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Registered on	04.12.2020
Decided on	07.05.2026
Duration	Y. M. D.
	05 05 03

**BEFORE THE HON'BLE
MOTOR ACCIDENT CLAIMS TRIBUNAL (AUXI.)
DISTRICT KHEDA AT KAPADWANJ.**

**M.A.C.P. No.135/2021(Main)
along with MACP No.136/2021**

Exh.

APPLICANTS:~

APPLICANT IN MACP No.135/2021:-

Nareshbhai Baldevbhai Parmar
Aged: 29 years, Occ: Labour work
Residing at: Nava Muvadi,
Mayjipura,
Tabe:Jamni,
Tal: Kathlal, Dist: Kheda

CLAIM OF Rs.25,000/- UNDER SECTION-166 OF THE M.V.ACT.

APPLICANT IN MACP No.136/2021:-

Ashokbhai Kalabhai Solanki
Aged: 35 years, Occ: Labour work

Residing at: Nava Muvada,
At-Po: Pordi,
Bhatera,
Tal: Kathlal, Dist: Kheda

**CLAIM OF RS.10,00,000/- UNDER SECTION-166 OF THE
M.V.ACT.**

VERSUS

COMMON OPPONENTS IN BOTH MACP :

Parties of C.N.G.Rickshaw No.GJ.27.Y.6942

- 1) **Arvinbhai Bachubhai Thakor (Driver-cum-Owner)**
Aged: Adult, Occ: Driving
Residing at: Bhavdani Muvadi,
Tabe: Bhavda,
Tal: Daskroi, Dist: Ahmedabad

OPPONENTS IN MACP NO.135 OF 2021

Parties of Motorcycle No.GJ.07.BJ.3823

- 2) **Ashokbhai Kalabhai Solanki(Driver-cum-Owner)**
Aged: Adult, Occ: Business
Residing at: Nava Muvada,
At-Po: Pordi,
Bhatera,
Tal: Kathlal, Dist: Kheda
- 3) **Chaula Mandalam General Insurance Company**
G/5, Ground Floor Motro City Complex,
Nr. H.D.F.C. Bank,
Nadiad.

APPEARANCE:	
For the Applicants	Ld. Advocate Mr. B. R. Sodha
For the Opponent No.1 in MACP No.135/2021	No one appeared
For the Opponent No.1 in MACP No.136/2021	Ld. Advocate Mr. B. J. Dabhi
For the Opponent No.2	No one appeared
For the Opponent No.3	Ld. Advocate Mr. R. G. Dave

**CLAIM PETITIONS UNDER SECTION 166 OF THE M.V.ACT FOR
COMPENSATION OF RS.25,000/- IN MACP NO.135 OF 2021 &
RS.10,00,000/- IN MACP NO.136 OF 2021**

~: COMMON JUDGMENT :~

- [1] That, both the above claim petitions have arisen out of one accident, and hence, both the claim petitions are ordered to be consolidated and are disposed of by this common judgment. As both the claim petitions are ordered to be consolidated, the evidences are led in main MACP No.135/2021.
- [2] That the present applicant of M.A.C.P. No.135/2021 has filed the claim petition to get the amount of compensation of Rs.25,000/- on account of injury sustained by his, and the applicant of M.A.C.P. No.136/2021 has filed the present claim petition to get the amount of compensation of Rs.10,00,000/- on account of injury sustained by his in the vehicular accident, which was took place on 12.01.2020 by the involved vehicle; i.e. C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942 and Motorcycle bearing Registration No.GJ.07.BJ.3823.

- [3] The brief facts giving rise to filing of the present claim petitions are as under:

MACP NO.135/2021 :-

- 3.1 It is the case of the applicant that on 12.01.2020, he was travelling as a pillion rider on a motorcycle bearing Registration No.GJ.07.BJ.3823. The said motorcycle was being driven by opponent No.2, ownership of him, at full speed in a rash and negligent manner. At approximately 8:00 a.m., when they reached the place of the incident, opponent No.1, i.e., driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942, ownership of him, came driving at an excessive speed in a rash and negligent manner and collided with the said motorcycle. Due to the impact of this accident, the applicant sustained grievous injuries as stated in para-5 of the claim petition. Consequently, the applicant has filed the present claim petition to recover compensation of Rs.25,000/- along with interest and costs from the opponents on various heads. A complaint was lodged at Kanbha Police Station vide I-C.R.No.0006/2020.

It is further case of the applicant that he was physically fit before the accident and did not have any kind of disability. After the accident, he was admitted to Care-Well Hospital, Kathlal, and thereafter, he was admitted to Private Hospital, Ahmedabad for further treatment, wherein he was admitted as an indoor patient for a long time. The applicant further states that at the time of

accident, he was earning Rs.9,000/- per month by doing labour work.

MACP NO.136 of 2021 :-

- 3.2 It is the case of the applicant that on 12.01.2020, he was riding his motorcycle bearing Registration No.GJ.07.BJ.3823 at full speed in a rash and negligent manner. At approximately 8:00 a.m., when he reached the place of the incident, opponent No.1, i.e., driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942, ownership of him, came driving at an excessive speed in a rash and negligent manner and collided with the said motorcycle. Due to the impact of this accident, the applicant sustained grievous injuries as stated in para-5 of the claim petition. Consequently, the applicant has filed the present claim petition to recover compensation of Rs.10,00,000/- along with interest and costs from the opponents on various heads. A complaint was lodged at Kanbha Police Station vide I-C.R.No.0006/2020.

It is further case of the applicant that he was physically fit before the accident and did not have any kind of disability. After the accident, he was admitted to Care-Well Hospital, Kathlal, and thereafter, he was admitted to Sal Hospital, Ahmedabad for further treatment, and thereafter he was admitted to Care-Well Hospital, wherein he was admitted as an indoor patient for a long time. The applicant further states that at the time of accident, he was earning Rs.9,000/- per month by doing labour work.

[4] The notice of both the claim petitions was served upon the opponents. The opponent No.1 appeared through his Ld. Advocate and filed written statement at Exh.15 in MACP No.136/2021, wherein opponent No.1 denied all the allegations made in this both the claim petition. The opponent No.1 has also denied the facts with regard to age, income, injuries and fracture of the applicant and the applicant has been asked to prove the same with cogent documentary evidence. Hence, the opponent No.1 has prayed to dismiss the present claim petition with costs. The opponent No.1 has not filed any reply against the claim petition MACP No.135/2021.

Despite service of notice, opponent No.2 neither appeared before this Tribunal, nor filed a written statement in claim petition MACP No.135/2021.

The opponent No.3 appeared through its Ld. Advocate and filed written statement at Exh.9 in MACP No.135/2021, wherein opponent No.3 denied all the allegations made in this both the claim petition. The opponent No.3 has also denied the facts with regard to age, income, injuries and fracture of the applicant and the applicant has been asked to prove the same with cogent documentary evidence. It was further submitted that the applicant has produced police papers in support of his claim petition and from all these documents it transpires that the opponent No.2 was driving his motorcycle on left side of the road in moderate speed and care full manner at the same time the

driver of the rickshaw who drive his rickshaw in negligent manner and collided with said the motorcycle and the alleged accident has taken place because of sole negligent driving of rickshaw driver. It was further submitted that the driver of the rickshaw was driving his rickshaw in negligent manner and dashed with said motorcycle which was going with moderate speed to its correct side of the road. Thus the alleged accident has taken place because of sole negligent driving of driver of the rickshaw. Therefore, opponent Nos.2 and 3 are not liable to pay any compensation to the applicant. It was further submitted that at the time of alleged accident the driver of motorcycle was not possessing any driving license to drive the vehicle which he was driving at the time of alleged accident. Therefore, applicant is not entitle to get any compensation for his own negligent driving as well as for violating traffic rules. Hence, the opponent No.3 has prayed to dismiss the present claim petition with costs.

MACP No.135/2021

[5] From the above pleadings, the following issue vide Exh-14 has arisen for determination of the present claim petition.

ISSUES

- 1) Whether the applicant proves that he has sustained injuries because of rash and negligent driving on the part of the driver of the vehicle involved in the accident?
- 2) Whether the applicant is entitled to get compensation ? if yes, what amount and from whom ?

3) What order and award ?

MACP No.136/2021

5.1 From the above pleadings, the following issue vide Exh-9 has arisen for determination of the present claim petition.

ISSUES

- 1) Whether the applicant proves that he has sustained grievous injuries because of rash and negligent driving on the part of the driver of the vehicle involved in the accident?
- 2) Whether the applicant is entitled to get compensation ? if yes, what amount and from whom ?
- 3) What order and award ?

My findings to the above issues for both the claim petitions are as under : -

- 1) In partly affirmative.
- 2) In partly affirmative, as per final order.
- 3) As per final order.

:: REASONS ::

[6] The applicants of both the claim petitions have submitted following oral and documentary evidence in support of the claim petitions.

MACP Nos.135/2021 & 136/2021

A) ORAL EVIDENCE :

Sr. No.	Deponent	Exh.
1	Affidavit of applicant viz. Nareshbhai Baldevbhai Parmar in MACP No.135/2021	20
2	Affidavit of the applicant viz. Ashokbhai Kalabhai Solanki in MACP No.136/2021	19

MACP No.135/2021 & 136/2021**B) DOCUMENTARY EVIDENCE :**

Sr. No.	Description of Documents	Exh./ Mark
1	Copy of complaint in MACP No.136/2021	26
2	Copy of panchnama in MACP No.136/2021	27
3	Copy of R.C.Book of Rickshaw No.GJ.27.Y.6942	28
4	Copy of D.L. of Rickshaw driver	29
5	Copy of Treatment Certificate of applicant in MACP No.136/2021	30
6	Copy of Aadhar Card of the applicant in MACP No.136/2021	31
7	Disability Certificate of the applicant in MACP No.136/2021	32
8	Copy of complaint in MACP No.135/2021	34
9	Copy of panchnama in MACP No.135/2021	38
10	Copy of R. C. Book of Motorcycle No.GJ.07.BJ.3823	39
11	Copy of Treatment Certificate of the applicant in MACP No.135/2021	40
12	Copy of Insurance Policy of Motorcycle No.GJ.07.BJ.3823	41

13	Medical Bill in MACP No.135/2021	42
14	Medical Bill in MACP No.136/2021	43
15	Medical Bill in MACP No.136/2021	24/2

6.1 The opponent No.3 has submitted following documentary evidence in support of the claim petition.

A) DOCUMENTARY EVIDENCE:

Sr. No.	Deponent	Exh.
1	Copy of charge-sheet	46/1

[7] That the Ld. Advocate for the applicants has filed closing pursis vide Exh.45. The opponent Nos.1 & 2 in MACP No.135/2021 neither appeared before this tribunal nor submitted any evidence in support of this case.

[8] I have heard the Ld. Advocate for the applicants and learned Advocate for the opponent No.3 and perused oral as well as documentary evidence produced on record.

ISSUE NO. 1 :

[9] It is pertinent to note that, while deciding the point of negligence it has to be born in mind that, the negligence is required to be proved in claim petition under Section 166 of M.V.Act only on the touch on of the preponderance of probability and not beyond doubt. The above referred ratio is laid down by the *Hon'ble Apex*

Court in the cases of a "Bimla Devi Vs. H.R.T.C. Reported in AIR 2009 SC 2819 and Permeshwari Devi vs. Amirchand reported in 2011 (11) SCC 635.

9.1 It has been stated in the claim petition MACP No.135/2021 that on 12.01.2020, he was travelling as a pillion rider on a motorcycle bearing Registration No.GJ.07.BJ.3823. The said motorcycle was being driven by opponent No.2, ownership of him, at full speed in a rash and negligent manner. At approximately 8:00 a.m., when he reached the place of the incident, opponent No.1, i.e., driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942, ownership of him, came driving at an excessive speed in a rash and negligent manner and collided with the said motorcycle. Due to the impact of this accident, the applicant sustained grievous injuries. The aforesaid facts have been reiterated in the affidavit of the applicant at Exh.20. The applicant was cross-examined by Ld. Advocate for opponent No.3, during which he admitted that he lodged the complaint. He further admitted that the complaint was read over to him and he signed thereunder. He further submitted that the manner in which the accident occurred has been stated in the said complaint. He is shown a copy of the F.I.R. at Exh.3/1, which is an online copy of the F.I.R., and both parties have no objection to marking it, and therefore, it is marked as Exh.34. He further admitted that no bone of his body was fractured in the accident. He further admitted that, at the time of the accident, no

documentary evidence showing his exact age, income, or occupation has been produced in this case. He further admitted that no supporting documents have been submitted regarding the expenses mentioned in his affidavit. He further admitted that the simple injuries sustained by him in the accident have not resulted in any permanent physical disability.

- 9.2 It has been stated in the claim petition MACP No.136/2021 that on 12.01.2020, he was riding his motorcycle bearing Registration No.GJ.07.BJ.3823 at full speed in a rash and negligent manner. At approximately 8:00 a.m., when he reached the place of the incident, opponent No.1, i.e., driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942, ownership of him, came driving at an excessive speed in a rash and negligent manner and collided with the said motorcycle. Due to the impact of this accident, the applicant sustained grievous injuries. The aforesaid facts have been reiterated in the affidavit of the applicant at Exh.19. The applicant was cross-examined by Ld. Advocate for opponent No.1, during which he admitted that he studied up to Standard-8. He can read and write. He admitted that he read the affidavit and signed it, and the contents stated therein are true and correct. He further admitted that both vehicles collided head-on. He further admitted that at the time of the accident, he did not have a driving licence to ride the motorcycle. He states that in the accident, he sustained injuries on his head, arm and leg. He further admitted that, apart from the bills produced, there is no

other supporting evidence of expenses. At present, he is doing labour work. He states that at the time of the accident, he was going for labour work and he used to earn Rs.100/- to Rs.150/- per day. He further admitted that he used to get labour work for about 15 days in a month.

In support of the claim petition, the applicants have produced a copy of the complaint at Exhs.26 & 34 and a copy of the panchnama at Exhs.27 & 38. It appears from the complaint and charge-sheet that these were filed against the driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942. It also appears from the panchnama that both vehicles collided head-on. Moreover, the place of the incident is also mentioned in the panchnama. It also appears from the panchnama that the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942 and the motorcycle bearing Registration No.GJ.07.BJ.3823 were found in damaged condition at the place of incident. The registration number of both the C.N.G. Rickshaw and the motorcycle are also mentioned in the panchnama. The damage to the C.N.G. Rickshaw is estimated at Rs.10,000/- and the damage to the motorcycle is estimated at Rs.15,000/-. Furthermore, it appears from the panchnama that bloodstains were found at the place of the incident. No wheel marks were found at the place of incident. It appears from the complaint and charge-sheet that these were filed against the driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942. The record shows that the

applicant in MACP No.136/2021 admitted during his cross examination that C.N.G. Rickshaw and motorcycle collided head on. It appears from the evidence on record that the opponent No.2, i.e., the rider of the motorcycle, did not possess a valid driving licence to drive the motorcycle at the time of the accident. Therefore, it is proved that the opponent No.2, i.e., the rider of the motorcycle bearing registration No.GJ.07.BJ.3823 was not holding a valid and effective driving licence at the time of the accident. It is important to note that the driver of the offending vehicle, C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942, did not step into witness box to narrate the circumstances under which the accident occurred. Therefore, an adverse inference can be drawn against the driver of the said rickshaw.

This Tribunal comes to the conclusion that the accident occurred due to contributory negligence of the driver of the both the rickshaw and the motorcycle, as both the vehicle collided head-on. If the driver of both the vehicle would have taken proper care and drove their vehicle in moderate speed with due care, they would have avoided the accident, but they could not do so, which resulted into occurrence of the accident. The complaint and charge-sheet have been filed against the driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942. Therefore, the driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942 is considered more negligent in causing the accident.

After considering both oral and documentary evidence, I am of the opinion that, the driver of the C.N.G. Rickshaw bearing Registration No.GJ.27.Y.6942 is 70% negligent, while, the rider of the motorcycle bearing Registration No.GJ.07.BJ.3823 is 30% negligent in causing the accident. In view of the above referred discussions, I decide issue No.1, in partly affirmative.

MACP No.135/2021

ISSUE NO.2 :

[10] As discussed in Issue No.1, it is proved that the impugned accident was occurred due to contributory negligence of the driver of the both the rickshaw and the motorcycle. Hence, the applicant is entitled to get the compensation, but how much amount the applicant is entitled to get as compensation? Considering this aspect, if we see the evidences on record, the applicant had claimed a sum of Rs.25,000/-. The applicant has produced injury certificate at Exh.40, which shows that there is no fracture or permanent partial disablement. The applicant admitted in his cross-examination that the simple injuries sustained by him in the accident have not resulted in any permanent physical disability. Therefore, in view of the oral as well as documentary evidence on the record, it is clear that the applicant sustained only simple injuries and not a fracture. The applicant has not suffered the permanent or partial disablement due to the said accident. Since the applicant failed to produce

disability certificate, the applicant is not entitled for the future loss of income. However, based on the oral as well as documentary evidence, it is established that the impugned accident was occurred due to contributory negligence of the driver of the both the rickshaw and the motorcycle. Consequently, the applicant is entitled for Rs.10,000/- towards pain, shock and suffering. The applicant has produced the medical bill of Rs.4,038/- at Exh.40 showing expenditure incurred for his treatment. Looking to the nature of the injury and the treatment taken by the applicant, this Tribunal awards to the applicant a rounded amount of Rs.4,100/- towards medical expenses.

The applicant is awarded amount of compensation under following different heads :-

Medical Bill	Rs. 4,100/-
Pain, Shock and Suffering	Rs. 5,000/-
Total	Rs. 9,100/-

Hence, the applicant is entitled of Rs.9,100/- (Rupees Nine Thousand One Hundred only).

MACP No.136/2021

ISSUE NO.2 :

INCOME:

[11] The applicant admitted during his cross-examination that he was earning Rs.100/- to 150/- per day by doing labour work. He

further admitted that he used to get labour work for about 15 days in a month. Therefore, based on the above facts and considering the nature of the work performed by the applicant, his monthly income is deemed to be Rs.2,250/-, which amount to Rs.27,000/- per annum.

AGE AND MULTIPLIER:

11.1 So far as the age of applicant is concerned, the applicant has produced Aadhar Card at Exh.31, which indicates the date of birth of the applicant as 01.01.1981. The accident occurred on 12.01.2020. Hence, this Tribunal can be considered the age of the applicant about 39 years at the time of accident. This Tribunal goes, by the aforesaid statement and as per the *Sarla Verma Vs. Delhi Transport Corporation AIR 2009, SC 3104*, the multiplier of “15” would apply in this case.

FUTURE LOSS OF INCOME:-

11.2 Applicant has produced disability certificate at Exh-32. In the disability certificate, the doctor opined that applicant sustained permanent physical impairment in relation to whole body is 33%. However, both the parties have agreed to assess permanent disability of the applicant as 22% body as a whole at Exh.25. In view of above referred discussion, applicant is entitled following amount under the head of loss of future income: (Rs.27,000/- x 15 multiplier x 22% disability) = Rs.89,100/-.

MEDICAL EXPENSES :-

11.3 The applicant has submitted medical bills amounting to Rs.2,91,850/- at Mark-24/2 & Rs.1,35,172/- at Exh.43, showing the expenditure incurred on his treatment. Looking to the nature of injuries and treatment taken by the applicant, this Tribunal awards to the applicant a sum of Rs.4,27,022/- towards medical expenses.

PAIN, SHOCK AND SUFFERING :-

11.4 It is stated by the applicant in his affidavit at Exh.19 that, in the accident, he sustained serious injuries and as per Exh.30 & Exh.32, it is proved that applicant got injuries. On perusing it, it is proved that applicant sustained injury in the present vehicular accident. Hence, considering these, it will be just to award Rs.10,000/- to applicant for Pain, Shock and Suffering.

ATTENDANT, SPECIAL DIET & TRANSPORTATION CHARGES:-

11.5 Considering the period of hospitalization of the applicant for the medical treatment as well as injuries sustained by the applicant, and specially noting the fact that the applicant was constrained to take his medical treatments and considering the fact that the accident has occurred in the year 2020, the applicant is also entitled for Rs.10,000/- under the head of attendant, special diet & transportation charges.

ACTUAL LOSS OF INCOME

11.6 So far as actual loss is concerned, it appears from the disability certificate and treatment certificate that the applicant has sustained injuries. As per say of applicant, he has taken rest for long period and also remained bed-ridden for certain period and therefore, it can be believed that he must have not carried out his work at-least for two months. Hence, applicant is entitled to get Rs.4,500/- [2,250 x 2] towards actual loss of income.

The applicant is awarded amount of compensation under following different heads :-

Future loss of income	Rs. 89,100/-
Medical Expenses	Rs. 4,27,022/-
Pain, Shock and Suffering	Rs. 10,000/-
Transportation and Sp. Diet and attendant charges	Rs. 10,000/-
Actual loss of income	Rs. 4,500/-
Total	Rs. 5,40,622/-

Hence, the applicant is entitled to Rs.5,40,622/- (Rupees Five Lakhs Forty Thousand Six Hundred Twenty Two Only).

[12] **LIABILITY** :~

MACP No.135/2021

So far as the liability to pay the compensation is concerned, as discussed hereinabove under Issue No.1, the incident occurred due to the contributory negligence of the driver of the motorcycle bearing Registration No.GJ.07.BJ.3823 and opponent No.1, i.e.,

the driver of Rickshaw bearing Registration No.GJ.27.Y.6942. Thus, as per the above discussions, opponent No.1, i.e., the driver of the rickshaw bearing Registration No.GJ.27.Y.6942, is held to be contributory negligent to the extent of 70%, whereas the driver of motorcycle is held to be contributory negligent to the extent of 30% in causing the aforesaid accident. The copy of R. C. Book of rickshaw at Exh.28 shows that opponent No.1 is the driver-cum-owner of Rickshaw bearing Registration No.GJ.27.Y.6942. There is no evidence on record to show that the offending vehicles rickshaw was insured at the time of the accident. Further, the copy of R. C. Book of the motorcycle at Exh.39 shows that opponent No.2 is the driver-cum-owner of the motorcycle bearing Registration No.GJ.07.BJ.3823. As per the Insurance Policy of the motorcycle bearing Registration No.GJ.07.BJ.3823 produced at Exh.41, the Insurance of the motorcycle was valid from 27.09.2019 to 26.09.2020, and since the accident occurred on 12.01.2020, the insurance policy was in force at the relevant time. The learned Advocate for the opponent No.3-Insurance Company has not disputed the fact that the motorcycle was insured with the opponent No.3 at the time of accident.

In MACP No.135/2021, the applicant, Nareshbhai Baldevbhai Parmar, was travelling as a pillion rider. As the applicant was not a tort-feasor, he is third party. It is the case of composite negligence, and therefore, the applicant is entitled to

recover the compensation from all or any of the tort-feasor in MACP No.135/2021. Consequently, in MACP No.135/2021, the opponent Nos.1 to 3 are jointly and severally liable to pay amount of compensation to the applicant.

MACP No.136/2021

So far as the liability to pay the compensation is concerned, as discussed above in Issue No.1 that, the incident had occurred due to contributory negligence of applicant, i.e., driver of motorcycle bearing Registration No.GJ.07.BJ.3823 and opponent, i.e., driver of Rickshaw bearing Registration No.GJ.27.Y.6942. Thus, as per the above discussions, opponent, i.e., the driver of the rickshaw bearing Registration No.GJ.27.Y.6942, is held to be contributory negligent to the extent of 70%, whereas the applicant himself i.e. the driver of motorcycle is held to be contributory negligent to the extent of 30% in causing the aforesaid accident. The copy of R. C. Book of the motorcycle at Exh.39 shows that the applicant is the driver-cum-owner of the motorcycle bearing Registration No.GJ.07.BJ.3823. The copy of R. C. Book of rickshaw at Exh.28 shows that opponent is the driver-cum-owner of Rickshaw bearing Registration No.GJ.27.Y.6942. There is no evidence on record to show that the offending vehicles rickshaw was insured at the time of the accident. Hence, as per the above discussion, the driver of the motorcycle, i.e., the applicant himself is held contributory negligent to the extent of 30% in causing the above referred

accident. Thus, in MACP No.136/2021, 30% of the total awarded amount of Rs.5,40,622/-, i.e. Rs.1,62,187/-, is deducted. After such deduction, the applicant is entitled to receive the remaining compensation of Rs.3,78,435/-. Hence, the opponent is liable to pay 70% of the compensation amount, i.e. Rs.3,78,435/-, to the applicant. Hence, I decide issues No.2 in partly affirmative.

[13] **INTEREST** :~

The awarded amount shall carry interest at the rate of 7.5% per annum from the date of the application till realization and for Issue No.3, following order is passed in the interest of justice :-

~: **ORDER** :~

MACP No.135 of 2021

- 1) The claim petition is hereby partly allowed.
- 2) The applicant is entitled to get compensation to the tune of Rs.9,100/- (Rupees Nine Thousand One Hundred only) from the present opponent No.1, who is liable to pay 70% awarded amount of compensation to the applicant, whereas, the opponent No.2 & 3, who are jointly and severally liable to pay 30% awarded amount of compensation to the applicant with the proportionate cost and with interest at the rate of 7.5% per annum, from the date of the claim petitions till realization.
- 3) Opponents are hereby directed to deposit awarded amount within 30 days of the order in BANK OF BARODA, MAIN

BRANCH, NADIAD A/C. No. 02900200000658 IFSC;
BARBONADIAD through RTGS or NEFT.

- 4) Deficit court fees stamp, if any, be recovered from the awarded amount and interim amount, if any, paid to the applicant be adjusted at the time of final disbursement.
- 5) The awarded amount is nominal amount. In the interest of justice, the awarded amount be paid to the applicant by account payee cheque.
- 6) Award be drawn accordingly in the above petition.

MACP No.136 of 2021

- 1) The claim petition is partly allowed.
- 2) The applicant is entitled to recover Rs.3,78,435/- (Rupees Three Lakhs Seventy Eight Thousand Four Hundred Thirty Five Only) from the present opponent with the proportionate cost and with interest at the rate of 7.5% per annum, from the date of the claim petitions till its realization.
- 3) The opponent is hereby directed to deposit awarded amount within 30 days of the order in BANK OF BARODA, MAIN BRANCH, NADIAD A/C. No. 02900200000658 IFSC; BARBONADIAD through RTGS or NEFT.
- 4) Deficit court fees stamp, if any, be recovered from the awarded amount and interim amount, if any, paid to the applicant be adjusted at the time of final disbursement.
- 5) After above deductions, 70% amount be deposited in the name of applicant, in any nationalized bank of the choice of the applicant,

for a period of **FIVE YEARS** and remaining amount of **30%** be paid to the applicant by Account Payee Cheque, after due verification.

- 6) The applicant will not be entitled to get any loan, advance or withdrawal or can create any in encumbrances on the aforesaid fixed deposit receipt without prior permission of this Tribunal. However, periodical interest accrued from time to time on the fixed deposits be paid to applicant.
- 7) Award be drawn accordingly.
- 8) Copy of this judgment be kept in MACP No.136 of 2021.

Signed and pronounced in the open Court today on 07th May, 2026.

Date :07.05.2026
Place: Kapadwanj.

(Kamleshkumar Somabhai Patel)
M.A.C.Tribunal (Auxi.)
Kheda at Kapadwanj.
Code No.GJ00532

HK