

MACP NO. 290-2021 With MACP No. 291-2021, 294-2021 & 295-2021

Received on : 13 09 2021
Registered on : 13 09 2021
Decided on : 30 06 2026
Duration : YY MM DD
04 09 17

Exh. : _____

**BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL (Main)
AT JUNAGADH**

M.A.C.P. No. 290 of 2021
with
M.A.C.P. No. 291 of 2021,
M.A.C.P. No. 294 of 2021,
M.A.C.P. No. 295 of 2021

CLAIMANTS :

MACP No. 290 of 2021

Dilipbhai Muljibhai Pandya	Adult	Business	Janjarda Road, Junagadh, Tal. & Dist. Junagadh
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V E R S U S

OPPONENTS :

(Driver / owner and ins. co. of Car No. GJ-12-DA-5245) :

1. Manishkumar P. Ratnani	Adult	Driver/ Owner	Plot No. 145, Shaktinagar, N/U 10-B, Gandhidham, Kutch
2. The New India Insu. Co.,Ltd.,	" – "	Owner	Gokul Chamber, Jayshree Road, Junagadh

(Driver & Owner of Car No. GJ-23-AF-5304) :-

3. Jalpesh Dilipbhai Pandya	Adult	Driver	Tulsi Appartment, Janakpuri Society, Janjarda Road, Junagadh
4. Jatin Dilipbhai Pandya	Adult	Owner	--- “ ----

MACP No. 291 of 2021

Vandanaben Jalpeshbhai Pandya	Adult	Business	Janjarda Road, Junagadh, Tal. & Dist. Junagadh
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V E R S U S

OPPONENTS :

(Driver / owner and ins. co. of Car No. GJ-12-DA-5245) :

1. Manishkumar P. Ratnani	Adult	Driver/ Owner	Plot No. 145, Shaktinagar, N/U 10-B, Gandhidham, Kutch
2. The New India Insu. Co.,Ltd.,	" – “	Owner	Gokul Chamber, Jayshree Road, Junagadh

(Driver & Owner of Car No. GJ-23-AF-5304) :-

3. Jalpesh Dilipbhai Pandya	Adult	Driver	Tulsi Appartment, Janakpuri Society, Janjarda Road, Junagadh
4. Jatin Dilipbhai Pandya	Adult	Owner	--- “ ----

MACP No. 294 of 2021

Jalpeshbhai Dilipbhai Pandya	Adult	Business	Janjarda Road, Junagadh, Tal. & Dist. Junagadh
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VERSUS

OPPONENTS :

(Driver / owner and Ins. Co. of Car No. GJ-12-DA-5245) :

1. Manishkumar P. Ratnani	Adult	Driver/ Owner	Plot No. 145, Shaktinagar, N/U 10-B, Gandhidham, Kutch
2. The New India Insu. Co.,Ltd.,	" – "	Owner	Gokul Chamber, Jayshree Road, Junagadh

MACP No. 295 of 2021

Sarojben Dilipbhai Pandya	Adult	Business	Janjarda Road, Junagadh, Tal. & Dist. Junagadh
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VERSUS

OPPONENTS :

(Driver / owner and ins. co. of Car No. GJ-12-DA-5245) :

1. Manishkumar P. Ratnani	Adult	Driver/ Owner	Plot No. 145, Shaktinagar, N/U 10-B, Gandhidham, Kutch
2. The New India Insu. Co.,Ltd.,	" – "	Owner	Gokul Chamber, Jayshree Road, Junagadh

(Driver & Owner of Car No. GJ-23-AF-5304) :-

3. Jalpesh Dilipbhai Pandya	Adult	Driver	Tulsi Appartment,
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Janakpuri Society,
Janjarda Road,
Junagadh

4. Jatin Dilipbhai Pandya Adult Owner --- “ ----

Appearance :-

LA Mr. K.L.Sanchela for claimant in all MACPs

None on behalf of opponent Nos.1, 3 and 4 in MACP No.290/2021

LA **Ms. D. J. Joshi** for opponent No.2 in all MACPs.

LA **Mr. P.K.Hariyani** for opponent Nos.3 and 4 of MACP No.291/2021 i.e.
opponent Nos.4 and 5 in MACP No.291/2021

None on behalf of opponent no.1 in MACP No.294/2021

Exparte against opponent Nos.1, 3 and 4 of MACP No.295/2021 i.e.
opponent Nos.1, 4 and 5 of MACP No.295/2021

:- COMMON JUDGMENT :-

- (1) Since all these claim petitions have been arisen out of same accident and the common facts are involved in all these petitions and as the Ld. Advocate for the claimant has given an applications vide Exh.21 and Exh.44 in MACP No.290/2021, hence, in the interest of justice, the Tribunal has passed an order to consolidate matters of MACP No. 290/2021, 291/2021, 294/2021, 295/2021 and it was ordered to record the evidence in MACP No.290/2021 and therefore all these petitions are determined by a common judgment.

Facts of the claim petitions :-

- (2) The factual matrix of the case is that all the claimants of all MACPs are going in Car bearing Registration No. GJ-23-AF-5304 from

Junagadh to Mota Kajadiyala and the said Car was driven by the applicant of MACP No.294-2021 - Jalpeshbhai Pandya who is opponent No. 3 in other consolidated MACPs. At about 10.30 a.m. on 16.8.2021, when they reached on Ojat River Breeze at that time, a Car bearing Registration No. GJ-12-DA-5245 came from the opposite side in a rash and negligent manner and caused the accident. The claimant who are occupants in the Car bearing No. GJ-23-AF-5304 are applicant of MACP No. 290-2021, 291-2021 and 295-2021 have pleaded that the accident occurred due to the negligent driving of both the driver of Cars. The claimant who was driving the Car bearing No. GJ-23-AF-5304 and who is applicant of MACP No. 294-2021 pleaded that such accident has occurred due to sole negligence on the part of driver of Car bearing Registration No. GJ-12-DA-5245. As a result, the claimants of all the MACPs sustained serious injuries on their bodies, and therefore, the present claim petitions have been filed by the respective claimants seeking compensation from the respective opponents.

- (2.1)** MACP No.290-2021 is filed under Section 166 of the Motor Vehicles Act, 1988 to have compensation of Rs.1,00,000/- towards injuries sustained to Dilipbhai Muljibhai Pandya in the alleged accident.
- (2.2)** MACP No.291-2021 is filed under Section 166 of the Motor Vehicles Act, 1988 to have compensation of Rs.1,00,000/- towards injuries sustained to Vandanaben Jalpeshbhai Pandya in the alleged accident.
- (2.3)** MACP No.294-2021 is filed under Section 166 of the Motor Vehicles Act, 1988 to have compensation of Rs.1,00,000/- towards injuries sustained to Jalpesh Dilipbhai Pandya in the alleged accident.
- (2.4)** MACP No.295-2021 is filed under Section 166 of the Motor Vehicles

Act, 1988 to have compensation of Rs.3,00,000/- towards injuries sustained to Sarojben Dilipbhai Pandya in the alleged accident.

(2.5) According to the claim petitions No. 290-2021, 291-2021, 294-2021 & 295-2021, the opponents no.1 & 2 are the driver / owner and insurer of the vehicle Car No. GJ-12-DA-5245 and now such vehicle will be referred to as "Car 1" and the opponent No. 3 & 4 (Except MACP No. 294-2021) are the driver & owner and Car No. GJ-23-AF-5304 and now such Car will be referred to as "Car 2 " respectively .

(2.6) While, according to the claim petitions No. 294-2021, the opponents no.1 & 2 are the driver / owner and insurer of the vehicle Car No. GJ-12-DA-5245.

(3) **Defence of Opponents :-**

(3.1) **Driver/Owner of the Car No.1 (opponent no.1) :-**

None has appeared on behalf of the said opponent No.1 in all the petitions.

(3.2) **Insurer of the Car No.1 (opponent no.2) :-**

The learned Advocate for Opponent No. 2, i.e., the insurer, filed written statements vide Exh. 18 in MACP No. 290/2021 and Exh. 14 in MACP No. 294/2021, respectively, wherein most of the facts stated in the petitions were denied and it was contended that all the material allegations made therein are false, baseless, and not maintainable. It was further stated that no documents relating to the driving licence, ownership of the car, etc., were submitted. It was also contended that no accident had occurred and that the story of the accident had been fabricated. Further, it was stated that the insurer had no liability in the matter and that the alleged accident had occurred due to the negligence of the driver of Car 2 (bearing No. GJ-23-AF-5304). Hence, it was prayed that the claim petitions be dismissed with costs.

Whereas in MACP No.295/2021, the right to file the written statement was closed by passing an order below Exh.1 on 02.01.2026.

(3.3) Driver and Owner of the Car No.2 (opponent nos.3 and 4) :-

Opponent Nos. 3 and 4 appeared through their learned Advocate in M.A.C.P. No. 291/2021 but failed to file their written statement. In the remaining petitions, the said opponents did not appear. Further, in M.A.C.P. No. 295/2021, it was ordered to proceed ex parte against Opponent Nos. 3 and 4 vide order dated 02.01.2026 passed below Exh. 1.

(4) The Evidence of parties :-

(4.1) Following evidences have been adduced by the parties in support of their case.

ORAL EVIDENCE :

Exh. 27	Deposition by way of Affidavit of examination in chief of claimant – Dilipbhai Muljibhai Pandya (MACP No. 290-2021)
Ex. 28	Deposition by way of Affidavit of examination in chief of claimant & driver of Car No. 2 bearing Reg. No. GJ-23-AF-5304– Jalpeshbhai Dilipbhai Pandya of MACP No. 294-2021
Exh. 31	Deposition by way of Affidavit of examination in chief of claimant – Vandanaben Jalpeshbhai Pandya (MACP No. 291-2021)
Ex. 46	Deposition by way of Affidavit of examination in chief of claimant – Sarojben Dilipbhai Pandya (MACP No. 295-2021)

DOCUMENTARY EVIDENCE :-

Exh.52	Attested copy of FIR
Ex. 53	Attested copy of place of panchnama which has been carried out by the concerned police station
Ex. 54	Attested copy of MLC Certificate – Dilipbhai (claimant of MACP No. 290-2021)

Ex. 55	Attested copy of Injury Certificate Dilipbhai (claimant of MACP No. 290-2021)
Ex. 56	Attested copy of Charge-sheet
Ex. 57	Attested copy of Form No. 54
Ex. 58	Attested copy of MLC Certificate – Vandanaben Pandya (claimant of MACP No. 291-2021)
Ex. 59	Attested copy of Injury Certificate – Vandanaben Pandya (claimant of MACP No. 291-2021)
Ex. 60	Attested copy of R.C. Book of Car 2
Ex. 61	Attested copy of driving licence of driver of Car 2 – Jalpesh Pandya
Ex. 62	Attested copy of MLC Certificate – Sarojben Pandya (claimant of MACP No. 295-2021)
Ex. 63	Attested copy of Injury Certificate – Sarojben Pandya (claimant of MACP No. 295-2021)
Ex. 64	Disability certificate of Sarojben Pandya (MACP No. 295-2021)
Ex. 65	Attested copy of MLC Certificate – Jalpeshbhai Pandya (claimant of MACP No. 294-2021)
Ex. 66	Attested copy of Injury Certificate – Jalpeshbhai Pandya (claimant of MACP No. 294-2021)
Ex. 77	Attested copy of driving licence of driver of Car 2
Ex. 78	Attested copy of R.C. Book of Car 2

- (4.2)** The Ld. Advocate for the claimant has filed closing pursis vide Ex. 67 declaring not to lead any further evidence in the matter.
- (4.3)** The right to produce evidence of the Opponent No. 1, 3 & 4 was closed by passing order below Ex. 1 on dt. 5.6.2026 in MACP No. 290-2021, 291-2021 & 294-2021.
- (4.4)** Following evidences have been adduced by the Ld. Advocate for the insurer i.e. opponent No. 2 in support of their case.

DOCUMENTARY EVIDENCE :-

Exh.72	Copy of Insurance policy of Car 1
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Ex. 73	Copy of Form No. 54
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- (4.5) The Ld. Advocate for the insurer of Car 1 (Opponent No. 2) has filed closing pursis vide Ex. 79 declaring to close his evidence.
- (4.6) The Ld. Advocate for the claimant has argued orally.
- (4.7) The right to produced written argument of opponent No. 1, 3 & 4 was closed by passing order below Ex. 1 dt. 22.6.2026. (In MACP No. 290-2021, 291-2021, 294-2021)
- (4.8) The Ld. Advocate for the opponent No. 2 has filed written argument vide Ex. 83.

(5) **Issues of MACP No. 290-2021, 291-2021, 294-2021 & 295-2021 :-**
(Common in all MACPs)

After considering the applications, W.S. and matter, under the rule 221 of Gujarat Motor Vehicle Rules, Tribunal has framed the issues in petitions :-

1. Whether is it proved that the claimant sustained injuries on account of rashness and negligent in driving on the part of the drivers of the vehicle involved in the accident ?
2. What amount if any, the claimant is entitled to by way of compensation and from which of the opponent ?
3. What order ?

(6) **Reply of above issues :**

1. Issues No.1 : In Affirmative as discussed.
2. Issues No.2 : Yes, as per final order.
3. Issues No.3 : As per final order.

(7) **As regards procedure of tribunal :-**

- (7.1) The section 168 and section 169 state that an inquiry is required to be

held. Section 168 of the motor vehicle Act 1988 says that subject to the rules made the tribunal may follow such summary procedure as tribunal thinks fit.

(7.2) The Hon'ble Tripura high Court in the case of *Sankar Chandra Das Vs. Sujit Saha* reported in **LAWS (TRIP) 201422**, after considering the various judgment of Hon'ble Apex Court, has laid down that *“HERE it would be pertinent to mention that the Apex Court clearly indicated that the summary procedure mandated under sections 168 and 169 should not be one like a regular civil suit”... "5. SECTION 168 of the M.V. Act provides that the Claims Tribunal after giving notice of the application to the insurer and giving the parties (including the insurer) an opportunity of being heard, shall hold an inquiry into the claims and make an award determining the just amount of compensation”.... “It is our considered view that the inquiry contemplated by the legislature under section 168 is not an adjudication as contemplated under the Code of Civil Procedure or under the Evidence Act”..... “The manner of summoning the witnesses, the manner in which documents can be exhibited may not be as rigid and as technical as provided in the Code of Civil Procedure or the Indian Evidence Act, but the inquiry has to be in consonance with the settled principles of natural justice.”*

(7.3) Therefore in said judgment it has been specifically stated that the inquiry under the M. V. Act 1988 to deal application u/s 166 is not required to be conducted like suit and technicalities of Code of Civil Procedure 1908 and the Evidence Act 1872 would not be applicable while holding the inquiry or while deciding the admissibility of evidence.

(8) As regards involvement of vehicle in the accident & negligence :-
(common in all MACPs)

- (8.1) Herein, the Ld. Advocate for the claimants of MACP No. 290-2021, 291-2021 & 295-2021 has argued that the driver of both the Cars is responsible for causing the accident. Whereas, the Ld. Advocate for the claimant of MACP No. 294-2021 has argued that the said accident has been occurred due to negligence on the part of driver of Car 1.
- (8.2) The Ld. Advocate for the insurer has argued that the there was no fault on the part of driver of Car 1 and said accident has occurred due to negligence on the part of driver of Car 2.
- (8.3) It is incumbent on the claimant to prove negligence before owner or insurance company could be held liable for the compensation because liability of owner of vehicle to compensate the victim is based on law of torts. Proof of negligence remains lynch pin to recover compensation and said ratio has been propounded by the Hon'ble Apex Court in the case of *Minu B Mehta anrs. V/s. Balkrishan Ramchandra Nyan anrs.* reported in **AIR 1977 SC 1248**. Even same ratio again reiterated in the case of *National Insurance Company Limited Vs. Prembhai Patel* reported in **AIR 2005 SC 2337**.
- (8.4) In these petitions, respective claimants i.e. claimants of MACP No. 290-2021, 291-2021 & 295-2021 have pleaded the negligency of the driver of both the Cars.
- (8.5) Herein, the FIR vide Ex. 52 states that the negligency of the driver of Car 1. The charge-sheet vide Ex. 56 has been filed against the driver of Car 1 and considering Sections 155 to 172 of the Code of Criminal Procedure' 1973, the concerned investigating agency has filed a report under Section 173 of the Code of Criminal Procedure. The investigating agency has stated in Column No. 5 of the charge-sheet that :-

તા.૧૬/૦૮/૨૦૨૧ નાદ૮ રોજ પોતાની અટીકા ફોરવ્હીલ જુનાગઢથી મોટા કાજલીયાળા ગામે જતા હતા તે વખતે અટીકા ફોરવ્હીલ કો.નં-૪ માં જણાવેલ સા-નં-૪ નાઓ ચલાવતા હતા.અને સવારના આશરે સાડા દસેક વાગ્યે વંથલી ઓઝત નદીના પુલ પાસે આવેલ ખેડુત ધાબા પાસે પહોંચતા સામેથી એક સીયાજ ફોરવ્હીલ જેના રજી.નં- **GJ-12-DA-5245** વાળીના ચાલકે પોતાના હવાલાની સીયાજ ફોરવ્હીલ પુરઝડપે અને ગફલત ભરી રીતે અને એકીકરાઈથી ચલાવી કરી.ની અટીકા -૦ ફોરવ્હીલ જે કો.નં-૪ માં જણાવેલ સા-નં-૪ ૨ નાઓ ચલાવતા હતા તેમાં ભટકાવી કરી.નું તથા કો.નં.૪ માં જણાવેલ સાહેદ નું ૬,૭,૮ - વાળાઓને મુઢ(સામાન્ય) ઈજા કરી તેમજ કો.નં.૪ માં જણાવેલ સાહેદ-નં-૫ ને ડાબા હાથના કાંડાના ભાગે ફેકચર કરી ગંભીર ઈજા કરી ગુન્હો કરેલાનું તપાસના અંતે પડેલ પંચ પુરાવાઓ ઉપરથી પુરવાર થતા આરોપી વિરુદ્ધ ઈન્યાફ થવા સારૂ ચાર્જશીટ ભરી રજુ કરૂ જે વિ.થાય."

- (8.6) Herein, Dilipbhai Muljibhai Pandya, Vandanaben Jalpeshbhai Pandya, and Sarojben Dilipbhai Pandya, who were occupants of Car No. 2, have specifically deposed that the accident occurred due to the negligence of both drivers, i.e., the driver of Car No. 1 and the driver of Car No. 2. However, Jalpeshbhai, who was the driver of Car No. 2, has deposed that the said accident occurred solely due to the negligence of the driver of Car No. 1.
- (8.7) Herein, it is undisputed facts that the report U/s. 173 of Code of Criminal Procedure, 1973 which has been filed against the driver of the Car No. 1 concluding that the driver of Car No. 1 is responsible to cause such accident.
- (8.8) Herein, Dilipbhai Muljibhai Pandya, Vandanaben Jalpeshbhai Pandya, and Sarojben Dilipbhai Pandya were occupants of Car No. 2 at the time of the accident. These witnesses are eye-witnesses to the incident, and their evidence falls within the ambit of Section 60 of the Indian Evidence Act 1872. Dilipbhai, who is the father of the driver of Car No. 2, has, despite his relationship with the driver, stated in his examination-in-chief that the accident occurred due to the negligence of the driver of Car No. 2, i.e., his own son. He has deposed that :

“તા. ૧૬/૮/૨૦૨૧ ના રોજ અમો અરજદાર તમો સામાવાળા નં:-૪ ની માલીકીની કાર નં:-જીજી-૨૩-એએફ-૫૩૦૪ મા બેસીને જુનાગઢથી મોટા કાજલીયાળા તરફ જતા હતા ત્યારે ઉપરોક્ત કાર તમો સામાવાળા નં:-૩ ના ઉપરોક્ત કાર તમો સામાવાળા નં:-૩ ના ધીમી ગતીએ અને રોડની ડાબી સાઈડમા ચલાવતા હતા ત્યારે અમો અરજદાર બેઠેલ તે કાર ઓઝત નદીના પુલ પાસે પહોંચતા સામેથી તમો સામાવાળા નં:-૧ ની માલીકીની કાર.નં:-જીજી-૧૨-ડીએ-૫૨૪૫ કે જે તમો સામાવાળા નં:-૧ ના ચલાવતા

હુતા અને તમો સામાવાળા નં:-૧ નાએ પોતાના હુવાલાવાળી કાર અમો અરજદાર બેઠેલ તે કારની સામેથી પુરઝડપે અને બેદરકારી પુર્વક અને બેફીકરાઈથી કાવા મારીને ચલાવીને અમો અરજદાર બેઠેલ તે કારની સામેથી ભટકાડી દેતા આ અકસ્માતનો બનાવ બનેલ. આમ આ અકસ્માતનો બનાવ તમો સામાવાળા નં:-૧ તેમજ તમો સામાવાળા નં:-૩ ની અક્ષયમ્ય બેદરકારી ભર્યા ડાયવીગના કારણે બનવા પામેલ છે. આ અકસ્માતના કારણે અમો અરજદારને એમ.એલ.સી. સર્ટીમા જણાવ્યા મુજબની ગંભીર પ્રકારની ઈજાઓ થવા પામેલ છે.”

(8.9) Similarly, Vandanaben, the wife of Jalpeshbhai, has also deposed regarding the negligence on the part of Jalpeshbhai. At the same time, Sarojben, who is the mother of the driver of Car No. 2, has likewise stated and pleaded that the accident occurred due to the negligence of her son, namely the driver of Car No. 2. Therefore, there is no reason to disbelieve the version of these eye-witnesses regarding the negligence attributable to the driver of Car No. 2.

(8.10) Herein, the FIR has been lodged against the driver of Car No. 1. At the same time, a report under Section 173 of the Code of Criminal Procedure, 1973, has also been filed against the driver of Car No. 1. Therefore, a greater degree of negligence is required to be attributed to the driver of Car No. 1.

(8.11) In the Hon'ble Apex Court in the case of **SITHARA N.S. & ORS. ETC. VS. SAI RAM GENERAL INSURANCE CO., LTD., in Civil Appellate Jurisdiction – Civil Appeal Nos. 14718 – 14719 of 2025 (Arising out S.L.P. © Nos. 281 – 282 / 2019)**, wherein, in **Para 9**, it states that :-

9. It was submitted that mere filing of charge-sheet should not be treated as gospel truth and should only be one factor in preponderance of probability, not the only factor. It was also pointed out that the report dt. 5.10.2013 of the Motor Vehicle Inspector does not support the appellants' case.

and considering the said argument, the Hon'ble Apex Court in **Para 16, 18 & 19** held that :

16. This Court is conscious of the settled legal position that in cases of motor vehicle accidents, the standard of proof required is that of preponderance of probabilities. It is also well settled that the absence of vehicle registration number in the FIR or complaint lodged immediately after the accident is not, by itself, fatal to the claim. An FIR is not an encyclopedia and omissions at the initial stage may not be determinative. However, the claimants must establish the specific identity of the vehicle/driver, with the caveat that the connection of the accident with the said vehicle must be established through cogent and reliable evidence.

18. Most significantly, the report dated 05.10.2013 of the Motor Vehicle Inspector reveals no damage whatsoever to the alleged offending vehicle. A circumstance that is wholly inconsistent with a collision of such severity as to cause the death of two persons. This report provides no basis for the claim, and the fact that the chargesheet filed after the vehicle was recovered one and a half months post-accident raises concerns about the reliability of the evidence.

19. We are deeply conscious of the tragic loss suffered by the families of the deceased. The pain of losing young lives in their prime is immeasurable. However, the principles of law cannot be set aside on the grounds of sympathy alone. Liability under the Motor Vehicles Act must be established through credible evidence. The Courts below have found, after scrutinizing the evidence, that the appellants failed to prove the involvement of the offending vehicle driven by respondent No.1. We find no perversity in the appreciation of evidence, nor exceptional circumstances warranting interference with these concurrent findings.

Therefore, the FIR and the charge-sheet are not conclusive pieces of evidence. Hence, there is no reason to discard the testimony of the eyewitnesses, especially when they are the father and mother of the driver of Car No. 2.

(8.12) Therefore, in the facts and circumstances of the present case, **65%** negligence is required to be attributed to the driver of Car No. 1, whereas **35%** negligence is required to be attributed to the driver of Car No. 2.

(8.13) Moreover, the police complaint clearly states that the petitioners of all MACPs were injured due to the accident. This proves that the

petitioners sustained injuries on account of accident.

As regards Quantum :-

(In MACP No.290/2021)

As to injury :-

- (9) In this case, the applicant has submitted his MLC Certificate & Injury Certificate vide Ex. 54 and 55 respectively which shows that :

“About 2 x 0.5 x 0.5 in size wound present over tounge at undersurface on it. Margins are irregular blood is oozing from it, Pain is present, Complain of pain at Right side of chest.

Rt Side chest pain and # knee join pain, “

- (10) However, the claimant has not produced any Disability Certificate and, therefore, it can be inferred that he has not suffered any permanent disability as a result of the accident. At the same time, it is evident from the record that the claimant sustained injuries in the accident. Consequently, he must have undergone pain and suffering, incurred some expenses towards medicines and special diet, and may have been unable to attend to his normal day-to-day activities for a certain period of time. Considering all these aspects and the nature of the injuries sustained, this Tribunal is of the opinion that a consolidated amount of Rs. 15,000/- would be just, reasonable, and proper compensation under all heads.

(In MACP No.291/2021)

As to injury and disability :-

- (11) In this case, the applicant has submitted his MLC Certificate & Injury Certificate vide Ex. 58 and 59 respectively which shows that :

“About 2 x 2 cm2 size abrasion present over right elbow. Red clotted blood present over it. Burning sensation present and complaint of pain in back and in left leg.Pain, in burning, back pain, X-ray chest PA view spine @ knee digital cervical spine..... “

- (12) However, the claimant has not produced any Disability Certificate and, therefore, it can be inferred that he has not suffered any permanent

disability as a result of the accident. At the same time, it is evident from the record that the claimant sustained injuries in the accident. Consequently, he must have undergone pain and suffering, incurred some expenses towards medicines and special diet, and may have been unable to attend to his normal day-to-day activities for a certain period of time. Considering all these aspects and the nature of the injuries sustained, this Tribunal is of the opinion that a consolidated amount of Rs. 15,000/- would be just, reasonable, and proper compensation under all heads.

(In MACP No.294/2021) :-

As to injury and disability :-

- (13)** In this case, the applicant has submitted his MLC Certificate & Injury Certificate vide Ex. 65 and 66 respectively which shows that :

“About 1 x 1 cm² size abrasion present at front aspect of left knee, red clotted blood present over it. Burning sensation present. About 1 x 0.5 cm² size abrasion with about 3 x 2 cm² size swelling surrounding it present at left side of chest red clotted blood present over abrasion pain and tenderness present, complaint of pain at right upper arm. Chest Pain,..... 2 x 1 cm side of x-ray chest ppa viewunderexposed pain artefact present. “

- (14)** However, the claimant has not produced any Disability Certificate and, therefore, it can be inferred that he has not suffered any permanent disability as a result of the accident. At the same time, it is evident from the record that the claimant sustained injuries in the accident. Consequently, he must have undergone pain and suffering, incurred some expenses towards medicines and special diet, and may have been unable to attend to his normal day-to-day activities for a certain period of time. Considering all these aspects and the nature of the injuries sustained, this Tribunal is of the opinion that a consolidated amount of Rs. 15,000/- would be just, reasonable, and proper compensation under all heads.

- (15) Herein, 35% negligence has been attributed to the driver of Car No. 2, namely Jalpeshbhai. Therefore, 35% of the consolidated compensation awarded by this Tribunal, i.e., Rs. 15,000/-, is liable to be deducted. After deducting 35% of Rs. 15,000/- (i.e., Rs. 5,250/-), the net payable compensation comes to Rs. 9,750/-. Accordingly, compensation of Rs. 9,750/- is awarded to the claimant.

(In MACP No.295/2021) :-

As to injury and disability :-

- (16) In this case, the applicant has submitted his MLC Certificate & Injury Certificate vide Ex. 62 and 63 respectively which shows that :

“About 5 x 3 cm² size swelling with redness present over back aspect of left wrist pain and tenderness present.

Pain & swelling overFA ... back pain, Chest pa view,”

- (17) However, the claimant has produced Disability Certificate vide Ex. 64 which shows that :-

“Wasting of forearm muscles, stiff painful wrist joint with pain, Defuse swelling on wrist, Eident deformed wrist with prominent lower end of ulna, All movement restricted and painful. Dorsal flexion 0 to 15 degree, planter flexion 10 degree, Ulnar and radial of deviation of wrist are restricted. Mild swelling at wrist and deviated on radial side. Movement loss 30% Grip and pinch weak. Power loss 40%. Pain during all movements. Impairment on upper extremity 21.7 percent. Pain component 3% , Combining total impairment would be 24.6%

From above findings and examination, I have found she has permanent partial functional **disability 24.6%** of left upper extremity. “

- (18) Herein, It is an undisputed fact that the person who assessed the disability certificate did not treat the petitioner. Additionally, the experts who issued the disability certificate were not examined. Herein, an application vide Ex. 68 produced by the Ld. Advocate and in that application, he has no objection, if the Disability is count 10% and hence, looking to the facts, the same **10% Disability** for the entire body

should be taken into account. This confirms that, due to the accident, the petitioner has sustained a **10% Disability** affecting the whole body.

As regards Income :-

- (19) In this claim petition, the claimant has deposed that she was earning Rs.22,000/- per month at the time of accident by doing tailoring work and in support of the say, applicant has not produced any documentary evidence to show that she was getting monthly Rs. 22,000/-. Applicant has also not provide any proof regarding her tailoring business and in the absence of any proof regarding her income and as the accident occurred in year 2021. Therefore, considering the same, **Rs. 8000/-** would be ideal amount to consider monthly income of the decd. and therefore, it proves that at the time of accident, decd. was earning Rs. 8000/- p.m.

As regards age, Multiplier :-

- (20) The applicant has produced Aadhar Card wherein date of birth year is stated as 1959 and date of accident year is 2021 and therefore it proves that at the time of accident age of the applicant was approx. 62 years and therefore, the age of applicant is required to be considered as 62 years and hence, in view of judgment of Sarla Verma which rendered by the Hon'ble Apex Court in the case of *Sarla Verma vs Delhi Transport* and which is reported in **2010 (1) GLR 18** multiplier is taken as 7.
- (21) Hence the future loss of income would be Rs. 8000/- x 12 months x 7 multiplier x 10% Disability = Rs. 67,200/-

As regards Pain, Shock and Suffering

- (22) The Ld. Advocate argued that claimant's should be awarded under the head of pain, shock, and suffering and considering that the claimant

has a disability and spent some days in the hospital, the claimant is entitled to receive **Rs. 10,000/-** as compensation under the head of pain, shock, and suffering.

As regards Actual loss of Income :

- (23) In this case, this Tribunal has considered the claimant's monthly income as Rs. 8000/-. The claimant has sustained various injuries due to the accident. Therefore, a loss of actual income for 2 months month/s is to be considered, resulting in an award of **Rs. 16,000/-** (Rs. 8000/- x 2 months) under this head.

As regards Medical Expenses :

- (24) Herein, the claimant has not produced any medical bills, but as claimant got injured and has spent some money on medical, therefore, It is worth to grant **Rs. 7,000/-** under the said head and it is reasonable amount.

As regards Transportation, Special diet and attendance charge :-

- (25) The claimant's is required to be awarded under the above head and considering the injury and disability of the claimant, **Rs. 2500/-** is a reasonable amount to be awarded under these heads.

As regards loss of Amenities

- (26) Considering the injury and disability of the claimant, Rs. 3000/- would be appropriate for the loss of amenities. Therefore, this Tribunal is awarding **Rs. 3000/-** under the head of loss of amenities.

- (27) **Calculation Table :-**

Future loss of income	Rs. 67,200/-
Pain, shock and sufferings	Rs. 10,000/-
Actual loss of income	Rs.16,000/-
Medical expenses	Rs.7,000/-

Transportation, Special diet and attendance	Rs.2,500/-
Loss of amenities	Rs.3,000/-
TOTAL . . .	Rs. 1,05,700/-

(28) As regard rate of interest as contemplated u/s 171 of Motor Vehicle Act,1988.

Considering the facts and circumstances of present case and keeping in mind prevailing rate of interest of nationalize bank and considering the principles 'just' compensation and considering the rate of interest which was prevailing at the time of accident, **8%** rate of simple interest per annum would be just and proper in present case.

As to Ownership and Existence of Policy :-

- (29)** In the present case, it is not in dispute that Opponent No. 1 was the driver of Car No. GJ-12-DA-5245 and at the same time, a copy of the R.C. Book of the said car was produced at Exh. 60, which shows that Opponent No. 1 was the owner of the said Car. The insurance policy was produced at Exh. 72, which is a Private Car Package Policy, and the period of insurance was from 18.05.2021 to 17.05.2022. The accident occurred on 16.08.2021. Therefore, it is proved that on the date of the accident Opponent No. 1 was insured with Opponent No. 2.

As to driving license :

- (30)** Herein burden to prove the fact as regards not having valid and effective driving license lies upon the insurer, and such burden has not been discharged by the insurer.

(31) Conclusion :-

As discussed herein above, it is proved that :

- (i) The negligency of driver of the Car 1 bearing No. GJ-12-DA-5245 is proved to the extent of 65% whereas, the negligence of

the driver of Car 2 bearing No. GJ-23-AF-5304 is proved to the extent of 35%

- (ii) Therefore, Opponent Nos. 1 and 2, being the driver/owner and insurer respectively of Car No. GJ-12-DA-5245 (Car No. 1), are jointly and severally liable to pay 65% of the compensation amount to the claimants of MACP Nos. 290/2021, 291/2021, and 295/2021. They are further jointly and severally liable to pay the entire compensation amount to the claimant of MACP No. 294/2021.
- (iii) Opponent Nos. 3 and 4, being the driver and owner respectively of Car No. GJ-23-AF-5304 (Car No. 2), are jointly and severally liable to pay the remaining 35% of the compensation amount to the claimants of MACP Nos. 290/2021, 291/2021, and 295/2021, as discussed and calculated hereinabove.

Therefore I give my answer as to issue No.1 in affirmative, as discussed, and so far as issues No. 2 & 3 are concerned, I pass following order :-

-:: ORDER ::-

- (1)** The claim petition i.e. MACP No.290/2021, 291-2021, 294-2021 & 295-2021 which is preferred under Section 166 of Motor Vehicles Act, 1988 is hereby **partly allowed**.
- (2)** The claimant of MACP No.290-2021 is entitled to get amount of **Rs. 15,000/- (*Rupees Fifteen Thousand only*)** as compensation from opponents jointly and severally as discussed & calculated above i.e. 65% from opponent No. 1 & 2 and 35% from Opponent No. 3 & 4.
- (3)** The claimant of MACP No.291-2021 is entitled to get amount of **Rs. 15,000/- (*Rupees Fifteen Thousand only*)** as compensation from

opponents jointly and severally as discussed and calculated above i.e. 65% from opponent No. 1 & 2 and 35% from Opponent No. 3 & 4. .

- (4)** The claimant of MACP No.294-2021 is entitled to get amount of **Rs. 9,750/-** (*Rupees Nine Thousand Seven Hundred Fifty Only*) as compensation from opponent No. 1 & 2 jointly and severally as discussed and calculated above.
- (5)** The claimant of MACP No.295-2021 is entitled to get amount of **Rs. 1,05,700/-** (*Rupees One Lac Five Thousand Seven Hundred only*) as compensation from opponents jointly and severally as discussed and calculated above i.e. 65% from opponent No. 1 & 2 and 35% from Opponent No. 3 & 4.
- (6)** The opponents shall liable to pay compensation to the claimants as calculated above and is liable to pay simple interest at the rate of 8% per annum from the date of this petition till payment or realization of the said amount to the claimants.
- (7)** The opponents has to bear the entire cost of this petition.
- (8)** Under section 168(3) of the Motor Vehicles Act, 1988, opponents shall deposit said awarded amount with interest as per liability, as held above, within 30 days from the date of this order.
- (9)** The all interim orders shall merge into final order.
- (10)** If any amount is paid U/s. 140 of the Motor Vehicles Act,1988 then that amount shall be deducted from the awarded amount.
- (11)** Nazir is hereby directed to deduct the amount of court fee if it is leviable from the claimant.
- (12)** The order as regard disbursement be made at the time of withdrawal of amount.

(13) Authenticated copy of this order be placed in MACP No.291/2021, 294-2021 & 295-2021.

(14) Award be drawn accordingly.

Pronounced in the open Court today
on this 30th Day of June, 2026.

Date : 30.06.2026
Junagadh.

(B. G. Dave)
M. A. C. Tribunal (Main)
JUNAGADH
[GJ00469]