

Exhibit	:	36
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IN THE MOTOR ACCIDENT CLAIM TRIBUNAL
(MAIN), AT : JAMNAGAR.

Motor Accident Claim Petition No.	240 of 2017
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Petitioner:-

1. Sakhinaben Osman Kakkal,
Age about 44 years, Occupation : Business,
Resident of Iqbal Chowk, Bedi,
Jamnagar.

V E R S U S

Opponents :-

**Owner and Insurance Company of Chota Hathi bearing
No.GJ-10-TT-936**

1. Dilipbhai Jamanlal Gandhi,
Resident of Shakti Export,
A.B. Sandeep Apartment,
11, Patel Colony, Jamnagar.
3. The New India Assurance Co.,
Office at Manek Centre,
P.N.Marg, Jamnagar.

Subject: - Petition to claim compensation under section 166 of Motor Vehicle Act, 1988.

Appearance:-

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

Mr.M.J.Pandya, Learned Advocate for the Opponent No.1.

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

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

1. Present claim petition has been filed by the petitioner under section 166 of Motor Vehicle Act, 1988 seeking compensation of Rs.2,00,000/- along with interest on account of injuries sustained by her in road side vehicular accident.

2. Facts of the case as pleaded by petitioner is that on 05/03/2017, she was standing near Yakubpir Dargah, at that time driver of Chota Hathi negligently and suddenly taking the vehicle in reverse and hit her. Resultant, Petitioner sustained severe bodily injuries like injury. Accident occurred due to negligence driving on the part of driver of Chota Hathi.

It is further pleaded that at the time of accident, Petitioner was selling fish and earned Rs.8,000/- per month. It is further stated by Petitioner that she sustained severe head injuries and injurer on right leg also and she 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. As an aftermath of the injuries sustained in the road accident and disablement thereof, the she is

unable to do day-to-day routine work and that her earning capacity has also been adversely affected and therefore, she has claimed for compensation of Rs.2,00,000/- with the interest at the rate of 18% against the opponents. It is further pleaded that accident occurred due to rash and negligent driving on the part of driver of Chota Hathi and as such both Opponents are jointly and severally liable for the payment of compensation.

3. Summons were issued and duly served upon the Opponents. Opponent Nos.1 and 2 have not submitted written statement.

3.1 The Opponent No.1 filed written statement vide Exh.11, wherein he denied all the averments of the Petition and further contended that, if the Tribunal reached on conclusion that driver of involved vehicle is responsible for accident, than his vehicle was insured with Opponent-Insurance Company and on behalf of him, Insurance Company is liable to pay the compensation to the Petitioner and finally he prayed to dismiss the Petition with costs.

3.2 Insurance Company has contested the Petition by filing a detailed written statement which are on the record of the proceedings at Exh.15. Opponent Insurance Company has taken up defences in its written statement and denied the factual aspects of the case as narrated in the claim-petition and contended therein that it was the Petitioner who was at fault for the injuries. It is further contended that claim is false and exorbitant and with these submissions Insurance Company, prayed for dismissal of claim.

4. In the background of such rival pleadings, this Tribunal was pleased to frame the following issues vide Exh.15.

ISSUE NOS.	ISSUE
1	Whether the Petitioner proves that the she has injuries in a road side accident occurred due to rash and negligent driving on the part of the driver of the vehicle involved ?
2	Whether Petitioner is entitled to compensation ? If yes, what amount at what rate and from whom ?
3	What order and award ?

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

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	26

(B) Documentary Evidence :-

Sr. No.	Particulars	Exhibit
1	Copy of Janva Jog Entry	24
2	Copy of Spot Panchnama	25
3	Copy of Insurance Policy of Chota Hathi No.GJ-10-TT-936	26
4	Copy of Medical Case Papers of G.G.Hospital	27
5	City Scan Report	28
6	Treatment papers of Dr.Rupareliya	29
7	Treatment papers of Dr.Rao	30
8	Treatment papers of Dr.Dinesh Bhatt	31
9	Pursis regarding medical expenses	32
10	Medical Bills	36
11	Copy of vehicle particulars of Chota Hathi No.GJ-10-TT-936	38

6.1 Learned advocate for the Petitioner has not submitted further evidence and filed closing pursis vide Exh.33.

7. Learned advocate for Insurance Company has not adduced evidence and has filed closing pursis vide Exh.34.

8. Heard arguments of learned advocates for the party concerned. Having, gone through the pleading, 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 :-

9. 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.”*

10. On perusal of the entire facts and circumstances of the case, it is an admitted fact that at the time of accident, Petitioner was standing and while reversing vehicle, driver of Chota Hathi bearing No.GJ-10-TT-936 hit the Petitioner.

Going through the record of the case, it appears that accident took place as driver of offending vehicle negligently and carelessly reversed his vehicle and in this connection Janva Jog

Entry bearing No.5/2017 was registered at Jodiya Police Station vide Exh.24. The spot panchnama at Exh.25 indicates that at the spot, Chota Hathi bearing No.GJ-10-TT-936 was lying and accident occurred near Yakubsha Vali Dargah, Balachadi.

It appears from record that at the time of accident, Petitioner was standing and driver of offending vehicle, that is, Chota Hathi bearing No.GJ-10-TT-936 came by reversing his vehicle in negligently and carelessly and hit the Petitioner. Therefore, driver of Chota Hathi bearing No.GJ-10-TT-936 should be held to be solely negligent for causing of accident. Hence, I answer this issue No.1 accordingly.

Issue No. 2 :-

11. The Petitioner has produced the of treatment papers vide Exh.27 to Exh.31, from which it appears that Petitioner has sustained head injury to the extent that “mininal subaarachnoid haemorrhage and soft tissue scalp laceration with emphysema’.

It is required to note that Petitioner has not produced any disability certificate showing permanent disablement due to accidental injuries suffered by her. Therefore, in the absence of such evidence and considering nature of injuries as discussed above, it is just and proper to award lump-sum amount towards compensation. Hence, I award Rs.10,000/- as compensation. Hence, Petitioner is entitled to get **Rs.10,000/-** toward compensation.

12. Moreover, Petitioner has submitted medical bills at Exh.36, learned advocate for Petitioner has filed pursis at Exh.32

by stating that medical expenses should count to the extent of Rs.86,218/- and learned advocate for Insurance Company has mark his 'no objection' on it. Therefore, **Rs.86,218/-** awarded under the head of medical expenses. Thus, Petitioner is entitled to get compensation of **Rs.96,218/-**.

13. As per the discussion under issue no.1, it is clear that accident has been occurred on account of negligence driving on the part of driver of Chota Hathi bearing No.GJ-10-TT-936. As per RTO's vehicle report at Exh.38 and Insurance Policy at Exh.26, Opponent No.1 was owner and Opponent No.2 was insurer. Therefore, Opponent Nos.1 being owner and Opponent No.2 being Insurance Company of Chota Hathi bearing No.GJ-10-TT-936 are jointly and severally liable for the payment of compensation to Petitioner.

14. In view of aforesaid discussion, this Tribunal is of considered opinion that petitioner is held entitled for the compensation of **Rs.96,218/-(Rupees Ninety Six Thousand Two Hundred Eighteen 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 the Opponents jointly and severally. Hence, issue no.2 is decided in **Partly Affirmative** in the manner as above discussed.

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 the compensation of **Rs.96,218/- (Rupees Ninety Six Thousand Two Hundred Eighteen 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 No.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, awarded 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 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.

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 16th day of March-2026 under my hand and seal.

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

Date: -16/03/2026
Place: - Jamnagar.