

<b>Exhibit</b>	:	<b>69</b>
Received On	:	26/04/2019
Registered On	:	06/05/2019
Decided On	:	24/04/2026
Duration	:	Y-06:M-11:D -29

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

Motor Accident Claim Petition No.108 of 2019  
**Consolidated with**  
Motor Accident Claim Petition No.92 of 2019  
**Consolidated with**  
Motor Accident Claim Petition No.118 of 2019  
**Consolidated with**  
Motor Accident Claim Petition No.132 of 2019

**In the Matter of MACP No.108 of 2019 .....**

**Petitioners :-**

**Legal Heirs of deceased Parsottambhai Bherumal Gajra ....**

1. Miraben Parsottambhai Gajra,  
Age about 48, Occupation : Homemaker,
2. Dipak Parsottambhai Gajra,  
Age about 24, Occupation :Study,
3. Karan Parsottambhai Gajra,  
Age about 21, Occupation :Study,  
Resident of 'Sunilkunj',  
56- Digvijay Plot,Jamnagar.

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**Subject: -** Petition to claim compensation of Rs.40,00,000/-  
under section 166 of Motor Vehicle Act, 1988.  
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Motor Accident Claim Petition No.**92 of 2019**

Received On	:	26/04/2019
Registered On	:	26/04/2019
Decided On	:	24/04/2026
Duration	:	Y-06:M-11:D -29

**Petitioner :-**

1. Miraben Parsottambhai Gajra,  
Age about 52, Occupation : Homemaker,  
Resident of 'Sunilkunj',  
56- Digvijay Plot,Jamnagar.

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**Subject: -** Petition to claim compensation of Rs.50,000/-  
under section 166 of Motor Vehicle Act, 1988.  
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Motor Accident Claim Petition No.**118 of 2019**

Received On	:	07/05/2019
Registered On	:	14/05/2019

Decided On	:	24/04/2026
Duration	:	Y-06:M-11:D -17

**Petitioner :-**

1. Pravinbhai Prahladbhai Sevani,  
Age about 57, Occupation : --,  
Resident of 58- Digvijay Plot,  
Jamnagar.

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**Subject: -** Petition to claim compensation of Rs.1,50,000/-  
under section 166 of Motor Vehicle Act, 1988.  
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Motor Accident Claim Petition No.**132 of 2019**

Received On	:	10/05/2019
Registered On	:	22/05/2019
Decided On	:	24/04/2026
Duration	:	Y-06:M-11:D -21

**Petitioner :-**

1. Ashaben Harilal Hanjada,  
Age about 55, Occupation : --,  
Resident of 59- Digvijay Plot,  
Jamnagar.

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**Subject:** - Petition to claim compensation of Rs.2,00,000/-  
under section 166 of Motor Vehicle Act, 1988.  
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**V E R S U S**

**Opponents :-**

**Owner and Insurance Company of Car No.GJ-10-CG-7328**

1. Anilbhai Hirabhai Gajra,  
Age :Adult, Occupation : Business,  
Resident of 54- Digvijay Plot,  
Jamnagar.
  2. The New India Assurance Company Ltd.,  
Office at 'Swagat', 2<sup>nd</sup> Floor,  
Opposite Hotel Regency,  
P.N. Marg, Jamnagar.
- =====
- =====

**Appearance:-**

Mr.N.P.Jethwa, Learned Advocate for Petitioners.

Mr.R.M.Chnadra, Learned Advocate for Opponent No.1.

Ms.L.K.Dhokai, Learned Advocate for Opponent No.2

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**:: COMMON = JUDGMENT ::**

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1. Since all 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.108 of 2019. In these circumstances, all 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 ultimate death of deceased Parsottambhai and for injuries received by respective Petitioners in road side vehicular accident.

**Common Facts :-**

3. The Petitioners' case, in brief, is that deceased and Petitioners were travelling in Car bearing No.GJ-10-CG-7328 to attend a relative's funeral. At approximately 6:30 PM, near Navjivan Nature Care on the Bhuj-Mandvi Highway, the driver of the said vehicle went in a rash and negligent manner. While attempting to avoid a dog, the driver lost control, causing the vehicle to overturn. As a consequence of the accident, the occupants sustained grievous bodily injuries. Parsottambhai succumbed to his injuries, while the other petitioners sustained various physical traumas. The petitioners contend that both opponents are jointly and severally liable to pay just and reasonable compensation for the loss and injuries sustained.

**Facts of Claim Petition No.108 of 2019 :-**

4. 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 50 years and running a Brass-part factory in the name and style of 'Jagdamba Industries' and in the year of 2018-19, his yearly earnings Rs.3,61,412/-. 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 and lost their caretaker in this road accident. In view of above, under various heads, they have claimed compensation of Rs.40,00,000/- 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.92 of 2019 :-**

5. The Petitioner avers that she sustained multiple bodily injuries, specifically to her left shoulder, left elbow, left leg, and head. It is the Petitioner's contention that as a consequence of these injuries, she has been rendered incapacitated and unable to perform her routine household chores. Consequently, she was compelled to engage the services of an attendant to assist with daily activities, thereby incurring a recurring financial loss of Rs. 4,000/- per month and therefore, he has claimed for compensation of Rs.50,000/- with the interest at the rate of 18% against the opponents.

**Facts of Claim Petition No.118 of 2019 :-**

6. Petitioner has claimed that he was of 57 years at the relevant point of time. He was doing the business of Pan-masala and earning Rs.5,000/- PM. 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 fracture injuries, Petitioner has unable to do business and his earning capacity has also been adversely affected, and therefore, he has claimed for compensation of Rs.1,50,000/- with the interest at the rate of 18% against the opponents.

**Facts of Claim Petition No.132 of 2019 :-**

7. Petitioner has claimed that she was of 57 years at the relevant point of time. The Petitioner avers that she received multiple bodily injuries, specifically fracture on her left ankle and operation was also performed. She was treated as an indoor patient at Dr.V.M.Shah's Hospital. It is further contention that as a consequence of these injuries, she has been rendered incapacitated and unable to perform her routine household chores. Consequently, she was compelled to engage the services of an attendant to assist with daily activities, thereby incurring a recurring financial loss of Rs. 5,000/- per month and therefore, he has claimed for compensation of Rs.2,00,000/- with the interest at the rate of 18% against the opponents.

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

The Opponent No.1 filed written statement vide Exh.13,Exh.13, Exh.15 and Exh.13 respectively, 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 The New India Assurance 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 No2.2- Insurance Company has contested the Petition by filing a detailed written statement which is on the record of proceedings at Exh.16 in respective Petitions. Opponent Insurance Company has taken up 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.

9. Looking to such rival pleadings, Tribunal was pleased to frame following issues in MACP No.108 of 2019 ;

<b>ISSUE NOS.</b>	<b>ISSUE</b>
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 ?

9.1 It is required to note that issues have been framed in MACP No.92 of 2019, 118/2018 and 132 of 2019 are as under ;

Sr. No.	ISSUES
1	Whether the Petitioner proves that he/she has sustained injuries due to rash and 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 ?

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

ISSUE NOS.	FINDINGS
1	In partly affirmative in all Petition.
2	In affirmative and as per amount quantity <b>except MACP NO.92 of 2019, that is, in negative for MACP NO.92 of 2019.</b>
3	As per final order.

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

**(A) Oral Evidence :-**

<b>Sr. No.</b>	<b>Name of witness</b>	<b>Exhibit</b>
1	Affidavit of Petitioner No.1 Miraben Gajara [MACP NO.108/2019]	33
2	<b>Affidavit of Petitioner- Pravinbhai</b> [MACP NO.118/2019]	39
3	Affidavit of Petitioner-Ashaben [MACP NO.118/2019]	41

**(B) Documentary Evidence :-**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exhibit</b>
<b>COMMON EVIDENCE</b>		
1	True Copy of FIR	48
2	True Copy of Spot Panchnama	49
3	Copy of Insurance Policy of Car No.GJ-10- CG-7328	51
4	Copy of RC Book of Car No.GJ-10-CG-7328	<b>Mark 5/4</b>
<b>MACP NO.108 OF 2019</b>		
1	Copy of Post-mortem Report of deceased	50
2	Copy of Income Tax Returns for the Assessment year 2016-17	52
3	Copy of Income Tax Returns for the Assessment year 2017-18	53
4	Copy of Income Tax Returns for the Assessment year 2018-19	54
<b>MACP NO.92 OF 2019</b>		
1	Copy of Medical Case Paper	55
<b>MACP NO.118 OF 2019</b>		

1	Disability Certificate of Petitioner	56
2	Medical Bills of Petitioner [Consolidated]	57
3	Discharge Summary	58
<b>MACP NO.132 OF 2019</b>		
1	Discharge Summary	59
2	Prescription	60
3	Prescription	61
4	Medical Bills [Consolidated]	62
5	Disability Certificate	63

12. Learned advocate for the Petitioners has not submitted further evidence and filed closing pursis at Exh.64.

13. Learned advocate for the Opponent No.2 has not adduced oral or documentary evidence and filed closing pursis at Exh.65.

14. Learned Advocate for the petitioners has submitted written argument at Exh.67. It is argued that Petitioners were travelling in car bearing No. GJ-10-CG-7328 enroute to Mandvi to attend a funeral. The accident occurred on the Bhuj-Mandvi Highway, in the vicinity of Navjivan Nature Care. It is alleged that a dog suddenly entered the roadway and in an attempt to avoid the accident, driver lost control due to excessive speed, causing the car to overturn. The Petitioners maintain that the accident was the direct result of the rash and negligent driving of the vehicle's driver.

It is further argued that deceased was running a brass-part factory in the name and style of 'Jagdamba Industries'. Petitioners have produced Income Tax Returns vide Exh.52 to Exh.54. Hence, yearly income of deceased should be assessed at Rs.3,61,412/-.

It is further argued that Petitioner Miraben (MACP No.92 of 2019) has received injuries on left leg, left elbow and also received head injuries. Petitioner is unable to do routine household works. Consequently, she was compelled to engage the services of an attendant to assist with daily activities, thereby incurring a recurring financial loss of Rs. 4,000/- per month and therefore, he has claimed for compensation of Rs.50,000/- with the interest at the rate of 18% against the opponents.

It is further argued that Petitioner Pravinbhai (MACP No.118 of 2019) has received severe bodily injuries and remained as an indoor patient from 28/02/2019 to 04/03/2019. Petitioner is doing Pan Shop and earned Rs.5,000/- per month. Petitioner has incurred huge amount behind his treatment.

It is further argued that Petitioner Ashaben (MACP No.132 of 2019) has received fracture injuries on left ankle. Due to said injuries, petitioner is unable to do routine household works. Consequently, she was compelled to engage the services of an attendant to assist with daily activities. At the time of accident, Petitioner was doing embroidery work and earned Rs.5,000/- per month and in last prayed to allow all the Petitions as prayed for.

15. Learned Advocate for Opponent No.2 has argued that t, Petitioners have not produced cogent evidence of income, hence notional income should be considered. In last, prayed to dismiss present Claim Petition.

16. 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 :-**

17. 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.”*

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

19. In order to prove the case, Petitioners have appeared in the witness box and tendered their affidavit of chief-examination. Petitioners have also relied on FIR at Exh.48 and Spot Panchnama at Exh.49. On going through the FIR and spot Panchnama, it appears that in the accident, only one vehicle was involved. Perusal of the FIR Exh.48 shows that Opponent No.1 might have lost control over steering due to excessive speed and Car might have went off the road, overturned and accident occurred. There is no other vehicle involved. Therefore, driver of Car No.GJ-10-CG-7328 is responsible for causing accident by driving his car in negligent manner and carelessly. Hence, I answer issue No.1 accordingly.

**Issue No. 2 :-**

**MACP NO.108 OF 2019 :-**

20. 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 produced Income Tax Returns for the Assessment Year 2016-17 at Exh.52, wherein BoD of deceased is mentioned as 20/11/1971. Hence, **46 years of age** of deceased at the time of accident is considered.

**(B) Multiplier :-** The age of the deceased is taken as 46 years, as discussed herein above, which would attract the **multiplier of 13** as per decision of **Sarla Verma vs. Delhi Transport Corporation, reported in 2009 (6) SCC 212.**

**(C) Income :-** As far as the quantum of compensation in this case is concerned, as per statement of Petitioner No.1 on affidavit that her deceased husband was doing business of brass-part and his average yearly income was Rs.3,61,412/-.

It is pertinent to note that deceased was an income tax assessee and as per the income tax return Exh.52 for Assessment year 2016-17, income of deceased was Rs.2,90,780/-, Exh.53 – Income-Tax Return for Assessment year 2017--18 shows income of deceased at Rs.3,19,830/- and Exh.54 Income-Tax Return for Assessment year 2018-19 shows income of deceased at Rs.3,25,340/-

Learned advocate Mr.Jethwa has filed additional written argument at Exh.68 and relied upon judgment of First Appeal No.601 of 2018 in the case of **Vinodbhai Hasmukhbhai Patel & 1 Vs Hiren Kantibhai Bhavsar & 2 other(s), dated 02/02/2023** on the point of income of the deceased to be fixed at par with ITR. Hon'ble Gujarat High Court has observed as follows ;

*“ (6) ....it is established that the deceased was a diamond broker and accordingly, the income tax return at mark 28/7 and 28/8 were produced by the claimants for the Assessment Years 2007-08 and 2008-09 respectively. For the Assessment Year 2007-08, the income of the deceased, as per the ITR, was Rs.47,514/-, whereas for the Assessment Year 2008-09, yearly income of the deceased was shown as Rs.97,235/-. The deceased had passed away after 6 days of ending of the Financial Year on 31.03.2008. Though, the documentary evidences, which are statutory in nature, are produced before the Tribunal, the Tribunal has assessed and fixed the income of the deceased at Rs.60,000/- p.a. by taking average income of both the assessment years.*

*(14) Thus, in the present case, fixation of income of the deceased runs contrary to the law enunciated by the Apex Court in the aforementioned cases and hence, the Tribunal has fallen in error in determining the income of the deceased at Rs.60,000/- p.a. though the ITR at mark 28/8 for the last assessment year, prior to the death of the deceased shows at Rs.97,235/-. Accordingly, the income of the deceased is fixed at Rs.97,235/- and compensation is also modified.”*

Mr.Jethwa has stated that as per ratio of said Judgment, higher income as per Income-Tax Return is to be considered.

**(D)** It may be pertinent to note that for determination of compensation and fixed the income of deceased, Income Tax Returns can be believable only, if they are properly brought on record. Xerox copies of the Income-Tax Returns are not required to be considered.

It may be required to refer the judgment reported in **2025 SCC OnLine Guj 5458, in the case of Rachna Manan Kapadia and Others Versus Rahul Satishbhai Choksi and Others**, wherein Hon’ble Gujarat High Court has observed as follows ;

*“8. The learned Tribunal has taken into consideration the fact that the applicants examined Mr. Pranesh Rajeshkumar Agrawal vide Exhibit 38 and produced the Income Tax Returns of the deceased at Exhibits 39 to 41, along with the books of accounts on the basis of which the said returns were filed online. It is settled that for the purpose of awarding compensation.*

strict proof is not required and the Court is required to assess the income on the basis of the preponderance of probabilities.

9. So far as the argument of learned advocate Mr. Raval that concerned subsequent Income Tax Returns are required to be discarded is concerned, it is worth to mention that the Hon'ble Supreme Court in the case of *Nidhi Bhargava v. National Insurance Co. Ltd.*, 2025 SCC onLine SC 872 has held in para 12 as under:

“12. Just because on the date of the accident i.e., 12.08.2008, the Return for the Assessment Year 2008-2009 had not been filed, cannot disadvantage the appellants, for the reason that the period for which the Return is to be submitted covers the period starting 1st of April, 2007 and ending 31st March, 2008. Thus, for obvious reasons, the Return would be only for the period 01.04.2007 to 31.03.2008, and date of submission would be post-31.03.2008. No income earned beyond 31.03.2008 would reflect in the Income Tax Return for the Assessment Year 2008-2009. To reject the Return on the sole ground of its submission after the date of accident alone, in our considered view, cannot be legally sustained.

13... In *K Ramya v. National Insurance Co. Ltd.*, 2022 SCC OnLine SC 1338, after taking note of, inter alia, *Ningamma v. United India Insurance Co. Ltd.*, (2009) 13 SCC 710, the Court held that the ‘... Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward-looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples' lives in the future. ...’

Relying on the said decision, further in the case of *Sayar Ram v.*

*Ram Kara SLP (Civil) No. 24501/2025*, Hon'ble Supreme Court has held in para 12 as under:

“12. What flows from *Nidhi Bhargava (supra)* is that the Income Tax Returns filed after the accident/death can also be taken into consideration for calculation of income to award compensation. However, having due regard for the Tribunal's well-placed doubts, in so far as returns filed for the relevant year, we take a different approach. In the instant case, it cannot be simply assumed that there is no profit accruing from the business of the deceased at the time of the accident. To adopt such a presumption would be contrary to the settled principles guiding the assessment of compensation. Rather, the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits are seldom static and often exhibit a progressive growth trajectory. The exercise thus calls for a fair and reasonable assessment, grounded in available evidence, of the financial benefits that the deceased would have justifiably earned but for the untimely accident. In our considered view, in order to award just and fair compensation, the annual income of the deceased is re-assessed at Rs. 3,50,000/- per annum.” In view of above, the learned Tribunal ought to have taken into consideration the fact that the applicants examined Mr.

*Pranesh Rajeshkumar Agrawal vide Exhibit 38 and produced the Income Tax Returns of the deceased at Exhibits 39 to 41, along with the books of accounts on the basis of which the said returns were filed online. It is settled that for the purpose of awarding compensation, strict proof is not required and the Court is required to assess the income on the basis of the preponderance of probabilities.*

*10. The learned Tribunal has also considered the income and audit reports of "Dhyey Finance" produced at Exhibits 47 and 48. Further took into account the average taxable income for the aforesaid three years and even after considering the relevant factors, including managerial loss in relation to the HUF firm, the learned Tribunal ought to have assessed the annual income of the deceased and therefore, same is reassessed at Rs. 3,50,000/- for the purpose of awarding just compensation."*

Thus, merely by producing Income-Tax Returns, the Petitioners can not ask the Tribunal to consider it blindly. The Tribunal has to fairly and reasonably assess the evidence brought on record and then pass appropriate order of compensation. Thus, there can not be strait jacket formula, that merely on production of Income-Tax Return, the income should be considered accordingly.

It is required to refer the judgment of **New India Assurance Co. Ltd. Vs Sonigra Juhi Uttamchand, reported in (2025) 3 SCC -23**, wherein Hon'ble Supreme Court has observed as follows ;

*"(9) A perusal of the impugned judgment would reveal the monthly income of the appellant's father as also the mother were fixed by the Tribunal and the same was not challenged by the respondent in appeal. The fact is that, the appellant had produced only the xerox copies of the Income Tax Returns of her parents, pertaining to the financial years 2003 to 2007. Indisputably, the Tribunal as also the High Court did not take them as admissible evidence and make assessment on their basis. At the same time without placing reliance on the xerox copies of the Income Tax Returns, the Tribunal fixed the monthly income of her father as Rs.12,000/- and that of her mother as Rs.8,000/-. The impugned judgment would reveal that the monthly income thus fixed in the case of the parents were slightly enhanced by the High Court and it in the case her of father was re-fixed as Rs. 18,000/- and in case of her mother as Rs. 9,000/-.*

(10) *As held by this Court in Sarla Verma's case (supra), in the matter of assessment of compensation, hypothetical considerations would be involved, but nevertheless such assessments should be objective. As noticed hereinbefore, the accident had occurred in the year 2007, and the father of the appellant, who claimed to had been running a jewellery shop, was aged only 48 years at the time of the accident. In the case of the mother of the appellant, she was aged only 38 years at the time of the accident and she was also not a mere housewife and claimed to had been running a jewellery shop. The Tribunal could not be said to have committed any mistake in not accepting the xerox copies of the tax returns and virtually adopted guess work relying on the attending circumstances to fix the monthly income of the parents of the appellant for calculation purpose.*

(11) *But finding that the monthly income so assessed was slightly on the lower side and taking into account various parameters, the High Court enhanced the monthly income in their cases, respectively as Rs.18,000/- and Rs. 9,000/-. Taking note of the year of the accident and the age of the deceased parents of the appellant, we do not think that the monthly income so re- fixed by the High Court is without jurisdiction or highly excessive. The said approach cannot be said to be legally improper or incorrect warranting an interference. Monthly income could be fixed taking into account the tax returns only if the details of payment of tax are appropriately brought into evidence so as to enable the Tribunal/Court to calculate the income in accordance with law.*

Thus, as per above ratio, only furnishing xerox copies would not help the case of Petitioner. The Income-Tax Returns are required to be brought on record in appropriate manner. It appears that a photocopy of the original ITR were filed bearing no rubber stamp of the Income Tax Department. Petitioners have produced Income-Tax Returns in a very mechanical manner and not fulfilled the procedure to prove the same in appropriate manner.

It is pertinent to note that the submission of Income Tax Returns without an accompanying Profit and Loss Account or Balance Sheet renders the returns defective. Furthermore, the Petitioners have failed to produce substantive evidence regarding the business, such as books of accounts or requisite licenses.

Further, business has many contingencies and uncertainty. It may be noted that Income-Tax Returns do not always show true picture, many times it shows more income for loan purpose. Hence, **Rs.10,000/-** P.M. is considered.

**(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 46 years, **25%** of the monthly income should be added towards future prospectus. Accordingly, 25% of Rs.10,000/- comes to Rs.2500/-, adding this amount to the monthly income would come to **Rs.12,500/-**.

**(E) Deduction towards personal and living expenses :-** Herein case on hand, there are three 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.12500/- divided by 1/3rd comes to Rs.4170/- (in round figure) and deducting 1/3rd amount from Rs. 10500/- (Rs.10500/- –Rs.4170/-) **Rs.8,330/-** 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.1 has lost her beloved husband in and Petitioner Nos.2 and 3 lost their father 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 18<sup>th</sup> 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.1 being a wife of the deceased towards spouse consortium and further award Rs. 48,000/- Petitioner Nos.2 and 3 being children of the deceased towards parental consortium.

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

<b>Sr No.</b>	<b>Head of compensation</b>	<b>Amounts</b>
1	Monthly Income	Rs.10,000/-
2	25% Monthly Income future prospects	Rs.2500/-

3	Addition of 25% amount towards Future Prospect	Rs.12500/-
4	1/3 deduction towards personal expenditure	Rs.4170/-
5	Net monthly income for calculating compensation (Rs.12500/- -4170/- = /-)	Rs.8330/-
6	Total compensation (Rs.8330x 12 x13)	Rs.12,99,480/-
7	Loss of Estate	Rs.18,000/-
8	Funeral Expense	Rs.18,000/-
9	Spouse Consortium	Rs.48,000/-
10	Parental Consortium to Petitioner Nos.2 &3 (48000 x 2 = 96000)	Rs.96,000/-
<b>TOTAL :-</b>		<b>Rs.14,79,480/-</b>

**MACP NO.92 OF 2019 :-**

22. It is required to note that Petitioner Mirben Parsottambhai Gajra has not appeared before Tribunal, neither filed affidavit of chief-examination nor produced any documentary evidence except OPD Case Paper, dated 28/02/2019 of G.G. Hospital, Jamnagar. Therefore, this Tribunal is unable to decide the quantum of compensation in absence of oral as well as documentary evidence. Hence, Claim Petition of present Petitioner is required to be dismissed accordingly. Hence, present

Petitioner is not entitled to get compensation in absence of any evidence.

**MACP NO.118 OF 2019 :-**

**(a) Income of injured:-** Petitioner has pleaded that at the time of accident, he was earning Rs.5,000/- per month by running a Pan Shop. 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 2018, 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 become permanent disable. In order to prove the permanent disability, petitioner has produced Disability Certificate at Exh.56, issued by Dr.Dinesh Gajera, Synergy Hospital, Rajkot, who assessed permanent disability to the extent of 11% body as a whole for conscious and oriented, forget recent events and 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 9% body as a whole as per pursis filed at Exh.45. Under these circumstances, permanent partial functional disability of petitioner is assessed at **9%** qua body as a whole.

**(c) Age of injured:-** On the perusal of record, it transpires that Petitioner has not produced documentary evidence, but he pleaded that he was 57 years at the time of accident. Therefore, **57 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 57 year, as such multiplier applicable to the case of Petitioner is **9** 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.29,160/- (36000 x 9 % x 9).**

**(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 produced medical bills vide Exh.57 for Rs. 1,00,000/-. Therefore, considering injuries suffered and treatment received, Petitioner is entitled to get **Rs.1,00,000/-** 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.

<b>Sr. No.</b>	<b>Head of Compensation</b>	<b>Amount</b>
1	Loss of Future Income	Rs.29,160/-
2	Loss of Actual Income	Rs.6,000/-
3	Expenses incurred on medicine	Rs.1,00,000/-
4	Pain/ shock and suffering	Rs.15,000/-
5	Conveyance, attendant and special diet	Rs.15,000/-
<b>T O T A L :-</b>		<b>Rs.1,65,160/-</b>

**MACP NO.132 OF 2019 :-**

**(a) Income of injured:-** Petitioner has pleaded that at the time of accident, he was earning Rs.5,000/- per month by doing embroidery 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 2018, 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 become permanent disable. In order to prove the permanent disability, petitioner has produced Disability Certificate at Exh.63, issued by Dr.M.S. Dangar, who assessed permanent disability to the extent of 25% body as a whole painful restricted movement of left ankle 20% and painful restricted movement of subtalar joint 5%.

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 9% body as a whole as per pursis filed at Exh.46. 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 not produced evidence, but he pleaded that he was 55 years at the time of accident. Therefore, **55 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 55 year, as such multiplier applicable to the case of Petitioner is **11** 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.39,600/- (36000 x 10 % x 11)**.

**(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 produced medical bills vide Exh.62 for Rs. 40,768/-. Therefore, considering injuries suffered and treatment received, Petitioner is entitled to get **Rs.40,800/-** (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.

<b>Sr. No.</b>	<b>Head of Compensation</b>	<b>Amount</b>
1	Loss of Future Income	Rs.39,600/-
2	Loss of Actual Income	Rs.6,000/-
3	Expenses incurred on medicine	Rs.40,800/-
4	Pain/ shock and suffering	Rs.15,000/-
5	Conveyance, attendant and special diet	Rs.15,000/-
<b>T O T A L :-</b>		<b>Rs.1,16,400/-</b>

23. On perusal of RC Book at Mark 5/4 and Insurance Policy at Exh.51, it appears that Opponent No.1 was owner and

Opponent No.2 was insurer of Car No.GJ-10-CG-7328. Therefore, Opponent Nos.1 and 2, both are jointly and severally liable for payment of compensation to 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.

**FINAL = ORDER**

**MACP NO.108 of 2019 :-**

- 1- Present Claim Petition is hereby **partly allowed**.
- 2- Petitioner are held entitled for the compensation of **Rs.14,79,480/- (Rupees Fourteen Lakh Seventy Nine Thousand Four Hundred Eighty 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.
- 3- 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.
- 5- 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.

6- Petitioner No.1 is entitled to get 70%, whereas Petitioner Nos.2 and 3 are entitled to get **15% each** of the awarded amount.

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

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- Award is directed to be drawn up accordingly.

**MACP NO.92 OF 2019 :-**

1- Present Claim Petition is hereby **Dismissed.**

2- No order as to cost.

3- Award is directed to be drawn up accordingly.

**MACP NO.118 OF 2019 :-**

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

2- Petitioner is held entitled for compensation of **Rs.1,65,160/- (Rupees One Lakh Sixty Five Thousand One 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- 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.

4- 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 Petitioner by direct transfer to the credit of the bank account of the petitioner 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 Petitioner would be entitled to get periodical interest that may accrue on the said F.D.R as per rules.

5- 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.

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

7- Award is directed to be drawn up accordingly.

**MACP NO.132 OF 2019 :-**

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

2- Petitioner is held entitled for compensation of **Rs.1,16,400/- (Rupees One Lakh Sixteen Thousand Four Hundred 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- 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.

4- 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 Petitioner by direct transfer to the credit of the bank account of the petitioner 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 Petitioner would be entitled to get periodical interest that may accrue on the said F.D.R as per rules.

5- The Petitioner is directed to furnish her 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.

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

7- Award is directed to be drawn up accordingly.

25- 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

26- 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.

27- 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 11<sup>th</sup> March, 2016 titled as Divisional Manager, The Oriental Insurance Co. Ltd. Vs. Rajesh & Ors.

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

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

30. The Original Judgment be placed in **Claim Petition No. 108 of 2019** and its True Copy be kept in **Claim Petition No.92 of 2019, 118 of 2019 and 132 of 2019** accordingly.

This order is pronounced and signed in the open Tribunal on this 24<sup>th</sup> 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: -24/04/2026

Place: - Jamnagar.

AJRAVAL/PS