Exhibit	:	
Received On	:	23/12/2016
Registered On	:	23/12/2016
Decided On	:	22/04/2026
Duration	:	Y-09:M-03:D -01

IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN), AT : JAMNAGAR.

Motor Accident Claim Petition No.27 of 2017
Consolidated with
Motor Accident Claim Petition No.108 of 2017

In the Matter of MACP No.27 of 2017 ……….

Petitioners :-

Legal Heirs of deceased Rehan …..

1. Amriben Rehanbhai Odiya,

   Age about 28 years, Occupation : Homemaker,

2. Alizaben Rehanbhai Odiya,

   Age about 9 years, Occupation : Study,

[Petitioner No.1as Guardian of Petitioner No.2].

3. Hasinaben Hajibhai Odiya,

   Age about 65 years, Occupation : Homemaker,

4. Hajibhai Musabhai Odiya,

   Age about 68 years, Occupation : Retired,

   All are resident of Landhawad's slop,

   Near City Hospital, Jamnagar.

V E R S U S

Opponents :-

Owner and Insurance Company of Car No.GJ-10-BG-7786

1. Dipak Mavjibhai Dhameliya,
   Resident of Panchwati Society,
   Street No.1, Dhrol, District- Jamnagar.
2. The Royal Sundaram General Insurance Co.Ltd.,
   Office at Chandan House, 4th Floor,
   Opposite Pantaloom, Mithakhali,
   Six Rasta, Ahmedabad.

Owner and Insurance Company of Hero Honda Motorcycle No.GJ-10-CH-0041 …

3. Afzal Husen Ahemadbhai Laiyaji,
   Resident near Nani- hospital,
   Near Ratanbai Masjid,
   Arabfali, Ranjit Road,
   Jamnagar.
4. The National Insurance Co. Ltd., **[Deleted]**
   Office at City Arcade,
   Near Tin Batti, Jamnagar.

[Deleted as per order passed below Exh.31]

Subject: - Petition to claim compensation of Rs.10,00,000/- under section 166 of Motor Vehicle Act, 1988.

Motor Accident Claim Petition No.108 of 2017

Received On	:	01/03/2017
Registered On	:	13/04/2017
Decided On	:	22/04/2026
Duration	:	Y-09:M-00:D -23

Petitioner :-

1. Moinbhai Ahemadbhai Arab,

   Age 20, Occupation : Labour,

   Resident of Landhawad's slop,

   Arabfali, Jamnagar.

V E R S U S

Opponents :-

Owner and Insurance Company of Car No.GJ-10-BG-7786

1. Dipak Mavjibhai Dhameliya,

   Resident of Panchwati Society,

   Street No.1, Dhrol, District- Jamnagar.

2. The Royal Sundaram General Insurance Co.Ltd.,

   Office at Chandan House, 4th Floor,

   Opposite Pantaloom, Mithakhali,

   Six Rasta, Ahmedabad.

Owner and Insurance Company of Hero Honda Motorcycle No.GJ-10-CH-0041 …

3. Afzal Husen Ahemadbhai Laiyaji,
Resident near Nani- hospital,
Near Ratanbai Masjid,
Arabfali, Ranjit Road,
Jamnagar.

4. The National Insurance Co. Ltd.,
Office at City Arcade,
Near Tin Batti, Jamnagar.

Subject: - Petition to claim compensation of Rs.2,00,000/- under section 166 of Motor Vehicle Act, 1988.

==

Appearance:-

Mr.Z.M.Koreja, Learned Advocate for Petitioners.

Mr.G.D.Pandya, Learned advocate for Opponent No.1.

Mr.J.D.Chaudhary, Learned Advocate for Opponent No.2.

Mr.H.D.Sonagara, Learned advocate for Opponent No.3.

Mr.M.J.Parekh, Learned advocate for Opponent No.4.

==

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

==

1. Since both the Petitions arise out the same accident and since the facts involved in the Petitions were identical and common, both the Petitions were ordered to stand consolidated and evidence has been recorded in MACP No.27 of 2017. In

these circumstances, both the Petitions are being disposed of by this common Judgment.

2. Present claim petitions have been filed by the Petitioners under section 166 of Motor Vehicle Act,1988 seeking compensation of Rs.10,00,000/- for ultimate death of deceased Rehan and of Rs.2,00,000/- for injuries received by Petitioner Moinbhai in road side vehicular accident.

Common Facts :-

2- In brief, facts of the case as pleaded by petitioners is that on 16/08/2016, deceased Rehan and Petitioner Moin both were going on Motorcycle No.GJ-10-CH-0041and said Motorcycle was being driven by deceased Rehan in moderate speed and on correct side of road. When they reached near Essar Petrol Pump, Jodiya -Amran Highway road, at that time, driver of Car No.GJ-10-BG-7786 came from wrong side in excessive speed, in negligence manner and dashed against Motorcycle. Resultant, both were received bodily injuries and deceased Rehan died due to severe injuries, whereas Petitioner Moin received injuries on head, spine, hand and ear. It is further pleaded that as such all Opponents are jointly and severally liable for the payment of compensation.

Facts of Claim Petition No.27 of 2017 :-

3. It is the case of the Petitioners that in the said road accident, deceased had received grievous head injuries and since the injuries sustained by him were fatal in nature, he succumbed. It is further stated that at the time of accident, deceased was of 26

years and selling Ice and his monthly earning was Rs.8,000/-. It is further case of Petitioners that because of untimely death of deceased, they had lost economic source of income, which cannot be compensated in terms of money. The Petitioner No.1 had lost her beloved husband at a very young age , whereas Petitioner No.2 had her father and Petitioner Nos.3 and 4 lost their son and caretaker in this road accident. In view of above, under various heads, they have claimed compensation of Rs.10,00,000/-along with costs and interest at the rate of 18% per annum from the date of claim petition till realization from opponents.

Facts of Claim Petition No.108 of 2017 :-

4. Petitioner received injuries over his body like injuries on hand, spine and on ear. Petitioner has claimed that he was of 20 years at the relevant point time. He was doing labour work and earning Rs.6,000/- per month. It is further stated by Petitioner he had incurred expenses for medical treatment, special diet, transportation charges etc. and had also suffered substantial pain, shock and suffering and was compelled to remain bed-ridden. Due to injuries suffered by him, his earning capacity has also been adversely affected, and therefore, he has claimed for compensation of Rs.2,00,000/- with the interest at the rate of 18% against the opponents.

5. After presenting the Claim Petition, summons were issued and duly served on Opponents.

The Opponent No.1 filed written statement vide Exh.28, in MACP No.108 of 2017, wherein he denied all the averments of the Petition and further contended that, if the Tribunal reached to conclusion that driver of involved Car is responsible for accident, than his vehicle was insured with Opponent No.2 Royal Sundaram General Insurance Company and on behalf of him, Insurance Company is liable to pay the compensation to the Petitioners and finally he prayed to dismiss the Petition against him.

Opponent Nos.2 and 4 Insurance Companies have contested the Petition by filing a detailed written statement which is on the record of proceedings at Exh.28, Exh.26 and Exh.32 respectively. Opponent Insurance Companies have taken up all available defences in its written statement and denied the factual aspects of the case as narrated in the Claim-Petition and further contended that claim is false and exorbitant and with these submissions Insurance Companies, prayed for dismissal of claim petitions.

7. Looking to such rival pleadings, Tribunal was pleased to frame following issues in MACP No.27 of 2017 ;

ISSUE NOS.	ISSUE
1	Whether Petitioner proves that deceased died due to the injuries sustained him in a vehicular accident by the vehicle involved in the accident?
2	Whether Petitioners are entitled to compensation

	? If yes, what amount at what rate and from whom ?
3	What award ?

7.1 It is required to note that issues have been framed in MACP No.108 of 2017 vide Exh.41 are as under ;

Sr. No.	**ISSUES**
1	Whether the Petitioner proves that his vehicle damaged due to rash and/or negligent driving of the driver of the vehicle involved in the accident ?
2	Whether the Petitioner is entitled to compensation ? If yes, what amount and from whom ?
3	What award ?

8. My findings on each of the issues above are as hereinafter follows :

ISSUE NOS.	**FINDINGS**
1	In partly affirmative in both Petition.
2	In affirmative and as per amount quantity.
3	As per final order.

9. In support of the claim petition, following oral as well as documentary evidence were produced by the petitioner .

(A) Oral Evidence :-

Sr. No.	Name of witness	Exhibit
1	Affidavit of Petitioner- Hajibhai Musabhai Odich [MACP No.27/2017]	41
2	Affidavit of Petitioner- Moin Ahmedbhai Arab [MACP No.108/2017]	50

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
COMMON EVIDENCE		
1	Copy of FIR	55
2	Copy of Spot Panchnama	56
3	Copy of Inquest Panchnama	57
4	Copy of charge-sheet	58
5	Copy of RC Book of Car No.GJ-10-BG-7786	59
6	Copy of Insurance Policy of Car No.GJ-10-BG-7786	60
7	Copy of RC Book of Motorcycle No.GJ-10-CH-0041	61
8	Copy of Insurance Policy of Motorcycle No.GJ-10-CH-0041	62
MACP NO.27 OF 2017		
1	Copy of Post Morterm Report	54
MACP NO.108 OF 2017		
1	Copy of Discharge Card	63

2	Disability Certificate	64

10. Learned advocate for the Petitioners have not submitted further evidence and filed closing pursis at Exh.52.

11. Learned advocate for the Opponent No.2 has not adduced oral or documentary evidence.

11.1 Learned advocate for the Opponent No.4 in MACP No.108 of 2017 has not adduced oral or documentary evidence.

12. Learned Advocate for the petitioners argued that on the day of accident, deceased was driving Motorcycle No.GJ-10-CH-0041 in moderate speed. At that time driver of Car No.GJ-10-BG-7786 came from wrong side in excessive speed and dashed against Motorcycle. Resultant, deceased sustained fatal injuries and died and Petitioner Moin has received severe bodily injuries.

It is further argued that deceased was 26 years young man, selling the business of Ice and was earned Rs.8,000/- per month. Hence, Petitioners are entitled to get compensation to the tune of Rs.10,00,000/- from Opponents.

Whereas Petitioner Moin was 20 years and doing labour work and was earned Rs.6,000/- per month. Hence, Petitioner is entitled to get compensation to the tune of Rs.2,00,000/- from Opponents and in last prayed to allow both Petitions as prayed for.

13. Learned Advocate for Opponent No.2 has argued that accident occurred due to sheer negligence on the part of driver of

Motorcycle No.GJ-10-CH-0041 as he was driving his Motorcycle rashly and negligently. Therefore, Petitioners are not entitled to get compensation from this Opponent. It is further submitted that, Petitioners have not produced cogent evidence of income, hence notional income should be considered. In last, prayed to dismiss present Claim Petition.

14. Learned advocate for Opponent No.4 in MACP No. 108/ 2017 has argued that FIR has been lodged against driver of Car No.GJ-10-BG-7786 and charge-sheet was also filed against him. That Opponent No.3 Afzal Husen was not a real owner of Motorcycle as he sold Motorcycle to deceased Rehan Hajibhai and said Motorcycle was handed over to deceased and Insurance Policy of said Motorcycle was issued in the name of registered owner, that is, Afzal Husen, hence, present Opponent is not liable to pay compensation to Petitioner.

15. Having, gone through pleading of respective parties, appreciation and consideration of evidence on record and hearing the submissions of learned counsels of respective parties, following are the reasoning for deciding the issues involved in the matters.

:-: R E A S O N S :-:

Issue No. 1 :-

16. Learned advocate Mr.Parekh for Opponent No.4 has produced copy of Judgment passed in MACP No.277 of 2017 vide Mark 53/1. It is transpires that Claim Petition bearing No.277 of 2017 arisen from same accident and FIR was decided on merits by this Court M.A.C.T. (Main) and decided the point of

negligence and therefore, hence the question of negligency does not arise to decide again, but is required to be followed accordingly. In this connection, it is necessary to refer the case of **United India Insurance Co. Ltd. V/s. Laljibhai Hamirbhai & Ors. reported in 2007(1) – 633** decided by our own Honourable High Court of Gujarat, wherein the principle of *'res judicata'* is very lucidly discussed in the above case, and it is necessary to reproduce some of the paras herein below :

"It would be impermissible to permit any party to raise any issue inter se where such an issue under the very Act has been decided in an early proceeding. Even if res-judicata in its strict sense may not apply, but its principle would be applicable. Parties who are disputing now, if they were parties in an early proceeding under this very Act raising the same issue would be stopped from raising such an issue both on the principle of estoppel and constructive res-judicata. The finding recorded even by the High Court that possession of the landlord could only be by an order under Section 36(2) is also not sustainable as that only conceived of the case where tenant is dispossessed and landlord is seeking to get back possession of the suit land from such tenant. In the present case, there was no such question. For this respondent No.1 has to be at least a tenant and whether he is a tenant stood concluded, as aforesaid earlier, hence initiation of proceeding under Section 49B cannot be sustained law."

17. It is pertinent to note that issue of negligence has already been decided in Claim Petition No.277 of 2017 arisen out of the said cause of accident, it is not required to be decided in the present matter in view of cited case law of **United India Insurance Co. Ltd. (Supra),** but follows accordingly.

18. However, on perusal of FIR at Exh.55, Spot Panchnama at Exh.56 and charge-sheet at Exh.57, it appears that at the time of accident, driver of Car bearing No.GJ-10-BG-7786 came on wrong side and dashed with Motorcycle No.GJ-10-CH-0041 and also with other two Motorcycles, which clearly suggests excessive speed and rash and negligent driving on the part of

driver of Car bearing No.GJ-10-BG-7786. Hence, I answer this issue No.1 accordingly.

Issue No. 2 :-

MACP NO.27 OF 2017 :-

19. As a natural consequence, and since having found issue No.1 in favour of petitioner and in the affirmative, it necessarily follows that the petitioner is entitled for the compensation. Now, we will proceed to determine the quantum of compensation and the liability to pay the awarded compensation.

(A) Age :- Petitioners have not submitted document evidence to show the age of deceased. Petitioners have pleaded that at the time of accident, deceased was 26 years old. Hence, **26 years of age** of deceased at the time of accident is considered.

(B) Multiplier :- The age of the deceased is taken as 26 years, as discussed herein above, which would attract the **multiplier of 17** as per decision of **Sarla Verma vs. Delhi Transport Corporation, reported in 2009 (6) SCC 212.**

(C) Income :- According to submission of the Petitioners in the claim petition, deceased was earning Rs.8,000/- per month by doing business of Ice selling. To prove income of deceased, Petitioners have not adduced evidence. Therefore, in absence of any concrete proof of income, it will be benefited to do some guess work considering age of deceased, nature of work and source of earnings and year of accident as 2016, thus, considering these all, it can safely presume that, in the year 2016, deceased might have earned **Rs.3,000/-** as monthly income from the above mentioned work.

(D) Future Prospectus :- In view of the decision of the Apex Court in case of **National Insurance Company ltd. vs. Pranay Sethi & Ors. SLP (Civil) No. 25590/2014, dated 31.01.2017**, deceased being a self-employed person and aged about 26 years, **40%** of the monthly income should be added towards future prospectus. Accordingly, 40% of Rs.3,000/- comes to Rs.1200/-, adding this amount to the monthly income would comes to **Rs.4,200/-.**

(E) Deduction towards personal and living expenses :- Herein case on hand, there are thee dependents of the deceased and therefore, as per decision of Hon'ble Apex Court in case of National Insurance Co. Ltd. vs. Pranay Sethi (Supra), when there is 2 to 3 dependent of deceased, 1/3rd is to be deducted towards personal and living expenses of the deceased. Now, deducting 1/3rd amount from monthly income of Rs.4,200/- divided by 1/3rd comes to Rs.1,400/- and deducting 1/3rd amount from Rs. 4,200/- (Rs.4,200/- –Rs.1400/-) **Rs.2,800/-** comes after deduction of personal and living expense. Deduction towards personal and living expenses.

(F) Loss of Estate and Funeral Expenses :- As per the decision of Hon'ble Apex Court in case of National Insurance Co. Ltd. vs. Pranay Sethi (Supra), the Petitioners would be entitled for the amount of Rs.15,000/- each for loss of estate and funeral expense. It is pertinent to note that as per aforementioned judgment, 10% rise is also awarded towards conventional heads of loss of estate, loss of consortium and funeral expenses, for every 3 years. Therefore, this Tribunal thinks it fit to awards Rs.18,000 towards loss of estate, & Rs.18,000/- towards funeral expense to the Petitioners.

(G) Consortium :- It is pertaining to note that, as a result of this accident, the Petitioner No.2 has lost her beloved father in growing age and Petitioner Nos.2 and 3 lost their son and thereby lost their future support. At this juncture, reliance is required to be placed on the ruling of **Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram & Ors. (Civil Appeal No. 9581 of 2018, decided on 18th September, 2018), Hon'ble the Apex Court has** held that compensation under the head of consortium can be awarded to husband/wife, father, mother and children of deceased.

(H) In the present case, it deem to appropriate to award Rs.48,000/- to the Petitioner no.2 being a daughter of the deceased towards parental consortium and further award Rs. 48,000/- Petitioner Nos.2 and 3 being parents of the deceased towards filial consortium.

20. The above calculated amount of compensation is shown in below mentioned tabular format ;

Sr No.	Head of compensation	Amounts
1	Monthly Income	Rs.3,000/-
2	40% Monthly Income future prospects	Rs.1200/-
3	Addition of 40% amount towards Future	Rs.4,200/-

	Prospect	
4	1/3 deduction towards personal expenditure	Rs.1400/-
5	Net monthly income for calculating compensation (Rs.4200/- –1400/- = 2800/-)	Rs.2800/-
6	Total compensation (Rs.2800x 12 x17)	Rs.5,71,200/-
7	Loss of Estate	Rs.18,000/-
8	Funeral Expense	Rs.18,000/-
9	Parental Consortium	Rs.48,000/-
10	Filial Consortium	Rs.48,000/-
TOTAL :-		**Rs.7,03,200/-**

21. Petitioner No.4 namely Hajibhai Musabhai Odiya has filed pursis through his learned advocate at Exh.40 by stating that Petitioner No.1 has entered into a remarriage. Petitioner No.4 has filed an affidavit in lieu of examination-in-chief at Exhibit 41. During cross-examination, the witness deposed that after the demise of his son, Petitioner No. 1 got remarriade and Petitioner No. 2 resides with him.

It is required to note that Petitioner No.1- wife of deceased namely Amreen Rehan Odiya not appeared before this Tribunal and her son, that is, Petitioner No.2 resides with Petitioner Nos.3 and 4. Therefore, Petitioner No.1 is not entitled to get compensation. Hence, claim is dismissed qua Petitioner No.1 against the Opponents.

MACP NO.108 OF 2017 :-

22. **(a) Income of injured:-** Petitioner has pleaded that at the time of accident, he was earning Rs.6,000/- per month by doing labour work. In support of the contention, Petitioner has not produced any evidence. Therefore, income suggested by the Petitioner side is higher one.Under this circumstance, considering the nature of work, age of Petitioner and year of accident as 2016, it would be just and appropriate to consider the income of the Petitioner at Rs.3,000/- per month which annually comes to **Rs.36,000/-.**

(b) Permanent Disability: - Petitioner has pleaded that due to the injuries sustained in the accident, he has became permanent disable. In order to prove the permanent disability, petitioner has produced Disability Certificate at Exh.59, issued by Dr.Dinesh Gajera, Synergy Hospital, Rajkot, who assessed permanent disability to the extent of 15% body as a whole as he keep forget recent events and having aggressive behaviour.

It is required to note that to establish disability, Petitioner has not examined any medical expert, i.e. treating doctor or doctor who has issued disability certificate. Learned advocate for parties are agreed to assess the disability to the tune of 12% body as a whole. Under these circumstances, permanent partial functional disability of petitioner is assessed at **12%** qua body as a whole.

(c) Age of injured:- On the perusal of record, it transpires that Petitioner has produced Birth-certificate at Exh.57,wherein his

BoD is mentioned as 21/11/1997. Therefore, **20 years** age of Petitioner at the time of accident is to be considered.

(d) Multiplier applicable: - As per above discussion it is clear that at the time of accident, age of the petitioner was 20 year, as such multiplier applicable to the case of Petitioner is **18** as per the judgment of Hon'ble Supreme court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation 2009 AIR (SC) 3104.**

(e) Loss of future income:- So, taking into consideration the annual income, permanent disability and applicable multiplier, amount of compensation payable under the head of loss of future income comes to **Rs.77,760/- (36000 x 12 % x 18).**

(f) Loss of actual income: - Considering the nature of injuries, duration of treatment, it will be reasonable to award **Rs.6,000/-** under this head.

(g) Medical Expenses:- On perusal of record, it appears that petitioner has not produced medical bills. Therefore, considering injuries suffered and treatment received, Petitioner is entitled to get **Rs.3,000/-** towards medical expenses. This amount deserves to be allowed to petitioner under head of medical expenses.

(h) Pain/shock & suffering:- Considering duration of treatment of petitioner as indoor patient, nature of injuries and permanent disability, petitioner is entitled for **Rs.15,000/-** under this head.

(i) Conveyance, attendant and special diet:- In view of the nature of injuries, duration of treatment, petitioner is entitled for **Rs.15,000/-** under this head.

Sr. No.	Head of Compensation	Amount
1	Loss of Future Income	Rs.77,760/-
2	Loss of Actual Income	Rs.6,000/-
3	Expenses incurred on medicine	Rs.3,000/-
4	Pain/ shock and suffering	Rs.15,000/-
5	Conveyance, attendant and special diet	Rs.15,000/-
T O T A L :-		**Rs.1,16,760/-**

23. On perusal of RC Book at Exh.59 and Insurance Policy at Exh.60, it appears that Opponent No.1 was owner and Opponent No.2 was insurer of Car No.GJ-10-BG-7786. Therefore, Opponent Nos.1 and 2, both are jointly and severally liable for payment of compensation to Petitioners.

Whereas driver of Motorcycle bearing No.GJ-1-CH-0041 is not found rash and negligent in causing accident, hence, owner and Insurance Company of said Motorcycle is hereby exonerated from liability to pay compensation to the Petitioners.

Issue no. 3 :-

24. Having, decided issue no.1 and 2 in affirmative and in favour of petitioner, following final order is hereby passed.

F I N A L = O R D E R

MACP NO.27 of 2017 :-

1- Present Claim Petition is hereby **partly allowed.**

2- Petitioner Nos.2,3 and 4 are held entitled for the compensation of **Rs.7,03,200/- (Rupees Seven Lakh Three Thousand Two Hundred only)** along-with proportionate costs and simple interest at the rate of 9% per annum from the date of petition till its realization to be paid by Opponent Nos.1 and 2 jointly and severally. **Claim of Petitioner No.1 is hereby dismissed.**

3- **Opponent No.3 and 4 are hereby exonerated from liability to pay compensation to Petitioners.**

4- It is further directed that compensation amount shall be deposited directly into the bank account maintained by this Tribunal (detail given below) by RTGS or NEFT mode within one month. On such deposits being made, depositor shall submit a letter to the registry of this Tribunal enclosing copy of bank advice in prescribing form, as per which the deposit was made to the bank account of this Tribunal. Depositor shall also send a copy of payment advice to this Tribunal and shall serve a copy of the same on the claimant/s or their counsel as the case may be.

Name of Bank	Bank of Baroda, Lal Bungalow Branch, Jamnagar.
Account No.	58090100006648
Account Name	M/S. MOTOR ACCIDENT CLAIM TRIBUNAL
IFSC Code	BARB0LALJAM (Fifth Character from the beginning is zero)
MICR Code	361012008

5- It is further directed that after depositing the compensation amount, depositor shall communicate the factum of the deposit forthwith/expeditiously to this Tribunal with a copy to the beneficiaries.

6- It is further directed that depositor shall comply the directions given by Hon'ble Supreme Court in Bajaj Alliance General Insurance Co. Vs. Union of India, Writ Petition (s) (Civil) No. 534 of 2020 as well as directions given by Hon'ble High Court of Madras in Civil Misc. Appeal No.428 of 2016 decided on 11th March, 2016 titled as Divisional Manager, The Oriental Insurance Co. Ltd. Vs. Rajesh & Ors.

7- If compensation has been awarded and paid under section 140 of Motor Vehicle Act, than such amount of compensation shall be reduced from the amount of compensation awarded by this order.

8- On depositing the aforesaid amount of compensation, deficit Court fees, if any, be deducted there from and thereafter, from the remaining amount, **40%** shall be paid to the Petitioners by direct transfer to the credit of the bank account of the petitioners (detail given below) by NEFT or RTGS after proper verification and thereafter, remaining **60%** of the compensation amount shall be deposited in the name of petitioners respectively in a Nationalized Bank or in any Government Security of the choice of Petitioner for a period of Five years keeping nomination clause with a condition that no loan or advance would be admissible, but the applicant would be entitled to get periodical interest that may accrue on the said F.D.R as per rules.

9- Petitioner No.2 is entitled to get **70%,** whereas Petitioner Nos.2 and 3 are entitled to get **15% each** of the awarded amount.

10- Petitioner No.2, that is, **Alizaben Rehan Odiya** is minor as such on depositing the amount of compensation,the amount fallen to the share of Petitioner No.2 shall be deposited in the name of minor Petitioner No.2 in any Nationalized Bank or in any Government Security as per the of the choice of guardian of minor petitioner appointed by this order, for a period of Five years or till the attending of majority by Petitioner No.2 which period is later, keeping nomination clause with a condition that no loan or advance would be admissible, but the Petitioner would be entitled to get periodical interest that may accrue on the said F.D.R as per rules. **Petitioner No.4 namely Hajibhai Musabhai Odiya (Grand-father of minor Petitioner No.2)** is hereby appointed as Guardian of the minor with liberty to withdraw periodical interest accrued thereon.

10- The Opponents shall pay costs of the Petitioners and all the Opponents shall bear their own costs.

11- The Petitioners are directed to furnish their bank particulars i.e. bank account number and branch, IFSC code of concerned Bank and copy of PAN Card before the Registry and thereafter, Registry is directed to make disbursement of the amount of compensation accordingly.

12- Award is directed to be drawn up accordingly.

13- Authenticated copy of award is directed to be sent to the Insurance Company (if any) through e-mail.

MACP NO.108 OF 2017 :-

1- Present Claim Petition is hereby **partly allowed.**

2- Petitioner is held entitled for compensation of **Rs.1,16,760/- (Rupees One Lakh Sixteen Thousand Seven Hundred Sixty Only)** alongwith proportionate costs and simple interest at the rate of 9% per annum from the date of petition till its realization to be paid by Opponent Nos. 1 and 2 jointly and severally.

3- Opponent No.3 is hereby exonerated from liability to pay compensation to Petitioner.

4- It is further directed that compensation amount shall be deposited directly into the bank account maintained by this Tribunal (detail given below) by RTGS or NEFT mode within one month. And copy of payment advice be kept by Nazir, District Court Jamnagar and Insurance Company shall serve a copy of the same on the claimant/s or their Advocate as the case may be.

Name of Bank	Bank of Baroda, Lal Bungalow Branch, Jamnagar.
A/c. Number	58090100006648
Account Name	M/S.MOTOR ACCIDENT CLAIM TRIBUNAL
IFSC Code	BARB0LALJAM (Fifth Character from the beginning is zero)
MICR Code	361012008

5- It is further directed that Insurance Company shall comply the directions given by Hon'ble Supreme Court in Bajaj Alliance

General Insurance Co. Vs. Union of India, Writ Petition (s) (Civil) No. 534 of 2020 as well as directions given by Hon'ble High Court of Madras in Civil Misc. Appeal No.428 of 2016 decided on 11th March, 2016 titled as Divisional Manager, The Oriental Insurance Co. Ltd. Vs. Rajesh & Ors.

6- If compensation has been awarded and paid under section 140 of Motor Vehicle Act, than such amount of compensation shall be reduced from amount of compensation awarded by this order.

7- On depositing the aforesaid amount of compensation, deficit Court fees, if any, be deducted there from and thereafter, from the remaining amount, **40%** shall be paid to the Petitioners by direct transfer to the credit of the bank account of the petitioners by NEFT or RTGS after proper verification and thereafter, remaining **60%** of the compensation amount shall be deposited in the name of petitioners in a Nationalized Bank or in any Government Security of the choice of Petitioners for a period of Five years keeping nomination clause with a condition that no loan or advance would be admissible, but the Petitioners would be entitled to get periodical interest that may accrue on the said F.D.R as per rules.

8- The Petitioner is directed to furnish his bank particulars i.e. bank account number and branch, IFSC code of concerned Bank and copy of PAN Card before the Registry and thereafter, Registry is directed to make disbursement of the amount of compensation accordingly.

9- The Opponents shall pay costs of the Petitioner and shall bear their own costs.

10- Award is directed to be drawn up accordingly.

11- Authenticated copy of award is directed to be sent to the Insurance Company (if any) through e-mail.

25. The Original Judgment be placed in **Claim Petition No.27 of 2017** and its True Copy be kept in **Claim Petition No.108 of 2017** accordingly.

This order is pronounced and signed in the open Tribunal on this 22nd day of April-2026 under my hand and seal.

(Nehalkumar Rajeshbhai Joshi)
M.A.C.T. [Main] &
Principal District Judge, Jamnagar
Code No.: GJ01318

Date: -22/04/2026
Place: - Jamnagar.
A J RAVAL/PS