

Exhibit	:	66
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IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN),

AT : JAMNAGAR.

Motor Accident Claim Petition No.	70 of 2020
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Petitioner:-

1. Nagjibha Ashabha Sumaniya,
Age about 40, Occupation : Masonry,
Resident of Nagani Sarmat,
Behind Naz Cinema, Sikka,
Ta/Dist. Jamnagar.

V E R S U S

Opponents :-

Owner and Insurance Company of Truck No.GJ-01-CZ-8292

1. The Speed Carrier Bombay Pvt. Ltd.,
Office at 10, Silver Complex,
Near Ujala Hotel, Sarkhej,
Ahmedabad-382 210.

2. The Oriental Insurance Co.,
Office at 'Swagat', 3rd Floor,
Opposite Ambar Cinema,
Jamnagar.

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

Appearance:-

Mr.I.S.Kureshi, Learned Advocate for Petitioner.

Mr.Z.M.Koreja, Learned Advocate for Opponent No.1.

Mr.D.B.Barad, Learned Advocate for the Opponent No.2.

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

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1. Present claim petition has been filed by petitioner under section 166 of Motor Vehicle Act, 1988 seeking compensation of Rs.10,00,000/- along with interest on account of injuries received by him in road side vehicular accident involving vehicle being Truck No.GJ-01-CZ-8292.

2. The factual aspects of road accident for claiming compensation averred in the Claim Petition can be succinctly narrated as under ;

- I. On 20/09/2019, while Petitioner was going for paying homage to Matana Madh and walking as pedestrian in left side on the edge of the road and when he reached near village Falla, at about 09:AM, on Jamnagar- Rajkot

highway road, at that time Driver of Truck No.GJ-01-CZ-8292 came by driving his vehicle in excessive speed and in negligent manner, and dashed with Petitioner. Resultant, Petitioner received head injuries as well as injuries on stomach. Petitioner was primarily treated at G.G.Hospital, Jamnagar and thereafter, shifted at Civil Hospital Ahmedabad.

II. In background of the above facts, Petitioner has claimed that he was of 40 years at the relevant point time. He was doing masonry work and earning Rs.9,000/- per month.

III. It is further stated by Petitioner that 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.10,00,000/- with the interest at the rate of 15% against the opponents.

3. The summons of the Claim Petition were served upon the opponents.

3.1 The Opponent No.1 has filed written statement vide Exh.36, wherein denied all averments of Petition and further contended that, if Tribunal reach to conclusion that driver of involved Truck is responsible for accident, then the vehicle was insured with Opponent No.2- Insurance Company and on behalf of him Insurance Company is liable to pay compensation to

Petitioner and finally they prayed to dismiss Petition with costs against him.

3.2 It is required to note that Opponent No.2- Insurance Company has not submitted written statement in its defence.

4. In the background of such rival pleadings, this Tribunal was pleased to frame the following issues vide Exh.39 ;

ISSUE NOS.	ISSUE
1	Whether the Petitioner proves that he sustained injuries due to rash and/or negligent driving of the driver of the vehicle involved in the accident ?
2	Whether the Petitioner proves that he entitled to get compensation ? If yes, what amount at what rate and from whom ?
3	What award ?

5. My findings to the above issues are as under ;

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

6. 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 chief-examination of Petitioner	40

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
1	True Copy of FIR	48
2	True Copy of Spot Panchnama	49
3	True Copy of Police Statement of driver of Truck No.GJ-01-CZ-8292	50
4	True Copy of Police Statement of Petitioner	51
5	True Copy of Police Statement of Rajugiri Hasugiri	52
6	True Copy of further Police Statement of Rajugiri Hasugiri	53
7	Copy of Insurance Policy of Truck No.GJ-01-CZ-8292	54
8	Copy of RC Book of Truck No.GJ-01-CZ-8292	55
9	Medical Case Papers of Petitioner	56
10	Copy of Injury Certificate, G G Hospital, Jamnagar	57

11	Copy of Injury Certificate, Civil Hospital, Ahmedabad	58
12	Disability Certificate	59
13	Copy of school leaving certificate	60
14	Laboratory reports	61
15	Copy of Photograph of Petitioner	62
16	Medical Bills for Rs.5,929/-	63

7. Learned advocate for Opponent No.1 has produced following documentary evidence in his defence ;

Sr. No.	Particulars	Exhibit
1	Copy of driving licence of driver of Truck No.GJ-01-CZ-8292	43
2	Copy of RC Book of Truck No.GJ-01-CZ-8292	44
3	Copy of Fitness certificate of Truck No.GJ-01-CZ-8292	45
4	Copy of permit of Truck No.GJ-01-CZ-8292	46
5	Copy of Insurance Policy of Truck No.GJ-01-CZ-8292	47

8. Learned advocate for Opponent No.2 has not adduced oral or documentary evidence. Learned advocates for parties have filed joint closing pursis vide Exh.65.

9. Learned advocate Mr.Kureshi argued that accident occurred due to sole negligence of driver of Truck No.GJ-1-CZ-

8292 and at the time of accident, the said vehicle was insured by the opponent no.2, therefore, Insurance Company be held responsible to indemnify loss occurred to Petitioner. That at the time of accident, Petitioner was 40 years old, doing masonry work and earned Rs.9,000/- per month. In last, prayed to allow claim petition as prayed for.

10. Learned advocate Mr.Barad for Opponent No.2 has argued that accident occurred as Petitioner was crossing the road in negligent manner, hence, present accident occurred. Petitioner has received injuries due to his own negligence.

It is further argued that Petitioner has not produced documentary evidence regarding income and therefore, notional income may be considered.

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

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

Issue No. 1 :-

12. 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."*

13. I have also gone through the FIR, Panchnama of place of accident, charge-sheet as well as testimony of Petitioner. The validity, admissibility and genuineness of these documents were not challenged by the Opponent.

14. To discharge this burden of proof, the Petitioner deposed as PW-1 and tendered his affidavit-in-lieu of examination-in-chief at Exh.40. The Petitioner further relied upon the First Information Report (FIR) at Exh.48 and the Spot Panchnama at Exh.49. A perusal of the FIR and Spot Panchnama reveals that only one vehicle was involved in the accident. The FIR indicate that while the Petitioner was traversing the Jamnagar-Rajkot highway as a pedestrian on a pilgrimage to Mata no Madh, the driver of the offending Truck bearing registration No. GJ-01-CZ-8292 drove the vehicle in such a manner that it struck the Petitioner. As a result of the said collision, the Petitioner sustained various fracture injuries.

On perusal of the FIR at Exh.48 shows that complaint has been lodged against the driver of Truck bearing No.GJ-01-CZ-8292 for causing accident by driving his vehicle in rash and negligent manner.

On going through spot Panchnama at Exh.49, it appears that the accident took place at Rajkot- Jamnagar highway road and it was 20 foot wide, accident occurred at highway road between Rampar to Falla, opposite Chandresh Parmanand's wadi. No vehicle was found at the spot.

On perusal of Police statement, dated 22/09/2019 of driver of Truck No.GJ-01-CZ-8292 at Exh.50, wherein said driver stated that "On 20/09/2019, he was driving truck No. GJ-01-CZ-8292, belonging to Speed Carrier Transport. At about 10:00 AM, near the signboard of Rampar village, he tried to overtake another truck from the left. When the other driver also moved to that side, he steered his vehicle off the road to avoid a collision. Consequently, he lost control and hit two pedestrians walking on the left side, causing both to fall onto the road."

Herein case on hand, Petitioner was going as pedestrian on the left side of the road and as per statement of driver of truck No. GJ-01-CZ-8292, while he tried to overtake another Truck from left side, he lost control over steering and hit the two pedestrians.

On perusal of the entire facts and circumstances of the case, it appears that the accident took place due to rash and negligence driving on the part of driver of truck No. GJ-01-CZ-

8292. If driver of offending vehicle had taken a slight care to avoid the accident, unfortunate mishap could not have taken place, and therefore, driver of truck No. GJ-01-CZ-8292 should be held to be negligent for happening of accident. So, I answer this issue No.1 accordingly.

Issue No. 2 :-

15. 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) Income of injured: - Petitioner has pleaded that at the time of accident, he was earning Rs.9,000/- per month by doing masonry 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 2019, it would be just and appropriate to consider the income of the Petitioner at Rs.5,000/- per month which annually comes to **Rs.60,000/-**.

(b) Permanent Disability: - Petitioner has pleaded that due to the injuries sustained in the accident, he has become permanent disable. In order to prove the permanent disability, petitioner has produced Disability Certificate at Exh.59, issued by Dr. K.S. Sojitra, who assessed permanent disability of Abdomen, Nose and face is 20% .

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 10% body as a whole. Under these circumstances, permanent partial functional disability of petitioner is assessed at **10%** qua body as a whole.

(c) Age of injured:- On the perusal of record, it transpires that Petitioner has produced Injury Certificate at Exh.57, wherein his age is mentioned as '41 years' at the time of accident. Therefore, **40 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 40 year, as such multiplier applicable to the case of Petitioner is **15** 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.90,000/- (60000 x 10 % x 15).**

(f) Loss of actual income: - Considering the nature of injuries, duration of treatment, it will be reasonable to award **Rs.10,000/-** under this head.

(g) Medical Expenses:- On perusal of record, it appears that petitioner has produced medical bills of Rs.5929/- at Exh.63. Therefore, considering injuries suffered by him and treatment received by him, Petitioner is entitled to get **Rs.6,000/-** (in round figure) 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.90,000/-
2	Loss of Actual Income	Rs.10,000/-
3	Expenses incurred on medicine	Rs.6,000/-
4	Pain/ shock and suffering	Rs.15,000/-
5	Conveyance, attendant and special diet	Rs.15,000/-
T O T A L :-		Rs.1,36,000/-

liability to pay the compensation :-

16. On perusal of RC Book at Exh.55 and Insurance Policy at Exh.54, it appears that Opponent No.1 was owner and Opponent No.2 was insurer of Truck No. GJ-01-CZ-8292. Therefore,

Opponent Nos.1 and 2, both are jointly and severally liable for payment of compensation to Petitioner.

Issue no. 3 :-

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

FINAL = ORDER

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

2- Petitioner is held entitled for compensation of **Rs.1,36,000/- (Rupees One Lakh Thirty Six Thousand 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- 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

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 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- 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.

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

9- Award is directed to be drawn up accordingly.

10- 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 10th 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: -10/04/2026

Place: - Jamnagar.

A J RAVAL/PS