

Exhibit	:	40
Received On	:	17/06/2022
Registered On	:	17/06/2022
Decided On	:	27/04/2026
Duration	:	Y-03:M-10:D -10

IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN),

AT : JAMNAGAR.

Motor Accident Claim Petition No.	84 of 2022
-----------------------------------	------------

Petitioner:-

1. Kaniyalal Bhavanbhai Surani,
Age : 52 years, Occupation : Tailor,
Resident of Gulabnagar, First Slop,
Opposite Vachchhraj Bhavan,
Behind New Bakala Market,
Gulabnagar, Jamnagar.

V E R S U S

Opponents :-

Driver and Owner of S.T. Bus No.GJ-18-Z-4737

1. Mansukhbhai Meragbhai Bediyavadar.
Age : 40, Occupation : Driving,
Resident of village Ishvariya,
Ta.Jamjodhpur,
District- Jamnagar.

2. The S.T. Corporation,
Through : Divisional Manager,
Office at Out of Kalawad Naka,
Jamnagar.

Subject: - Petition to claim compensation of Rs.5,00,000/-
under section 166 of Motor Vehicle Act, 1988.

Appearance:-

Mr.A.M.Sama, Learned Advocate for Petitioner.

Mr.D.B.Pandya, Learned Advocate for Opponents.

=====

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

=====

1. Present claim petition has been filed by petitioner under section 166 of Motor Vehicle Act, 1988 seeking compensation of Rs.5,00,000/- along with interest on account of injuries received by him in road side vehicular accident involving vehicle being S.T. Bus bearing No.GJ-18-Z-4737.

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

- I. On 04/10/2020 at about 10:30, Petitioner was driving his Motorcycle bearing No.GJ-10-BD-5575 along-with his wife as pillion rider in moderate speed and on left side of road, when he reached near Santoshi Mata Mandir, Khodiyar Colony Chokdi, at that time driver of ST Bus bearing No.GJ-18-Z-4737 came by driving his vehicle in

excessive speed and in negligent manner and dashed with Motorcycle, resultant Petitioner received severe injuries. Accident occurred due to rash and negligent driving on the part of ST Bus driver.

II. It is further stated by the Petitioner that he was 50 years at the time of accident and was working at V.K.Tailor and earning Rs.15,000/- to Rs.20,000/- per month and supported the entire family. Due to the injuries, the Petitioner was bed-ridden for a long period and unable to perform tailoring work.

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 accidental injuries received by him, his earning capacity has also been adversely affected, and therefore, he has claimed for compensation of Rs.5,00,000/- with the interest at the rate of 18% against the opponents.

3. The opponent No.2-S.T. Corporation appeared through its Learned Advocate Mr.D.B.Pandya who has filed written statement vide Exh.12, wherein, the opponent No.2 has denied all allegations and statements made in the Claim Petition. It is also contended that a Motorcycle is also involved in the accident and driver of said Motorcycle, that is, Petitioner is sole responsible for the occurrence of accident. Alternatively it is contended that driver of said Motorcycle has also contributed for the occurrence of accident. The age, injury, occupation and income of Petitioner

denied by the opponent No.2 and requested to exonerate from liability to pay compensation.

4. In the background of such rival pleadings, this Tribunal was pleased to frame the following issues vide Exh.14 ;

ISSUE NOS.	ISSUE
1	Whether the Petitioner proves that he has sustained injuries due to rash and 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 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	19

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
1	Disability Certificate	22
2	True Copy of FIR	31
3	True Copy of Spot Panchnama	32
4	True Copy of charge-sheet	33
5	Discharge Card	34
6	Copy of Injury Certificate	35
7	Copy of driving licence of Petitioner	36
8	Copy of Aadhar card , PAN card and copy of Bank Passbook of Petitioner	37

7. Learned advocate for Petitioner has not adduced further evidence and filed closing pursis vide Exh.38.

7.1. On behalf of Opponent No.2, driver of ST Bus namely Mansukhbhai Meragbhai Bediyavadar has submitted his affidavit of evidence at Exh.23 and thereafter, filed closing pursis at Exh.25.

8. Learned advocate Mr.Sama for Petitioner has submitted written argument at Exh.39. Crux of the argument is that accident occurred due to sole negligence of driver of ST Bus No.GJ-18-Z-

4737 and at the time of accident, the said Bus was driven by the opponent no.1 – therefore,owner of said Bus be held responsible to indemnify loss occurred to Petitioner. At the time of accident, Petitioner was 50 years old, doing tailor work and earned Rs.15,000/- to Rs.20,000/- per month. In last, prayed to allow claim petition as prayed for.

8.1 The learned advocate appearing for Opponent No. 2 contended that, as per the deposition of the driver of the ST Bus bearing registration No. GJ-18-Z-4737, the accident occurred at a traffic junction with a three-way intersection. It is further argued that the petitioner suddenly appeared and abruptly halted his vehicle directly in front of the bus. At the material time, the signal for the petitioner's lane was closed, whereas the signal for the lane of the ST bus was open. Consequently, the motorcycle collided with the front driver-side of the bus, causing the accident.

9. 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 :-

10. 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."*

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

12. In order to discharge this burden, Petitioner appeared in the witness box as PW-1 and tendered his affidavit of chief-examination at Exh.19. Petitioner also relied on the FIR at Exh.31, spot Panchnama at Exh.32 and charge-sheet at Exh.33. On going through the FIR, spot Panchnama and charge-sheet, it appears that in the accident two vehicles were involved and at the time of accident, Petitioner was driving the Motorcycle bearing registration No.GJ-10-BD-5575 and ST Bus No.GJ-18-Z-4737 dashed with his vehicle. Resultant, Petitioner received fracture injury.

On perusal of the FIR at Exh.31 shows that complaint has been lodged against the driver of ST Bus for causing accident by driving his vehicle in rash and negligent manner and charge-sheet at Exh.33 filed against him.

On going through spot Panchnama at Exh.32, it appears that the accident took place near circle at Santoshi Mata Mandir. At the time of accident, ST Bus came from Digjam Circle and Petitioner going towards Saru Section Road and accident occurred at traffic signal point. Even the Petitioner admitted in cross-examination that accident took place at intersection of road.

It may be pertinent to note that driver of the said ST Bus has submitted affidavit of evidence at Exh.23 and stated that Petitioner at traffic point, near Santoshi Mata Mandir, Petitioner came by driving his Motorcycle in rash and negligent manner and dashed with Bus. Despite closing of signal at traffic point, the vehicle motorcycle came, and dashed on the side of bus.

On perusal of the FIR and charge sheet and Panchnama, it is evident that the offending vehicle being ST Bus No.GJ-18-Z-4737 struck the Petitioner's motorcycle on front side. It further appears that front bumper of ST Bus and Motorcycle was damaged.

These facts establish that the ST Bus collided with the motorcycle in a head-on collision at the traffic signal. If the driver of the ST bus exercised reasonable care to ensure that the intersection was clear of stationary vehicles before proceeding, the accident could have been averted. Correspondingly, if the

Petitioner halted his vehicle behind the stop line at the signal, the accident might have been avoided.

Under these facts and circumstances, it appears that driver of S.T.Bus bearing No.GJ-18-Z-4737 was responsible for causing accident to the tune of **60%**, whereas Petitioner/ driver of Motorcycle bearing No.GJ-10-BD-5575 was responsible to the extent of **40%** for rash and negligent driving for causing accident. Hence, I answer this issue No.1 accordingly.

Issue No. 2 :-

13. 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.15,000/- to Rs.20,000/- per month by doing tailoring 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 2020, it would be just and appropriate to consider the income of the Petitioner at Rs.5000/- 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.22, issued by Dr.K.H. Sojitra who assessed, 25% permanent physical impairment resulting from an open grade-II fracture of the right first metatarsal shaft

To establish functional disability, the Petitioner has not examine any medical expert, such as the treating doctor or the medical practitioner who issued the disability certificate. However, the learned advocate for the Petitioner submitted a pursis at Exhibit 20, proposing that the disability be assessed at 15% for the body as a whole, to which the learned advocate for the Opponent consented Under these circumstances, permanent partial functional disability of petitioner is assessed at **15%** qua body as a whole.

(c) Age of injured:- On the perusal of record, it transpires that Petitioner has produced Aadhar Card at Exh.37, wherein his BoD is mentioned as 17/03/1970. Therefore, **50 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 50 year, as such multiplier applicable to the case of Petitioner is **13** as per the judgment of Hon'ble Supreme court in **Smt. Sarla Verma & others Vs. 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.1,17,000/- (60000 x 15 % x 13).**

(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 transpires that Petitioner has not submitted medical bills. However, considering the nature of injuries and treatment received by Petitioner, it is just and proper to grant Rs.3,000/- towards medical expenses. Therefore, Petitioner is entitled for **Rs.3,000/-** under this head.

(h) Pain/shock and 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.1,17,000/-
2	Loss of Actual Income	Rs.10,000/-
3	Expenses incurred on treatment and 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.1,60,000/-
LESS : 40% Negligence of Petitioner		Rs.64,000/-
FINAL = AMOUNT :-		Rs.96,000/-

liability to pay the compensation :-

14. On perusal of record, it appears that Opponent No.1 was driver and Opponent No.2 was owner of ST Bus bearing No.GJ-18-Z-4737 at the time of accident. Therefore, Opponent No.1 and 2 both are liable for payment of compensation to Petitioner.

Issue no. 3 :-

15. 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.96,000/- (Rupees Ninety Six Thousand 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 both Opponents 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.
Account No.	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 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.

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, the remaining amount 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.

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

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- 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 27th 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: -27/04/2026

Place: - Jamnagar.

A J RAVAL/PS