, he was driving the vehicle S. T. Bus bearing registration No. GJ-18-Z-4274. He has also admitted that, the FIR lodged against him for said accident and after investigation, police filed charge-sheet against him.

25.Having appreciated the above oral evidences and having considered the rival submissions of the Ld. Advocates for the parties, it appears that they have leveled allegations and counter-allegations against each other for responsibility for said accident occurred on 06.08.2024. It is not in dispute that, the accident of petitioners Jayeshbhai Lakhbhai Parmar and Vishvaskumar Lakhmanbhai Bambhaniya was occurred on 06.08.2024 at about 8.30 O'clock in the morning on Sindhaj-Vadnagar road with the vehicle S. T. Bus bearing registration No. GJ-18-Z-4274 and the driver of the said vehicle S. T. Bus was respondent No.1. The disputed fact is that who is responsible for the occurrence

of said accident. Now, on perusal of the FIR produced at Exh.99, it appears that the said complaint was lodged against the driver of vehicle S. T. Bus No. GJ-18-Z-4274 - i.e. the respondent No.1. From the contents of the said complaint, it divulges that the respondent No.1 - Sanjaybhai Kanabhai Vadhel being the driver of said vehicle S. T. Bus dashed his vehicle S. T. Bus with the Motorcycle of the petitioners and accident was occurred as described and deposed by the petitioners. Moreover, from the Charge-sheet produced by the petitioners vide Exh.104, it clearly reveals that, after the investigation, the police filed the chargesheet against the driver of vehicle S. T. Bus - i.e. the respondent No.1.

26.Now, so far as the point of negligence is concerned, considering the overall version of the petitioners and police papers filed on the records and considering the deposition of the petitioners at Exh.20 and Exh.110, it appears that, they have admitted that, the alleged accident happened due to on head collision between the Motorcycle and S. T. Bus.

27.It is the duty of the drivers of any vehicles to see before passing through the said road that any vehicles is passing on the road or not, as the petitioners fails to see whether any vehicle is passing on the road or not and she has entered on the said road without observing both the sides

and therefore the alleged accident was happened wherein the petitioners sustained severe injuries, therefore there was negligence on the part of the driver of vehicle Motorcycle - i.e. the petitioner of M.A.C.P. No.23 of 2024 also. Further, Ld. Advocate for the respondents has vehemently argued that, driver of vehicle Motorcycle is the sole responsible person for the occurrence of the accident.

28.It is the duty of the drivers of both the vehicles to drive their vehicles in moderate speed and also observing traffic rules and if the drivers of both the vehicles would have acted in such a manner then the alleged accident has been avoided and the petitioners would have not been injured. But here in this case, none of the drivers of the respective vehicles have taken due care in driving their respective vehicles and therefore due to rash and negligent driving of both the drivers of respective vehicles, the accident took place. Therefore, as per the above discussion this Tribunal comes on the conclusion that, the alleged accident has been occurred due to contributory negligence of the drivers of both the vehicles - i.e. 90% negligence on the part of the driver of vehicle S. T. Bus No. GJ-18-Z-4274 and 10% negligence on the part of driver of vehicle Motorcycle No. GJ-11-AJ-9016 - i.e. the petitioner of M.A.C.P. No. 23 of 2024. Therefore, the issue No.1 is answered in partly affirmative.

29. 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.

ISSUE No. 2 in M.A.C.P. No.22 of 2024 :-

30. Ld. Advocate for the petitioners has argued on the point of compensation that, the petitioner of M.A.C.P. No.22 of 2024 was 23 years old and earning more than Rs.30,000/- per month by doing the construction work and masonry work.

31. To decide the just compensation, the important factor is the income of the injured or deceased. It is incumbent upon the petitioner to prove her actual income. The petitioner is required to lead the cogent evidence to establish his actual income. The petitioner must have produced the reliable materials before the tribunal upon which the Tribunal can rely and assess the approximate income of the injured.

32. Now, so far as the income of the petitioner of M.A.C.P. No. 22 of 2024 is concerned, it is the claim of the petitioner that at the time of accident he was doing the construction work and masonry work and thereby he earned monthly more than Rs.30,000/- per month. The same fact is also deposed by him on oath vide Exh.20. But, from the materials available on record, it seems that there is nothing on record which can bolster the claim of the petitioner that,

at the time of accident or before the said accident, he was earning such monthly income. The petitioner has stated that he was earning more than Rs.30,000/- per month from doing the construction work and masonry work, but, in absence of any supportive materials it cannot be believed that the petitioner can get Rs.30,000/- by doing the construction work and masonry work. At the same time, it is pertinent to be noted that, the respondents have not rebutted the said fact. Having considered the materials available on record it becomes manifest that, there is no any supportive document on record to point out that the petitioner was earning Rs.30,000/- per month by doing the construction work and masonry work. Now, in absence of material evidence of income on record and considering the age of the petitioner and the year of accident and nature of work done by the petitioner 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 petitioner as Rs.10,000/- which comes to Rs.1,20,000/- per annum and it would not be at very high side.

33.So, far as the issue regarding prospective income is concerned, Hon'ble Supreme Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* reported in (2017) 16 SCC 680, observed and held that,

"59. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardization, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be in-apposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of

standardization on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. The degree-test has to have the inbuilt concept of percentage. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable."

34. Therefore, considering the ratio laid down by the Hon'ble Supreme Court as above, it would be just, proper and reasonable to add 40% amount as future prospectus in the considerable income for awarding just compensation to the petitioner. Therefore, as discussed above the amount of monthly income for consideration for compensation would be Rs.10,000/- and by adding 40% amount of the assessed income of the injured claimant, it comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/- [40% of Rs. 10,000/-]) per month. So, the yearly income of the petitioner including future prospects would come to **Rs.1,68,000/-** (Rs.14,000/- x 12 = Rs.1,68,000/-).

35. For deciding the amount of compensation, the prime factor to be considered is the age of the injured or deceased. It is the case of the petitioner of M.A.C.P. No. 22 of 2024 that at the time of accident his age was 23 years. The petitioner

has produced the copies of his Aadhar Card and PAN Card vide Exh.105 and 106, in which the date of birth of the petitioner Jayeshbhai is mentioned as 24.10.2001 and hence on the date of alleged accident - i.e. 06/08/2024 petitioner Jayeshbhai was aged about 22 years, 9 months and 13 days. Therefore, by considering the admissibility and authenticity of the documentary evidences suggesting the age of the petitioner as available on record, the age of the petitioner Jayeshbhai is required to be considered as 23 years on the date of accident and the said age is required to be considered for the purpose of multiplier. Now so far as the multiplier is concerned, as per the principles articulated by the Hon'ble Supreme Court in the landmark decision in the case of *Sarla Verma Vs. Delhi Transport Corporation* reported in *2009 A.C.J. 1298*, multiplier of 18 is applicable to the age group between 21 to 25 years. So, petitioner is entitled to get multiplier of 18.

36. So far as disability is concerned, from the medical papers produced by the petitioner, it appears that petitioner sustained grievous bodily injuries in the said accident occurred on 06.08.2024. The petitioner Jayeshbhai has produced the certificate regarding permanent disability issued by Dr. Pravin M. Vainsh, produced vide Exh.107; where-from, it appears that the petitioner Jayeshbhai has sustained permanent disability of 50% of right lower limb.

But, the said disability certificate do not disclose the actual permanent disability sustained by the petitioner Jayeshbhai body as a whole. Ld. Advocate for the respondent made an endorsement on the said Disability Certificate and given consent to count and assess the said disability of the petitioner as 25% body as half. Hence, it would be just, proper and reasonable to count and assess the permanent disability of the petitioner Jayeshbhai as 25% body as a whole. Thus, in view of the above discussion, it would be fair, reasonable and equitable to award a sum of **Rs.7,56,000/-** (i.e. Rs.1,68,000/-x25%x18 = Rs.7,56,000/-) under the head of future loss of income.

37.Now, so far as Medical expenses are concerned, petitioner Jayeshbhai has produced medical bills for total of Rs.3,00,972/- vide Exh.21 to 94 and Rs.1,18,333/- vide Exh.134. So, considering these medical bills produced by the petitioner Jayeshbhai, it would be just and fair to award the total amount of Rs.4,18,405/- (Rs.3,00,072/- + Rs.1,18,333/-) towards medical expenses to the petitioner Jayeshbhai. Hence, the petitioner is entitled to get the amount of **Rs.4,18,405/- towards medical expenses.**

38.The petitioner Jayeshbhai has also deposed on oath that due to such bodily injuries he was not done any work without attendant and therefore, urged to award such

amount as actual loss of income. It is also established from the materials available on record that, the petitioner was admitted as an indoor patient in Shiv Multi-specialist Hospital, Rajkot for his medical treatment and he was taking medical treatment for about 20 days - i.e. from 06/08/2024 to 26/08/2024. Further, it also appears from the entire medical papers produced by petitioner Jayeshbhai, it appears that, he has also stated on oath that, he sustained serious injury of fracture on right Leg and the right leg has been cut-off from ankle and plastic surgery was also performed. Looking to the nature of injury, part of the body where injury sustained and treatment period, the petitioner Jayeshbhai might have not been able to do any kind of work for a period of at least two months and hence, actual loss of income for two month needs to be granted, which would come to Rs.10,000/- x 2 months = Rs.20,000/-. **So, Rs.20,000/- is awarded under the head of actual loss of income.**

39.Ld. Advocate for the petitioner has submitted that, the petitioner is entitled for compensation towards special diet, transportation and attendance charges. Admittedly, the petitioner has not produced any evidence for his entitlement for such charges as claimed by him. However, looking to the nature of injury and treatment and place of treatment, it can be presumed that the petitioner had

incurred some expenses towards attendant charges, transportation and special diet. In the facts and circumstances of the case and looking to the year of accident i.e. 2024 and as, the fact of treatment of petitioner as indoor patient is undisputed, the petitioner is entitled to get the consolidated amount of **Rs.20,000/- towards Special Diet, Attendance charges and Transportation expenses.**

40.The petitioner has also claimed the compensation for Pain, Shock and Sufferings. Ld. Advocate for the petitioner has also submitted that the petitioner is entitled for compensation towards pain, shock and sufferings. As discussed herein-above, as per medical evidence produced by the petitioner, it appears that petitioner Jayeshbhai sustained serious injury of fracture on right Leg and the right leg has been cut-off from ankle and plastic surgery has also been performed. Therefore, considering the nature of injury and type of treatment of the petitioner, it can safely be said that the petitioner must have undergone pain, shock and suffering during the treatment and even after discharge. Thus, it would be just and reasonable to hold that, the present petitioner is entitled to get **Rs.25,000/- under the head of Pain, Shock and Sufferings.** Hence, as per the above discussion, the total amount of compensation would come to Rs.12,39,405/-.

Sr. No.	Descriptions	Amount
1	Future loss of income	Rs. 7,56,000/-
2	Actual loss of income	Rs. 20,000/-
3	Medical expenses	Rs. 4,18,405/-
4	Special diet, attendants and transportation expenses	Rs. 20,000/-
5	Pain, Shock and Suffering	Rs. 25,000/-
	TOTAL	Rs. 12,39,405/-

ISSUE No. 2 in M.A.C.P. No.23 of 2024 :-

41.Ld. Advocate for the petitioners has argued on the point of compensation that, the petitioner of M.A.C.P. No.23 of 2024 was 18 years old and he was studying in 12th (Science) and he was also serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month.

42.Now, so far as the income of the petitioner of M.A.C.P. No. 23 of 2024 is concerned, it is the claim of the petitioner that at the time of accident he was studying in 12th (Science) and he was also serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month. The same fact is also deposed by him on oath vide Exh.110. But, from the materials available on record, it seems that there is nothing on record which can bolster the claim of the petitioner that, at the time of accident or before the said accident, he was earning such monthly income by serving

in the Hospital of Dr. Rajani. The petitioner has stated that he was serving in the Hospital of Dr. Rajani and got the salary of Rs.15,000/- per month, but, in the absence of any supportive materials it cannot be believed that the petitioner can get Rs.15,000/- by serving the Hospital. At the same time, it is pertinent to be noted that, the respondents have not rebutted the said fact. Having considered the materials available on record it becomes manifest that, there is no any supportive document on record to point out that the petitioner was earning Rs.15,000/- per month by serving in the Hospital. Now, in absence of material evidence of income available on record and considering the age of the petitioner and the year of accident and nature of work done by the petitioner 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 petitioner as Rs.10,000/- which comes to Rs.1,20,000/- per annum and it would not be at very high side.

43.So, far as the issue regarding prospective income is concerned, the Hon'ble Supreme Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* reported in (2017) 16 SCC 680, observed and held that,

"59. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardization, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be in-apposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance. We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of

standardization on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. The degree-test has to have the inbuilt concept of percentage. Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable."

44. Therefore, considering the ratio laid down by the Hon'ble Supreme Court as above, it would be just, proper and reasonable to add 40% amount as future prospectus in the considerable income for awarding just compensation to the petitioner. Therefore, as discussed above the amount of monthly income for consideration for compensation would be Rs. 10,000/- and by adding 40% amount of the assessed income of the injured claimant, it comes to Rs.14,000/- (Rs.10,000/- + Rs.4,000/- [40% of Rs. 10,000/-]) per month. So, the yearly income of the petitioner including future prospects would come to **Rs.1,68,000/-** (Rs.14,000/- x 12 = Rs.1,68,000/-). For deciding the amount of compensation, the prime factor to be considered is the age of the injured or deceased. It is the case of the petitioner of M.A.C.P. No. 23 of 2024 that at the time of accident, his age was 18 years. The petitioner has produced the copies of his Aadhar Card and PAN Card vide Exh.127 and 128, in

which the date of birth of the petitioner Vishvaskumar is mentioned as 29.03.2006 and hence on the date of alleged accident - i.e. 06/08/2024 petitioner Vishvaskumar was aged about 18 years, 4 months and 08 days. Therefore, by considering the admissibility and authenticity of the documentary evidences suggesting the age of the petitioner as available on record, the age of the petitioner Vishvaskumar is required to be considered as 18 years on the date of accident and the said age is required to be considered for the purpose of multiplier. Now so far as the multiplier is concerned, as per the principles articulated by the Hon'ble Supreme Court in the landmark decision in the case of *Sarla Verma Vs. Delhi Transport Corporation* reported in *2009 A.C.J. 1298*, the multiplier of 18 is applicable to the age group between 15 to 20 years. So, the petitioner is entitled to get the multiplier of 18.

45. So far as disability is concerned, from the medical papers produced by the petitioner, it appears that petitioner sustained grievous bodily injuries in the said accident occurred on 06.08.2024. The petitioner Vishvaskumar has produced the certificate regarding permanent disability issued by Dr. Pravin M. Vainsh, produced vide Exh.129; where-from, it appears that the petitioner Vishvaskumar has sustained permanent disability of 15% of right hand (Thumb). But, the said disability certificate do not disclose

the actual permanent disability sustained by the petitioner Vishvaskumar body as a whole. Ld. Advocate for the respondent made an endorsement on the said Disability Certificate and given consent to count and assess the said disability of the petitioner as 7% body as a half. Hence, it would be just, proper and reasonable to count and assess the permanent disability of the petitioner Vishvaskumar as 7% body as a whole. Thus, in view of the above discussion, it would be fair, reasonable and equitable to award a sum of **Rs.2,11,680/-** (i.e. $\text{Rs.1,68,000/-} \times 7\% \times 18 = \text{Rs.2,11,680/-}$) **under the head of future loss of income.**

46.Now, so far as Medical expenses are concerned, petitioner Vishvakumar has produced medical bills for total of Rs.4,443/- vide Exh.111 to 118. So, considering these medical bills produced by the petitioner Vishvaskumar, it would be just and fair to award the total amount of Rs.4,443/- towards medical expenses to the petitioner Vishvaskumar. Hence, the petitioner is entitled to get the amount of **Rs.4,443/- towards medical expenses.**

47.The petitioner Vishvaskumar has also deposed on oath that due to such bodily injuries he was not done any work without attendant and therefore, urged to award such amount as actual loss of income. It is also established from the materials available on record that, the petitioner

was admitted as an indoor patient in Ambuja Multi-specialist Hospital, Kodinar for his medical treatment and he was taking medical treatment for about 3 days - i.e. from 06/08/2024 to 08/08/2024. Further, it also appears from the entire medical papers produced by the petitioner Vishvaskumar, it appears that, he has also stated on oath that, he sustained serious injury of fracture on right hand. Looking to the nature of injury, part of the body where injury sustained and treatment period, the petitioner Vishvaskumar might have not been able to do any kind of work for a period of at least one month and hence, actual loss of income for one month needs to be granted, which would come to Rs.10,000/-. **So, Rs.10,000/- is awarded under the head of actual loss of income.**

48.Ld. Advocate for the petitioner has submitted that, the petitioner is entitled for compensation towards special diet, transportation and attendance charges. Admittedly, the petitioner has not produced any evidence for his entitlement for such charges as claimed by him. However, looking to the nature of injury and treatment and place of treatment, it can be presumed that the petitioner had incurred some expenses towards attendant charges, transportation and special diet. In the facts and circumstances of the case and looking to the year of accident i.e. 2024 and as, the fact of treatment of petitioner

as indoor patient is undisputed, the petitioner is entitled to get the consolidated amount of **Rs.10,000/- towards Special Diet, Attendance charges and Transportation expenses.**

49. The petitioner has also claimed the compensation for Pain, Shock and Sufferings. Ld. Advocate for the petitioner has also submitted that the petitioner is entitled for compensation towards pain, shock and sufferings. As discussed herein-above, as per medical evidence produced by the petitioner, it appears that petitioner Vishvaskumar sustained serious injury of fracture on right hand. Therefore, considering the nature of injury and type of treatment of the petitioner, it can safely be said that the petitioner must have undergone pain, shock and suffering during the treatment and even after discharge. Thus, it would be just and reasonable to hold that, the present petitioner is entitled to get **Rs.10,000/- under the head of Pain, Shock and Sufferings.** Therefore, as per the above discussion, the total amount of compensation would come to Rs.2,46,123/-. But as decided in issue No.1, the alleged accident has been occurred due to contributory negligence of the drivers of both the vehicles - i.e. 90% negligence on the part of the driver of vehicle S. T. Bus No. GJ-18-Z-4274 and 10% negligence on the part of driver of vehicle Motorcycle No. GJ-11-AJ-9016 - i.e. the petitioner of

M.A.C.P. No. 23 of 2024 himself. Hence, by deducting 10% for the negligence on the part of the petitioner Vishvaskumar, the amount would come to Rs.2,21,511/-. Thus, the break up of total amount of compensation awarded to the petitioner Vishvaskumar is as under :-

Sr. No.	Descriptions	Amount
1	Future loss of income	Rs. 2,11,680/-
2	Actual loss of income	Rs. 10,000/-
3	Medical expenses	Rs. 4,443/-
4	Special diet, attendants and transportation expenses	Rs. 10,000/-
5	Pain, Shock and Suffering	Rs. 10,000/-
	TOTAL	Rs. 2,46,123/-
	Less 10% negligence on the part of the petitioner himself.	Rs. 24,612/-
	TOTAL	Rs. 2,21,511/-

50. So far as 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 negligence on the part of the drivers of both the vehicles i.e. 90% negligence on the part of the driver of vehicle S. T. Bus No. GJ-18-Z-4274 and 10% negligence on the part of driver of vehicle Motorcycle No. GJ-11-AJ-9016 - i.e. the petitioner of M.A.C.P. No. 23 of 2024 himself. Now, it appears from the records that, the driver and owner of vehicle S. T. Bus No. GJ-18-Z-4274

have been joined as a party as respondents No.1 and 2, but the driver, owner and insurance company of other involved vehicle Motorcycle No. GJ-11-AJ-9016 have not been joined as a parties as respondents. The vehicle S. T. Bus No. GJ-18-Z-4274 was driven by it's driver - i.e. respondent No.1 at the time of accident, who was under the employment of the present respondent No.2. Indubitably, the said S. T. Bus was in ownership of the present respondent No.2 – i.e. Gujarat State Road Transport Corporation. Therefore, in view of the provision of Section 166 of the M. V. Act the present respondents being the driver and owner of the S. T. Bus bearing No. GJ-18-Z-4274 are required to be held liable to satisfy the award. Hence, as per the above discussion, the respondents being the driver and owner of vehicle S. T. Bus No. GJ-18-Z-4274 are liable to pay only 90% amount from the total amount of compensation to the petitioners. Therefore, as per above discussion, the petitioner of M.A.C.P. No. 22 of 2024 - i.e. Jayeshbhai Lakhabhai Parmar is entitled to get the amount of **Rs.11,15,465/-** (90% of Rs.12,39,405/-) from the respondents No.1 and 2 jointly and severally. While, in M.A.C.P. No. 23 of 2024, 10% amount has been deducted from the total amount of compensation and thereby the petitioner of M.A.C.P. No. 23 of 2024 - i.e. Vishvaskumar Lakhmanbhai Bambhaniya is entitled to get the amount of **Rs.2,21,511/-** (by deducting 10% amount

from the total amount of compensation of Rs.2,46,123/-) from the respondents No.1 and 2 jointly and severally. Therefore, as per the above discussion, the amount of **Rs.11,15,465/-** is awarded to the petitioner of **M.A.C.P. No. 22 of 2024 - i.e. Jayeshbhai Lakhabhai Parmar** as compensation, while the amount of **Rs.2,21,511/-** is awarded to the petitioner of **M.A.C.P. No. 23 of 2024 - i.e. Vishvaskumar Lakhmanbhai Bambhaniya** as compensation and both the respondents No.1 and 2 are jointly and severally liable to pay the aforesaid amount of compensation to the petitioners.

INTEREST ON AWARDED AMOUNT :-

51.Ld. Advocate for the Petitioners has submitted that the petitioners be awarded the amount of compensation with interest at the rate of 9%.

52.At this juncture, 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.”

53. 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.”

54. 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.”

55. 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 :-

56. 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. 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.

-:: O R D E R ::-

1	The present M.A.C.P. No. 22 of 2024 and M.A.C.P. No. 23 of 2024 of the petitioners are hereby partly allowed with costs and interest against Respondents.
2	The Petitioner of M.A.C.P. No. 22 of 2024 - i.e. Jayeshbhai Lakhabhai Parmar do recover the total of Rs.11,15,465/- (Rupees Eleven Lakhs Fifteen Thousand Four Hundred and Sixty Five 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 jointly and severally.
3	The Petitioner of M.A.C.P. No. 23 of 2024 - i.e. Vishvaskumar Lakhmanbhai Bambhaniya do recover the total of Rs.2,21,511/- (Rupees Two Lakhs Twenty One Thousand Five Hundred and Eleven 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 jointly and severally.

4	The respondents 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 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 shares of the petitioners of both the claim petitions 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 of both the claim petition shall be made directly to the credit of the Bank Accounts 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	The petitioners of both the petitions are directed to submits following details of their bank accounts to this Tribunal within one week from today in compliance of

	<p>the Circulars of the M.A.C.T., Kodinar :</p> <p>(1) Name of the claimants/victims with address:</p> <p>(2) Account Number of the claimants/victims:</p> <p>(3) Name of the Bank & Branch:</p> <p>(4) Bank IFSC Code:</p> <p>(5) First page of Bank Passbook, which will compulsorily contain photograph of the claimants/victims duly attested by the Bank concerned:</p>
8	<p>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, respondents (the insurance company / transport corporations / such other 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 :</p> <p>From : (Name of Bank)</p> <p>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.
9	The Insurance Companies, Transport Corporations or such other entities making such deposit, shall also send a copy of the PAYMENT ADVICE in aforesaid Clause to this Claims Tribunals and serve a copy of the same on the claimants or their counsel as the case may be.
10	The original judgment shall be kept in M.A.C.P. No. 22 of 2024 and the copy of this common judgment be placed in M.A.C.P. No. 23 of 2024.
11	Award be drawn accordingly.
12	PDF file of this judgment and award be sent to the respondent No.2 through email.

Pronounced in the Open Tribunal on this 23rd March, 2026.

Date : 23.03.2026.

Place : Kodinar.

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