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			1	5	20

**IN THE COURT OF THE MOTOR ACCIDENT CLAIM
TRIBUNAL (AUXILIARY), VANTHALI**

M.A.C.M.A No.9/2025

Exhibit : -

APPLICANT :

**Heir of deceased Sujanben Shahilbhai Padaya
Shahilbhai Gafarbhai Padaya
Age : 24 years,
Occupation : Labour,
R/o. Near Movana Darvaja, Keshod,
Tal. Keshod, District Junagadh.**

VERSUS

OPPONENT:

The State of Gujarat

APPEARANCE:	
Mr.I.A.Sama	Ld. Advocate for the Applicant
Mr.J.M.Devani	Ld. AGP for opponent

Subject :	Application under Order-33, Rule-1 of the Code of Civil Procedure.
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: J U D G M E N T :-

The brief facts of the present application are as follows:-

1. The applicant has filed the present application under Order 33, Rule 1 of the Code of Civil Procedure, seeking permission to file a Motor Accident Claim Petition as indigent persons. The proposed Claim Petition relates to a vehicular accident in which his wife sustained fatal injuries and subsequently expired. The applicant intends to institute the Claim Petition claiming compensation of Rs.30,00,000/- for the said accident. However, the applicant is maintaining his family by doing labour work and he is not in a financial position to pay the court fees of Rs.7,500/- required to be affixed on the Claim Petition. Therefore, the present application has been filed. It is further stated that the applicant does not have sufficient income, is in a weak financial condition. In support of the application, the applicant has filed an affidavit at Mark 1/1 and has produced at Exhibit 2, the schedule of property to show that he does not own any immovable property and possess movable property worth only Rs.800/-.

2. In the present matter a notice has been issued to the opponent, which has been served and Ld. AGP has appeared on behalf of the opponent-state and produced written objection vide Exh.6 and objected the application of the applicant in toto and prayed to reject the present application.

3. It is argued by Ld.Advocate for the applicant that the applicant is not having sufficient means to pay the Court Fees at

this juncture and has relied upon the Schedule of Properties produced in the matter. Therefore, for filing the Claim Petition as an indigent person, he has filed present application. He has further declared that other than the property shown in schedule, he does not have more property and have also not sold or transfer any property within six months period immediately preceding the filing of the application and also declared that he has not kept share, right of anybody in the petition.

4. I have heard learned advocate for the applicants, Ld. AGP for the State has orally argued. They argued as per their application and written objection respectively.

5. On perusal of the averments made in the application and the schedule annexed to the application along with affidavit. The applicant has produced a Schedule of properties as required under Order 33 Rule-1, 2 of the C.P.C. vide Ex.2 and has also produced affidavit vide Mark 1/1. In support of his application, the applicant has produced evidence i.e. Affidavit vide Exh.7 & 12 and reiterated the facts mentioned in his application. The perusal of such Schedule indicates that the applicant is not possessed of sufficient means so as to pay the required Court Fees. The opponent has merely raised the arguments but has failed to produced rebuttal or contrary evidence against the evidence of the applicant. In the absence of any supportive evidence, the contentions taken by the applicant can be considered.

6. Therefore, it is averred that the applicant does not possess sufficient means to pay the Court Fees required to file Claim Petition. Therefore, I am in agreement with the averments made in their affidavit and it is obvious that for a poor person maintaining themselves, would not be in a position to spare much amount.

7. The opponent herein is unable to controvert the petitioner's say. Except mere denial, the opponent has not come out with a case to show that the petitioner is possessed of sufficient means. So, far as the question of Court Fees is concerned, it can be recovered at a later stage. The Constitution of our Country confers rights upon every citizen to equality before law. Merely, because a person does not have the financial means, they cannot be prevented from enforcing his legal rights in a Court of Law.

8. After considering the averments made in the petition and the schedule annexed to the petition, it seems that the petitioner does not possess sufficient means to pay the fees prescribed by law. So, when the party applies for exemption from payment of court fees on the ground of indigency will have to satisfy the Court that the party does not have capacity to pay court fees. Thus, the averments made by the petitioner on oath as to insufficient means to pay prescribed court fee on the petition and further for want of evidence from the opponent-side to challenge the said statement of fact stated on oath, this is a fit case to permit the petitioner to sue as an indigent person and accordingly, I pass the following order:

-:: ORDER ::-

1. The present application is hereby **allowed**.
2. The applicant **Shahilbhai Gafarbhai Padaya** is permitted to sue MACP as indigent person
3. The Registry is directed to register the Claim Petition under the provision of the Motor Vehicles Act in accordance with law.
4. There shall be no order as to cost.

Signed and pronounced in the open Court, today on this
17th day of July, 2026.

Date : 17/07/2026.
Place: Vanthali

(Salimbhai Babulal Mansuri)
3rd Additional District Judge &
M.A.C. Tribunal (Aux.),
Vanthali.
[Code No:GJ00698]