

Exhibit	:	27
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IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN),
AT : JAMNAGAR.

Motor Accident Claim Petition No.	162 of 2023
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Petitioners :-

Legal Heirs of deceased Ramu Jageshver Sahni,

1. Khusjbu Kumari Ramubhai Sahni,
Age : 22, Occupation : Homemaker,
2. Pramod Jageshver Sahani,
Age : 22, Occupation : Fisherman,
Both are residing near Kankawati Dam,
In the Quarters, village Falla,
Ta/Dist. Jamnagar.

V E R S U S

Opponents :-

Owner of Bus No.GJ-18-Z-3395

1. The Gujarat State Road Transport Corporation Ltd.,

Office at Out of Kalawad Naka,
Near Shah Petrol Pump, Jamnagar.

Subject: - Petition to claim compensation of Rs.25,00,000/- under
section 166 of Motor Vehicle Act, 1988.

Appearance:-

Mr.A.Z.Sherji, Learned Advocate for the Petitioners.

Mr.G.D.Pandya, Learned Advocate for the Opponent.

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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 **Ramu Jageshver Sahni** have preferred the present claim under Section 166 of the Motor Vehicles Act, seeking compensation to the tune of Rs.25,00,000/- with 12% 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 04/05/2023 at the time and place specified in the Petition, involving the vehicles being Bus bearing registration and Motorcycle No.GJ-5-B-4172.

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

1. It is the case of the Petitioners that on 04/05/2023 the deceased was going by driving motorcycle No. GJ-5-B-4172 at a moderate speed. When he reached near sign board of

Kankawati Dam and waiting to cross the road, at that time driver of S.T. Bus No.GJ-18-Z-3395 came in an excessive speed and in rash and negligent manner, endangering human life, and dashed with the motorcycle. Thereby, the deceased received grievous bodily injuries and died instantaneously.

- II. It is further submitted that the accident in question occurred solely due to the rash and negligent driving of the driver of the S.T. Bus bearing registration number GJ-18-Z-3395. The driver failed to exercise the standard of care expected of a prudent driver. At the time of the accident, the deceased's vehicle was stationary, waiting to safely cross the road.
 - III. That the deceased was 24 years old at the time of accident. The deceased was doing the fishing work and his monthly earning was Rs.20,000/-, thus, he was maintaining and supporting the entire family.
 - IV. In this claim petition, Petitioners have claimed monthly dependency loss of Rs.20,000/- 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. 25,00,000/- with costs and interest.
3. After presenting the Claim Petition, summons were issued and duly served on the Opponents.
 4. Opponent – Gujarat State Road Corporation Ltd., has contested the Petition by filing a detailed written statement which is

on the record of the proceedings at Exh.10. Opponent Insurance Company has denied the factual aspects of the case as narrated in the claim-petition and further contended that at the time of accident, deceased came from wrong side in excessive speed and dashed with ST Bus. Opponent has denied the age, income and nature of injuries received by the deceased. It is further contended that claim is false and exorbitant 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.11.

Issue No.	I S S U E S
1	Whether 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 vehicle bearing registration No.GJ-18-Z-3395 ?
2	Whether the Petitioners prove that they are entitled for compensation, if yes, what amount and from whom ?
3	What final order and award ?

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.2 Pramod Jageshver Sahani	13

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
1	True Copy of FIR	15
2	True Copy of Spot Panchnama	16
3	Copy of charge-sheet	17
4	Copy of P.M. Note of the deceased	19

8. Learned advocate for Petitioners has not adduced further evidence and filed closing pursis vide Exh.20.

9. Opponent has examined the driver of S.T. Bus No.GJ-18-Z-3395 at Exh.22 and produced the copy of judgment of criminal case No.6294 of 2023 and thereafter, filed closing pursis at Exh.25.

10. The learned Advocate for the petitioners submitted written arguments at Exh. 26. The crux of the argument is that the accident occurred due to negligent driving by the driver of the S.T. Bus No.GJ-18-Z-3395. That the deceased worked as Fisherman and as per prevailing rates of the minimum wages, daily income of the deceased should be count at the rate of 700/- and monthly earnings at Rs.21,000/-. Under these circumstances, Petitioners are entitled to compensation to the tune of Rs. 25,00,000/- from the Opponents, jointly and severally, along with interest and costs.

11. The learned advocate for Opponent argued. Crux of his argument is that at the time of accident deceased came from wrong side in excessive speed and dashed his vehicle with Bus, which warrants a deduction for contributory negligence. Furthermore, it was contended that the Petitioners 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.2 and witness of Opponent. The validity, admissibility and genuineness of these documents were not sufficiently challenged by the Opponents.

15. To discharge this burden, Petitioner No.2, Pramod Jageshver Sahani has submitted his examination-in-chief affidavit at Exh.13, wherein he has stated that at the time of accident, he was not present.

The complaint was lodged by Petitioner No.1 against the driver of S.T. Bus No.GJ-18-Z-3395. Petitioners have relied upon

FIR at Exh.15, Spot Panchnama at Exh.16 and charge-sheet at Exh.17.

On perusal of FIR at Exh.15, it appears that same has been lodged by Petitioner No.1 against the driver of S.T. Bus No.GJ-18-Z-3395 for causing accident by negligence and careless driving his vehicle.

On perusing the Spot Panchnama at Exh.16, it appears that the same was drawn on 05/05/2023, whereas the accident occurred on 04/05/2023. It further appears that the accident took place on the way leading towards Kankawati Dam. At the spot, a Motorcycle bearing registration No.GJ-5-B-4172 was found lying, and its front portion sustained damages. Furthermore, the ST Bus was not found at the spot of the accident.

15.1 On behalf of the Opponent, the driver of the State Transport (S.T.) Bus bearing registration number GJ-18-Z-3395 submitted his affidavit-in-chief at Exh.22. He deposed that on 04/05/2023, he was driving the said S.T. Bus on the correct side of the road at a moderate speed. Upon reaching the vicinity of Kankawati Dam, the deceased, who was riding a motorcycle bearing registration number GJ-5-B-4172, approached from the wrong direction at an excessive speed. Rather than bringing his vehicle to a halt on the unpaved (rough) road, the deceased continued driving, resulting in the collision. Consequently, the accident occurred due to the sole negligence of the deceased. Furthermore, the deceased did not possess a valid driving licence at the time of the accident, and the vehicle was being operated without a valid Registration Certificate

(RC) and a subsisting Insurance Policy. The Police falsely implicated him by registering a criminal case against him, however, he was subsequently acquitted of alleged offences by the Court vide order dated 05/02/2025.

During cross-examination, he admitted that the motorcycle driver struck the left side of the bus. After investigation, the Police filed a charge sheet against him.

On perusal of the record, it appears that the FIR was lodged by Petitioner No. 1 against the driver of S.T. Bus No. GJ-18-Z-3395 for causing the accident by driving the vehicle in a rash and negligent manner. It further appears from the FIR that, at the time of the accident, the deceased was crossing the road, whereupon the S.T. Bus collided with the motorcycle, causing the said motorcycle to be dashed towards the left side of the bus.

It is required to be noted that, at the time of the accident, the deceased was crossing the road. Consequently, the deceased owed a duty of care to ensure that the roadway was clear of oncoming traffic from both directions before proceeding to cross. Concurrently, a higher standard of care and caution is expected from drivers of larger vehicles, who must operate their vehicles with utmost vigilance, particularly when approaching crossing points.

On perusal of Post-mortem report at Exh.19, that deceased died due to “Died due to hemorrhagic shock on account of multiple bodily injuries.” It is required to note that at the time of accident,

deceased was not wearing Helmet and suffered severe head injuries due to the impact and subsequent ejection from the vehicle. With regard to the non-wearing of 'Helmet' and resultant death because of the head injury, it is only a 'consequence' after the accident. Because of the non-wearing of 'Helmet', the injury sustained to the head became fatal, leading to the death of the deceased. It is true that, had the deceased been wearing a 'Helmet', probably his life could have been saved and the gravity of the injury would not have been this much severe, to have resulted in the death of the deceased.

Under these circumstances, on above both count, that is, accident occurred due to negligence driving on the part of driver of ST Bus and deceased as well as non-wearing Helmet by deceased, he is held responsible **30%** for causing accident, whereas driver of S.T.Bus bearing No.GJ-18-Z-3395 is held responsible for occurrence of accident to the extent of remaining **70%** contributory negligence. Hence, I answer issue No.1 accordingly.

Issue No. 2 :-

16. 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.

(16.1) Age :- Petitioners have submitted documentary evidence to show the age of deceased in the shape of P.M. Report at Exh.19, wherein his age is mentioned as 24 years at the time of accident. Hence, **24 years of age** of deceased at the time of accident is considered.

(16.2) 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.**

(16.3) Income :- According to the Petitioner's submission in the claim petition, the deceased was earning Rs.21,000/- per month by working as Fisherman. Petitioners have not produced documentary evidence to prove the monthly income of the deceased.

Therefore, in the absence of cogent material on record, the Tribunal must assess the income notionally. By applying reasonable guesswork, considering the deceased's age, nature of work, that is, fishing, sources of earnings, inflation, and the price index in the year of the accident, that is, 2024, it can be safely presumed that the deceased earned a notional monthly income of **Rs. 7,000/-**.

(16.7) 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 below 40 years, **40%** of the monthly income should be added towards future prospectus. Accordingly, 40% of Rs.7,000/- comes to Rs.2,800/-,

adding this amount to the monthly income would come to Rs.7,000 + Rs.2800 = **Rs.9800/-**

(16.8) Deduction towards personal and living expenses :- Herein the case on hand, there are two dependents being wife and brother of deceased and therefore, 1/3rd is to be deducted towards personal and living expenses of the deceased. Now, deducting 1/3rd amount from the monthly income of Rs.9,800/- divided by 1/3, comes to Rs.3266/- and deducting the 1/3 amount from Rs.9,800/- (Rs.9800/- – Rs.3200/-, in round figure) **Rs.6600/-** comes after deduction of personal and living expense. Deduction towards personal and living expenses.

(16.9) 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 award Rs.18,000 towards loss of estate, & Rs.18,000/- towards funeral expense to the Petitioners.

(16.10) Consortium :- It is pertinent to note that, as a result of this accident, the Petitioner No.1 has lost her beloved husband and thereby lost her 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.

(16.11) In present case, it is appropriate to award Rs.48,000/- to the Petitioner No.1 being wife of deceased towards consortium.

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

Sr No.	Head of compensation	Amounts
1	Monthly Income	Rs.7,000/-
2	40% Monthly Income future prospects	Rs.2800/-
3	Addition of 40% amount towards Future Prospect	Rs.9,800/-
4	1/3 deduction towards personal expenditure (in round figure)	Rs.3200/-
5	Net monthly income for calculating compensation (9800 - 3200 = 6600)	Rs.6600/-
6	Total compensation (Rs.6600 x 12 x18)	Rs.14,25,600/-
7	Loss of Estate	Rs.18,000/-
8	Funeral Expense	Rs.18,000/-
9	Spouse Consortium to Petitioner No.1	Rs.48,000/-
T O T A L		Rs.15,09,600/-
LESS : 30% Negligence of the deceased		Rs.4,52,880/-
FINAL = AMOUNT		Rs.10,56,720/-

liability to pay the compensation :-

18. 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 ST Bus No.GJ-18-Z-3395 and deceased. Therefore, Opponent being owner ST Bus No.GJ-18-Z-3395 of said liable to pay compensation to Petitioners.

19. In view of aforesaid discussion,issue no.2 is decided in Affirmative in the manner as above discussed.

Issue no. 3 :-

20. 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- Petitioners are held entitled for the compensation of **Rs.10,56,720/- (Rupees Ten Lakh Fifty Six Thousand Seven Hundred Twenty 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.

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 Opponent 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- Petitioner No.1 is entitled to get **90%**, whereas Petitioner No.2 is entitled to get **10%** 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 Opponent shall pay costs of the Petitioners and shall bear its own costs.

10- Award is directed to be drawn up accordingly.

This order is pronounced and signed in the open Tribunal on this 07th day of July-2026 under my hand and seal.

Date: -07/07/2026

Place: - Jamnagar.

A J RAVAL/PS

(Nehalkumar Rajeshbhai Joshi)

M.A.C.T. [Main] &
Principal District Judge, Jamnagar
Code No.: GJ01318