

<b>Exhibit</b>	:	<b>33</b>
Received On	:	06/09/2018
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Decided On	:	15/04/2026
Duration	:	Y-07:M-07:D -09

**IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN),**

**AT : JAMNAGAR.**

Motor Accident Claim Petition No.	213 of 2018
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**Petitioner:-**

1. Khimji Govindbhai Rathod,  
Age : 62 years, Occupation : Labour,  
Resident of behind Nilkamal Society,  
Near Hanuman Tekri,  
Khodiyar Colony, Jamnagar.

**V E R S U S**

**Opponents :-**

**Owner and Insurance Company of Truck No.RJ-14-GE-7725**

1. Kailash Chand Yadav,  
Resident of 311,  
Dhani Kankada Ki V.P.O.,  
Rajpura, Jaipur, Rajasthan.
2. The iffco Tokio General Insurance Co., **[Deleted]**  
Office at opposite Town Hall, Jamnagar.

**[Opponent No.2 deleted as per order passed below Exh.11]**

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

**Appearance:-**

Mr.P.S.Raval, Learned Advocate for Petitioner.

None for Opponent No.1.

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**:: J U D G M E N T ::**  
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1. Present claim petition has been filed by petitioner under section 166 of Motor Vehicle Act, 1988 seeking compensation of Rs.2,00,000/- along with interest on account of injuries received by him in road side vehicular accident involving vehicle being Truck No.RJ-14-GE-7725.

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

I. On 18/02/2017, Petitioner going by driving his Motorcycle bearing No.GJ-10-BB-5932 in moderate speed and on left side of road and when he reached near Trikon Baugh, Dhrol, at that time, driver of Truck No.RJ-14-GE-7725 came by driving his vehicle in excessive speed and in negligent manner from back-side and dashed with Motorcycle, resultant Petitioner received fracture injury on leg as well as bodily injuries and underwent a surgical procedure for the internal fixation of the leg, involving the implantation of an orthopedic plate.

II. In background of the above facts, Petitioner has claimed that he was of 62 years at the relevant point of time. He was working as labour and earning Rs.5,000/- PM.

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 fracture injuries, Petitioner has difficulty in lifting weights and his earning capacity has also been adversely affected, and therefore, he has claimed for compensation of Rs.2,00,000/- with the interest at the rate of 14% against the opponents.

3. The summons of the Claim Petition was duly served upon the opponents. Mark 14/1 indicates that the summons was sent to Opponent No. 1 via registered post at his residential address. The Online Tracking Acknowledgment confirms that the summons was delivered to Opponent No. 1 on 13/08/2024. Despite service, Opponent No. 1 failed to appear and chose not to contest the Petition. Consequently, the present Claim Petition is being decided on its own merits

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

<b>ISSUE NOS.</b>	<b>ISSUE</b>
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 ;

<b>ISSUE NOS.</b>	<b>FINDINGS</b>
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 :-**

<b>Sr. No.</b>	<b>Name of witness</b>	<b>Exhibit</b>
1	Affidavit of chief-examination of Petitioner	30

**(B) Documentary Evidence :-**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exhibit</b>
1	True Copy of FIR	23
2	True Copy of Spot Panchnama	24

3	Copy of RC Book of Truck No.RJ-14-GE-7725	25
4	Copy of Medical Case Paper	26
5	Copy of Injury Certificate	27
6	True Copy of Charge-sheet	28
7	Disability Certificate	29

7. Learned advocate for Petitioner has not adduced further evidence and filed closing pursis vide Exh.31.

8. Learned advocate Mr.Raval for Petitioner has submitted written argument at Exh.32. Crux of the argument is that accident occurred due to sole negligence of driver of Truck bearing No.RJ-14-GE-7725 and at the time of accident, the said Truck was owned by the opponent no.1 – therefore,owner of said Truck be held responsible to indemnify loss occurred to Petitioner. At the time of accident, Petitioner was 62 years old, doing labour work and earned Rs.5,000/- per month. In last, prayed to allow claim petition as prayed for.

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, spotPanchnama 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.30. Petitioner also relied on the FIR at Exh.23, spot Panchnama at Exh.24 and charge-sheet at Exh.28. 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-BB-5932 and Truck No.RJ-14-GE-7725 dashed with his vehicle. Resultant, Petitioner received fracture injury.

On perusal of the FIR at Exh.23 shows that complaint has been lodged against the driver of Truck for causing accident by driving his vehicle in rash and negligent manner and charge-sheet at Exh.28 filed against him.

On going through spot Panchnama at Exh.24, it appears that the accident took place near Trikonbaugh Bus-stand, on the Western side towards Rajkot-Jamnagar Road, near divider.

On perusal of the FIR and charge sheet, it is evident that the offending vehicle being Truck No. RJ-14-GE-7725 struck the Petitioner's motorcycle from back-side, while the Petitioner was awaiting for traffic clearance at the place of occurrence. These facts indicate that the Truck collided with the motorcycle from the rear side. Under these circumstances, it is found that driver of Truck No. RJ-14-GE-7725 was found negligent and careless for causing accident by driving said Truck in excessive speed and in rash and negligent manner. 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.5,000/- per month by doing labour 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 2017, it would be just and appropriate to consider the income of the Petitioner at Rs.3000/- 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.29, issued by Dr.M.S. Dangar who assessed permanent partial functional disability of lower limb at 35% to the effect that shorten of left lower extremity 10%, painful restricted movement of left knee 15% and painful restricted movement of left ankle joint to the extent of 10%, totaling of 35% disability.

It is required to note that to establish functional disability, Petitioner has not examined any medical expert, i.e. treating doctor or doctor who has issued disability certificate. 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 not produced any documents to show his age. Petitioner has pleaded that he was 62 years at the time of

accident. Therefore, **62 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 62 year, as such multiplier applicable to the case of Petitioner is **7** 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.37,800/- (36000 x 15 % x 7).**

**(f) Loss of actual income:** - Considering the nature of injuries, duration of treatment, it will be reasonable to award **Rs.3,000/-** 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.10,000/-** under this head.

**(i) Conveyance, attendant and special diet:-** In view of the nature of injuries, duration of treatment, petitioner is entitled for **Rs.10,000/-** under this head.

<b>Sr. No.</b>	<b>Head of Compensation</b>	<b>Amount</b>
1	Loss of Future Income	Rs.37,800/-
2	Loss of Actual Income	Rs.3,000/-
3	Expenses incurred on treatment and medicine	Rs.3,000/-
4	Pain/ shock and suffering	Rs.10,000/-
5	Conveyance, attendant and special diet	Rs.10,000/-
<b>T O T A L :-</b>		<b>Rs.63,800/-</b>

**liability to pay the compensation :-**

14. On perusal of RC Book at Exh.25, it appears that Opponent No.1 was owner of Truck No. RJ-14-GE-7725. Therefore, Opponent No.1 being owner of said Truck is 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.63,800/- (Rupees Sixty Three Thousand Eight Hundred Only)** along-with proportionate costs and simple interest at the rate of 9% per annum from the **date of service of Summons to Opponent, that**

**is, 13/08/2024 as per Online Tracking Acknowledgment at Mark 14/1 till its realization to be paid by Opponent No.1.**

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, 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.

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 Opponent shall pay costs of the Petitioner and shall bear his own costs.

7- Award is directed to be drawn up accordingly

This order is pronounced and signed in the open Tribunal on this 15<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: -15/04/2026  
Place: - Jamnagar.