GJJM010004302020	**Exhibit**	:	**83**		
	Filed on	:	29/01/2020		
	Registered on	:	10/02/2020		
	Decided on	:	03/08/2026		
	Duration	:	***Years***	***Months***	***Days***
			06	**06 0**	**05**

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

Motor Accident Claim Petition No.	34 of 2020

Petitioners :-

Legal Heirs of deceased Sagar Nishendubhai Liya ….

1. Nishendubhai Chotalal Liya,
   Age : 59, Occupation : Retired,
2. Naynaben Nishendubhai Liya,
   Age : 50, Occupation : Homemaker,
   Both are resident of Ashirwad-3,
   Near Royal School, Ranjitsagar Road,
   Jamnagar.

V E R S U S

Opponents :-

Owner,driver and Insurance Company of Bus No.GJ-03-BT-5823 ……...

1. Hitendrasinh Gajendrasinh Vaghela,
   Age : Adult, Occupation : Bus,
   Residing at Gitanagar Main Road,
   Behind Swaminarayan Gurukul,
   Rajkot.
2. Rajugiri Bhagwangiri Goswami,
   Age : 42, Occupation : Driving,
   Residing at Shreeji Society,
   Village Bhatiya, Ta. Kalyanpur,
   District- Devbhumi Dwarka.
3. The United India Insurance Company Ltd.,
   Office at Kuber Building, Near Joggers Park,
   Opposite St.Ann's School, Jamnagar.

Subject: - Petition to claim compensation of Rs.60,00,000/- under section 166 of Motor Vehicle Act, 1988.

Appearance:-

Mr.A.H.Joshi , Learned Advocate for the Petitioners.

Mr. B.C.Chotai , Learned Advocate for the Opponent No.3.

None for Opponent Nos.1 and 2.

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

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1. The Petitioners, being the heirs and legal representatives of the deceased **Sagar Nishendubhai Liya** have preferred the present claim under Section 166 of the Motor Vehicles Act, seeking compensation to the tune of Rs.60,00,000/- with interest

and costs, jointly and/or severally from the opponents on account of the death of the deceased due to injuries received by him in an accident that took place on 03/11/2019 at the time and place specified in the Petition, involving the vehicle, a Bus bearing registration

2. The factual aspects of Claim Petition can be succinctly narrated as under ;

I. The petitioners contended that on 03/11/2019, at approximately 10:00 PM, the deceased was returning home after watching a movie, driving a Motorcycle bearing registration number GJ-10-BK-0041. When he was reached the vicinity of Digjam Circle, at that time driver of Bus No.GJ-03-BT-5823 came in excessive speed and in negligent manner and dashed his vehicle with Motorcycle from back side. The deceased succumbed to the injuries received during the incident. Accident occurred due to sole negligence and careless driving of the driver of said Bus.

II. That the deceased was 24 years old at the time of accident. The deceased was working Sales Executive in Sun Pharma Laboratories and his monthly earning was Rs.40,000/-, thus, he was maintaining and supporting the entire family.

III. In this claim petition, Petitioners have claimed monthly dependency loss of Rs.40,000/- claiming it as earning of the deceased. Loss of future income and prospects is also claimed as compensation under other conventional heads.

In total, Petitioners have claimed compensation of Rs. 60,00,000/- with costs and interest.

3. After presenting the Claim Petition, summons were issued and duly served on the Opponents. Opponent Nos.1 and 2 have not contested the Claim Petition in any manner.

4. Opponent No.2 has contested the Petition by filing a detailed written statement which is on the record of the proceedings at Exh.8. Opponent Insurance Company has denied the factual aspects of the case as narrated in the claim-petition. It is further contended that claim is false and exorbitant. At the time of accident, deceased crossed the Digjam Circle from wrong side, so he was liable for contributory negligence at higher side and with these submissions Insurance Company, prayed for dismissal of claim.

5. In the background of such rival pleadings, this Tribunal was pleased to frame the following issues vide Exh.18.

Issue No.	I S S U E S
1	Whether the Petitioners prove that deceased has died due to injuries sustained by him in road side vehicular accident occurred by reason of rash and negligent driving on the part of driver of the vehicle bearing No. GJ-03-BT-5823 ?
2	Whether the Petitioners prove that they are entitled for compensation, if yes, what amount and from whom ?

3	What final order ?

6. My findings on each of issues above are as follows :

ISSUE NOS.	FINDINGS
1	In the Affirmative.
2	In the Affirmative and as per the amount quantified.
3	As per final order.

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

(A) Oral Evidence :-

Sr. No.	Name of witness	Exhibit
1	Affidavit of chief -examination of Petitioner No.1 Nishendubhai Chotalal Liya	47
2	PW-2 Niraj Bhimjibhai Makwana, Area Manager of Sun Pharma	60

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
1	True Copy of FIR	50
2	True Copy of Inquest Panchnama	51
3	True Copy of Spot Panchnama	52
4	Copy of School Leaving Certificate of deceased	53

5	Copy of Letter of Confirmation of deceased	54
6	Death Certificate of deceased	55
7	Copy of Post Mortem Report	56
8	Photographs of deceased at the time of accident	57
9	Copy of Authority Letter	62
10	Salary Slip of deceased for the month of August-2019	63
11	Salary Slip of deceased for the month of September-2019	64
12	Salary Slip of deceased for the month of October-2019	65
13	Copy of Letter of Appointment as Trainee	66
14	Copy of Letter of Appointment as Sales Executive	67
15	Copy of Salary Certificate of deceased	68
16	Copy of RC Book of Bus No.GJ-03-BT-5823	Mark 5/4

8. Learned advocate for Petitioners has not adduced further evidence and filed closing pursis vide Exh.73.

9. Learned advocate for Opponent No.3 has produced copy of Insurance Policy of Bus No.GJ-03-BT-5823 vide Exh.74 and filed closing pursis vide Exh.74.

10. The learned Advocate for the petitioners submitted written arguments at Exh.80. The crux of the argument is that the accident occurred due to negligent driving of the driver of the Bus bearing registration No.GJ-10-BT-5823 as driver of said Bus dashed his vehicle with Motorcycle of deceased from backside and caused accident, FIR has been lodged against Bus driver. The deceased received fatal injuries.

It is further submitted that the deceased was employed as a Sales Executive at Sun Pharma drawing a monthly salary of Rs. 40,000/-. To substantiate this claim, the Petitioners examined a witness at Exh.60, whose testimony establishes that the deceased was a permanent employee of the said company earning the aforementioned income. The witness duly produced the salary slips and employment certificates to prove the monthly income of the deceased. Consequently, the Petitioners claim total compensation in the sum of Rs. 63,48,000/- from the Opponents, jointly and severally, along with interest and costs

11. The learned advocate for Opponent No.3 submitted written arguments vide Exh.82. The crux of the argument is that the accident occurred due to the contributory negligence of the deceased. It is contended that at the time of the incident, the motorcycle slipped and collided with the bus. The opponent relies upon the police statement of the bus driver, recorded during the investigation on 05/11/2019, to substantiate this fact.

It is further submitted that Petitioners have failed to prove the income of the deceased. In the absence of cogent evidence, and claimed income is excessive, a notional income should be assessed.

12. Having, gone through the 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 :-

13. I have considered the rival contentions of the learned counsels for the parties and perused the records. Prior to proceeding with deciding the issue of negligence, it would be relevant to state here that the present petition being u/s 166(1)(c) of the MV Act, while deciding such petitions, summary procedure is to be followed and it is merely an inquiry under Section 168 of the Act. Even the strict rules of evidence are not applicable during inquiry under these provisions. The Hon'ble Apex Court, in the case of **National Insurance Co. Ltd. v. Rattani, as reported in 2009(3) MhLJ (SC) 754**, laid down that *"The certified copy of the First Information Report can be looked into for the purpose of arriving at finding of fact under which circumstances the accident occurred." Similar view is taken by the Hon'ble Bombay High Court in the case of United India Insurance Co. Ltd. v. Sayaji Shind, as reported in 2009(3) MhLJ 539, laying down that Certified copy of the First Information Report and Spot Panchnama can be read in evidence without its formal proof."*

14. I have also gone through the FIR and spot Panchnama of place of accident as well as testimony of Petitioner No.1. The validity, admissibility and genuineness of these documents were not challenged by the Opponents.

15. To discharge this burden, Petitioner No.1 Nishendubhai Chotalal Liya has submitted her examination-in-chief affidavit at Exh. 47. On going through the FIR and spot Panchnama, it appears that in the accident, two vehicles were involved. Perusal of the FIR at Exh.50 shows that complaint has been lodged against the driver of Bus No. GJ-03-BT-5823 for causing accident by driving his vehicle in rash and negligent manner.

On perusal of the Spot Panchnama at Exh. 52 reveals that the accident occurred at Digjam Circle. The Bus, bearing registration number GJ-03-BT-5823, was found stationary at the scene, exhibiting fresh scratches on the left side of its front bumper. Moreover, a motorcycle, bearing registration number GJ-10-BK-0041, was found lying near the rear wheel on the cleaner side (left side) of the bus, with fresh scratches visible on its body as well.

16. It is required to note that the complainant has specifically stated in the FIR at Exh.50 that the offending bus driver was driving rashly and at an excessive speed, colliding with the motorcycle from behind, whereupon the front wheel of the said bus ran over the deceased. On perusal of Post Mortem report at Exh.56, it appears that deceased died due to *" Hemorrhagic shock on account of multiple injuries over chest and abdomen"*. Thus, deceased died due to fatal injuries received by him.

17. It is required to note that the driver of offending Bus owes a strict duty of care to maintain a safe distance and regulate speed in accordance with the flow of traffic ahead. When a vehicle hits another from behind, a prima facie presumption of negligence arises against the rear driver. The burden of proof shifts to the driver of the offending bus to show that the collision occurred despite exercising reasonable care, or due to an inevitable accident. It is pertinent to note that driver of said Bus has not stepped into the witness box and it is a cardinal principle that adverse inference should be drawn against him.

Under these circumstances, if driver of said Bus take a slight care to avoid accident, then present accident may be avoided. Therefore, driver of Bus bearing No.GJ-03-BT-5823 is found negligence for rash and negligent driving his vehicle Hence, I answer issue No.1 accordingly.

<u>Issue No. 2 :-</u>

18. In order to arrive at "Just Compensation" being core of the Motor Vehicles Act the Tribunal under Section 168 of the Motor Vehicles Act has to decide dependency loss, no oral as well as documentary evidences have been produced by the Petitioners with regard to age and income of deceased. Therefore, as per settled proposition of law, the claim petition is required to decide on the basis of material placed on record and accordingly, this Tribunal has decided following heads.

(18.1) Age :- The petitioners have produced school leaving certificate at Exh.53,wherein his BoD is mentioned as

16/07/1995. Hence, **24 years of age** of deceased at the time of accident is considered.

(18.2) Multiplier :- The age of the deceased is taken as 24 years, as discussed herein above, which would attract the **multiplier of 18** as per decision of **Sarla Verma vs. Delhi Transport Corporation, reported in 2009 (6) SCC 212.**

(18.3) Income :- As per the averments made by the Petitioners in the claim petition, it is submitted that the deceased was gainfully employed with Sun Pharma, drawing a monthly salary of Rs. 40,000/. Petitioners have examined witness Niraj Bhimjibhai Makwana at Exh.60. Crux of his chief-examination is that he is working in the Company since last 19 years and presently he is working as Area Manager. That Sagar Nishendu Liya was working in the company as Sales Executive. He produced salary slips at Exh.62 to Exh.65 and his total pay was Rs.29,200/-. He also produced appointment letters of deceased at Exh.66 and Exh.67. Witness produced the certificates at Exh.68 and Exh.69 and deposed that deceased was permanent employed in the Sun Pharma.

During cross-examination, the witness stated that he deposed in accordance with the available records. He clarified that the deceased initially performed his duties as a Trainee and was subsequently permanently employed by the Company as a Sales Executive.

Furthermore, it is pertinent to note that during cross-examination, he was asked about the production of Company’s account books and audited balance sheets reflected the monthly salary of the deceased, the witness answered that he would submit the relevant information upon procuring it, but then he did not comply. Petitioners have produced salary slip of the deceased for the month of October-2019,wherein his total monthly earnings is shown as Rs.29,200/-.

It is required to note that neither Witness at Exh.60 nor Petitioners have produced documentary evidence of the actual income, such as account books and audited balance sheets. The Company where deceased was working is private and there can not be guarantee of permanent job. Therefore, in the absence of cogent material on record, the Tribunal must assess the income notionally by considering the deceased's age, nature of of work, inflation, and the price index in the year of the accident, that is, 2019, it can be safely presumed that the deceased earned a notional monthly income of **Rs.12 ,000/-.**

(18.4) Future Prospectus :- In view of the decision of the Apex Court in case of **National Insurance Company ltd. vs. Pranay Sethi & Ors. reported in (2017) ACJ 2700,** deceased being a employed person and age below 40 years, **50%** of the monthly income should be added towards future prospectus. Accordingly, 50% of Rs.12,000/- comes to Rs.6000/-, adding this amount to the monthly income would comes to Rs.12,000/- + 6,000/- = **Rs.18,000/-.**

(18.5) Deduction towards personal and living expenses :- Herein the case on hand, only parents are dependents, therefore, when there is only parents dependents of the deceased, 1/2 is to be deducted towards personal and living expenses of the deceased. Now, deducting 1/2 amount from the monthly income of Rs.18,000/- divided by 1/2, comes to Rs.9000/- and deducting the 1/2 amount from Rs.18000/- (Rs.18000/- – Rs.9000/-), **Rs.9000/-** comes after deduction of personal and living expense. Deduction towards personal and living expenses.

(18.6) 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 the aforementioned judgment, 10% rise is also awarded towards the 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.

(18.7) Consortium :- It is pertaining to note that, as a result of this accident, the Petitioners have lost their beloved 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.

(18.8) In the present case, it is appropriate to award Rs.48,000/- to the Petitioners being parents of the deceased towards consortium and Rs.48,000/- each to Petitioner No.2 and 3 being a children of the deceased towards filial consortium.

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

Sr No.	Head of compensation	Amounts
1	Monthly Income	Rs.12,000/-
2	50% Monthly Income future prospects	Rs.6,000/-
3	Addition of 50% amount towards Future Prospect	Rs.18,000/-
4	1/2 deduction towards personal expenditure	Rs.9,000/-
5	Net monthly income for calculating compensation (18000-9000 = 9000/-)	Rs.9,000
6	Total compensation (Rs.9000 x 12 x18)	Rs.19,44,000/-
7	Loss of Estate	Rs.18,000/-
8	Funeral Expense	Rs.18,000/-
9	Filial Consortium to Petitioners	Rs.48,000/-
FINAL AMOUNT :-		**Rs.20,28,000/-**

liability to pay the compensation :-

20. As per the discussion under issue no.1, it is clear that accident occurred on account of negligence driving on the part of driver of Bus bearing registration No.GJ-03-BT-5823.

On perusal of RC Book at Mark 5/4 and Insurance Policy at Exh.74 it appears that Opponent No.1 was owner and Opponent No.2 was Insurance Company of Bus bearing registration No.GJ-03-BT-5823 at the time of accident. Therefore, Opponent No.1 being owner and Opponent No.2 being insurer are jointly and severally liable to pay compensation to Petitioners.

21. In view of aforesaid discussion, this Tribunal is of considered opinion that petitioners are held entitled for compensation of **Rs.20,28,000/- (Rupees Twenty Lakh Twenty Eight Thousand only)** alongwith proportionate costs and simple interest at the rate of 9% per annum to be paid by Opponent Nos.1 and 2 jointly and severally. <u>Hence, issue no.2 is decided in **Partly Affirmative** in the manner as above discussed.</u>

<u>Issue no. 3 :-</u>

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

<u>F I N A L = O R D E R</u>

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

2- Petitioners are held entitled for the compensation of **Rs.20,28,000/- (Rupees Twenty Lakh Twenty Eight Thousand only)** alongwith proportionate costs and simple interest at the rate of 9% per annum from date of institution till its realization to be paid by Opponent Nos.1 and 2 jointly and severally.

3- 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. Copy of payment advice be kept by Nazir, District Court Jamnagar and Insurance Company shall serve a copy of the same on 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

4- 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.

5- 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.

6- 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.

7- Both Petitioners shall be entitled to receive an equal proportion of the award amount.

8- 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.

9- The Opponents shall pay costs of the Petitioners 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.

This order is pronounced and signed in the open Tribunal on this 03rd day of August-2026 under my hand and seal.

Digitally signed by
NEHAL RAJESHBHAI JOSHI
on 04/08/2026 16:48:45 IST.

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

Date: -03/08/2026
Place: - Jamnagar.
A J RAVAL/PS