



Exh.

Received on

Registered on 12/01/2023

Decided on 22/04/2026

Duration Y M D

**BEFORE THE 8TH ADDITIONAL DISTRICT JUDGE AND MOTOR
ACCIDENT CLAIMS TRIBUNAL (AUX-8TH), KACHCHH – BHUJ.**

M.A.C.P. No. 23/2023

APPLICANT :-

SABBIR MAHAMAD SALIM MATHDA,

Age 47 18 years, Occu. Study,

R/o. Madina Nagar,

Motapir Road, Bhuj

(Amendment Carried out as per order
passed below Exh. 16)

Vs.

OPPONENTS :-

PARTIES OF MOTOR CYCLE

NO.GJ-12-EN-7189

1. **Jusab Mod Mathda,**
Age:- 68, Occupation : Retired,
Residing at : House No. 165,
Opp. Ala Hajrat Madresa,
Madina Nagar-2,
Motapir Road, Bhuj
2. **Alimamad Md Mathda,**
Aged: Adult, Occu. Owner,
Residing at : House No. 165,
Opp. Ala Hajrat Madresa,
Madina Nagar-2,
Motapir Road, Bhuj
3. **MEGMA HDI GENERAL INS.CO. LTD,**
Plot No. 311, Ward No. 12B,
Nr. LIC Building, MDS Encloure,
Office No. 3, Gandhidham-Kachchh

4. **Nodal Officer,**
MEGMA HDI GENERAL INS.CO. LTD,
Plot No. 311, Ward No. 12B,
Nr. LIC Building, MDS Enclore,
Office No. 3, Gandhidham-Kachchh

Claim u/s.164 of the M.V. Act for getting compensation of Rs.2,50,000/-....

APPEARANCE :

1. L.A. **Mr. M.A.Saiyad** for the claimant.
 2. Served but remained absent for opponents No.1 & 2
 3. L.A. **Mr. G.R.Prajapati** for the opponent No.3 & 4.
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-: JUDGMENT :-

1. The claimant has filed the claim petition under Section 164 of the Motor Vehicles Act, 1988 ('the M V (Amended) Act, 2019), claiming compensation of **Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand Only)** for the injuries sustained by him in the vehicular accident, dated 08.11.2022, which resulted into permanent partial disablement sustained, along with the costs and interest at the rate of 18% per annum from the date of petition till realization, against the opponents.

2. Brief facts of present claim petition are that, on 11.07.2023, the claimant was proceeding as pillion rider on the Motor cycle bearing Registration No.GJ-12-EN-7189 owned by opponent No. 2. The opponent No. 1 was driving the said Motor cycle in full speed and negligent manner and when they reached at the place of the accident, due to over speed, he lost control over the steering of the Motor cycle and dashed with Cow thereby accident has occurred wherein the claimant sustained serious injuries in the accident. Thus, claimant has filed present claim petition.

2.1 Though, the opponent Nos. 1 & 2 are duly served with the notices but they did not remain present nor filed written statement.

3. The opponent Nos. 3 & 4- Insurance Company and Nodal Officer has appeared through Ld. Advocate Mr. Prajapati and submitted the written statement at Exh.28 *interalia* denied the facts of the accident. It is denied the age, income and work of the claimant in *toto*. It is submitted that, driver of the Motor cycle was not holding valid and effective driving licence to drive the Motor cycle at the relevant time of the accident and therefore, Insurance Company is not liable to pay compensation to the claimant. It is denied the involvement of the Motor cycle in the accident. It is submitted that, no FIR has been filed by the claimant against the driver of Motor cycle in respect of the negligent driving. It is submitted that, pillion rider was not wearing protective headgear and due to their negligence, the accident occurred. It is therefore requested to dismiss the present claim petition.

4. Following issues are framed for the adjudication of this claim petition.

- (1) Whether the applicant proves that he was injured by rash and negligent act of the driver of vehicle involved in the accident ?
- (2) Whether applicant is entitled to compensation from the opponents or any of them ? if yes, what amount and from whom ?
- (3) What is order ?

5. My findings to the above issues are as under:-

- (1) In the affirmative.
- (2) As per the final order.
- (3) As per the final order.

:- REASONS :-

6. To substantiate his claim, the claimant has produced following oral and documentary evidence on record:

Oral Evidence:-

Exh. No.	Description of Document
21	An affidavit of claimant - Sabir Mahamad Salim Mathda under

	Order 18, R. 4 of C.P.C.
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Documentary Evidence:-

Exh. No.	Description of Document
30	Copy of M.L.C. Register Entry No. 524/2022
31	Panchanama of place of offence.
32	Statement of Opponent No. 1
33	R.C.Book of Motor cycle
7/3	Insurance Policy of Motor cycle
34	Discharge Summary
36	Aadhar Card of claimant
35	MRI Report
37	Medical Bills (Rs. 14,736/-)
38	Closing pursis
33	Closing pursis

ISSUE NO.1 & 2 COLLECTIVELY :

7. Heard Ld. Advocates for the parties and perused the record. Ld. Advocate for claimant has argued that, the accident has occurred due to the sole rash and negligent act on the part of the opponent No. 1 and rider/driver of the vehicle himself has made a statement before the Police that he was driving the said vehicle and same is produced at Exh. 32 and therefore, there is no any reason to believe that opponent No. 1 was not driving the vehicle. It is submitted that the claimant is entitled for the compensation as per the provisions of Section 164. It is submitted that, considering the prevailing market trend, interest may be awarded at the rate of 18% per annum. He has therefore prayed to pass appropriate award as per law.

7.1 Per contra, Ld. Advocate for the opponent No. 3- Insurance Company has argued as per their reply. It is submitted that, the claimnat have not proved that the factum of the accident and there is no any FIR. It is

submitted that claimant was not wearing the headgear. It is submitted that the claimant is shown as pillion rider on the Motor cycle in his father is shown as driver and as such, the factum of accident is in doubt. It is also submitted that, if this Tribunal, comes to the conclusion that, the Insurance Company is liable in that case, the interest be awarded at the rate of 6% per annum.

8. While deciding the point of negligence, it has to be borne in mind that, the present claim petition has been filed under Section 164 of M.V. (Amended) Act, 2019, the claimant is entitled to receive compensation without proving negligence or wrongful act by the vehicle owner or driver. Hence, in view of the above provision, no negligence is required to be proved.

9. Further, it is the case of the claimant that, on 11.07.2023, the claimant was proceeding as pillion rider on the Motor cycle bearing Registration No.GJ-12-EN-7189 owned by opponent No. 2. The opponent No. 1 was driving the said Motor cycle in full speed and negligent manner and when they reached at the place of the accident, due to over speed, he lost control over the steering of the Motor cycle and dashed with Cow thereby accident has occurred wherein the claimant sustained serious injuries in the accident and has relied upon the Discharge summary in respect of the injuries sustained to him which resulted into disability.

10. I have also perused the abstract of Discharge Summary at Exh. 34 wherein it is mentioned that, claimant sustained injuries in the motor accident and he took treatment from the Accord Hospital, Bhuj. Further, the claimant has produced panchanama of place of offence at Exh. 31. On perusal of the said panchanama, it appears that, the mark of application of break was found and thus, it can safely be said that, the rider of the Motor cycle has driven the said vehicle in rash and negligent manner. Further, the motor cycle has damaged in the accident. Further, the claimant has produced the statement at Exh. 32 wherein he has stated that, on 08.11.2022, when they returned from Khengar park to home, suddenly a cow came on the road, to avoid the

collusion with Cow, he applied break and thus, the Motor cycle got slipped thereby accident occurred wherein claimant sustained serious injuries and he has been shifted to Hospital for treatment. It also appears from the discharge summary that, the claimant has sustained injuries like Brain Injury and Hemorrhagic contusion and he has been treated as indoor patient from 08.11.2022 to 09.11.2022.

10.1 Deposition of claimant is recorded at Exh.21. Upon bare perusal of above referred oral evidence it appears that the accident took place on the road. However, Ld. Advocate for the Insurance Company has argued that, about the non involvement of the vehicle but there is no such proof from the insurance company to disprove the facts emerged on records. The evidences produced on record shows the involvement of the vehicle in the vehicular accident. Further, as per the provision of sub-Section 1 of Section 164 of M.V. (Amended) Act, the claimant shall not be required to plead or establish that, the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person. **Therefore, I decide Issue No.1 accordingly.**

ISSUE NO.2 :

11. The applicant - Sabir Mahmad Salim Mathada has categorically stated on oath (Exh.21) that, at the time of accident, claimant was 17 years. On perusal of the Discharge summary (Exh 34) the age of claimant was 15 Years and no other evidence is produced to corroborate this age. The claimant has not produced disability Certificate. However, he has produced the MRI Report, Discharge summary and from this report, it clearly appears that there Tiny hemorrhagic contusion in left anterior frontal lobe and fracture of frontal bone of left side and hence, it can be said that the injured has sustained gravious injuries in the accident.

12. As held hereinabove since the incident in question took place on 08.11.2022 and the claimant has filed the present claim petition under Section 164 of M.V.(Amended) Act, 2019. As per the settled principal laid down in case of *Gohar Mohammed Vs. Uttar Pradesh State Road Transport Corporation and others, in Civil Appeal No. 9322 of 2022*, judgment Dtd. 15.12.2022 wherein in Para No. 36, it is held that,

“164. Payment of compensation in case of death or grievous hurt, etc. -
(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section”

12.1 Therefore, as per the aforesaid provisions of the amended sub-Section 1 of Section 164 of M.V.Act, in case of grievous hurt, compensation payable shall be **two and half lakh** rupees to the victim. Therefore, considering the provisions of section 1 of Section 164 of the M.V. (Amended) Act, 2019, I hold that, the claimant is entitled for **Rs.2,50,000/-** towards the compensation.

LIABILITY :

13. As discussed hereinabove, the accident has occurred by involvement of the driver/ rider of the Motor cycle bearing Registration No. GJ-12-EN-7189. In this case, the opponent No. 1 is the driver, opponent No. 2 is the owner and opponent No. 3 is the Insurance Company and opponent No. 4

is the Nodal Officer of the offending Motor cycle. The claimant has produced the Insurance Policy of offending vehicle at Mark 7/3 from which it appears that, the Insurance Policy of the offending vehicle was valid and effective at the relevant time of the accident. Insurance company has filed their written statement vide Ex. 28, wherein at Para 5 they have admitted the interest of Alimamad Mod Mathada in Motor Cycle No. GJ-12--EN-7189 was covered at the material time under the Police of Insurance issued by the opposite party. Thus, Insurance Company has not raised any dispute about the coverage of the Insurance on the date of the accident and they have not produced any evidence to disown their liability. Therefore, opponent Nos. 1 to 4 are liable to pay compensation to the claimant jointly and severally.

INTEREST :

14. The claimant has prayed for interest at the rate of 18% per annum. On the other hand, Ld. Adv. for the opponent has argued to award interest at the rate of 6% per annum. Tribunal has a power to deal with rate of the interest. Considering the prevailing rate of interest in the Nationalized Banks, current trend of economy, date of occurrence, this Court is of the considered view that it would be just and proper to award interest at the rate of 7% per annum. Hence, it is held that the petitioner is entitled to interest at the rate of 7% on the amount of compensation, from the date of filing of the present claim petition till its realization. Therefore, the Issue No.2, is answered accordingly and the following final order is passed in the interest of justice in respect of Issue No. 3.

:- ORDER :-

- (1) The present Motor Accident Claim Petition is partly allowed.
- (2) The claimant is entitled to recover the amount of **Rs.2,50,000/- (Rupees Two Lacs Fifty Thousand Only)** from **opponent Nos.1 to 4 jointly and severally**, along with proportionate costs and interest at the rate of **07%**

(Seven Percentage) per annum from the date of filling the claim petition, till the amount is realized.

- (3) The aforesaid opponents are directed to deposit the awarded amount within 30 days. Out of the amount deposited in the office of this Tribunal, deficit Court Fees, if any, be deducted first from the amount.
- (4) Out of the deposited amount, 60% shall be invested in fixed deposit scheme in any Nationalized Bank in the name of claimant for a period of Five years and remaining 40% amount be paid by way of Account Payee cheque to the said claimant.
- (5) The claimant shall not be entitled to get any loan, advance or withdrawal or can create any encumbrances on the aforesaid FDR without prior permission of this Tribunal. However, interest accrued from time to time on the said FDR may be paid in cash to the claimant.
- (6) **The Claimant/s are directed to submit following details within one week from today:**
 1. Name of the claimant(s)/ victim(s) with address
 2. Name of the Bank & Branch Bank IFSC Code Account No(s). of the claimant(s)/victim(s)
 3. The first page of the bank pass-book, which will compulsorily contain the photograph of the claimant(s)/victim(s), duly attested by the Bank concerned, should be made available.
 4. Wherever the claimant(s)/victim(s) are impleaded as respondents, before the claims tribunal, their account details, as above, will have to be furnished.
- (7) The insurance companies and transport corporations and such other entities shall deposit the amount as directed in circular dated 27.12.2021 in Account Name:- **MACT District Court**

BHUI, Account No.00000040691817448, IFS Code: SBIN0000334 and on such deposits being made, the insurance companies and transport corporations and such other entities shall submit a letter to the Registry of District Court enclosing a copy of the said bank advice, in prescribed format as above, as per which the deposit was made to the bank account of the Claims Tribunal, to enable the Claims Tribunal to keep tab on the deposits made and the MACPs for which they were made, which is a fundamental need for a smooth implementation. The Payment advice for remittance of compensation is as under:

PAYMENT ADVICE FOR REMITTANCE OF
COMPENSATION From:

..... Bank

To:

..... Court

We confirm remittance of compensation as follows on instructions of (insurance company/transport corporation):-

1. MACP Number
2. On the file of (Claims Tribunal Name)
3. Place
4. Date of award
5. Amount Deposited
6. Income Tax Deduction at Source, if any Unique Transaction Reference (UTR) No.

7.1 The Insurance Companies, Transport Corporations and such other entities making such deposit, shall also send a copy of the payment advice in the aforesaid Clause to the Claims Tribunal concerned and serve a copy of the same on claimants or their counsel as the case may be.

7.2 In view of the ratio laid down by Hon'ble Gujarat High Court, in the case of The Oriental Insurance Co. Ltd. V/s. Chief Commissioner of Income Tax(TDS) in Regular Special

Application No.4800/2021, decided on 05/04/2022, the interest awarded in the motor accident claim cases from the date of the Claim Petition till the passing of the award, or in the case of Appeal, till the judgment of the High Court in such appeal, would not be exigible to tax, not being an income. This position would not change on account of clause (b) of Section 145A of the Act as it stood at the relevant time amended by Finance Act, 2009, which provision now finds place in sub-section (1) of Section 145B of the Act. Neither clause (b) of Section 145A, as it stood at the relevant time, nor clause (viii) of sub-section (2) of Section 56 of the Act make the interest chargeable to tax, whether such interest is income of the recipient or not. Section 194A of the Act is only a provision for deduction of tax at source. Any provision for deduction of tax at source in the said section would not govern the taxability of the receipt. The question of deduction of tax at source would arise only if the payment is in the nature of income of the payee. Further, the Insurance Companies or the owners of the motor vehicles depositing the requisite amount in due compliance with the awards of the Motor Accident Claims Tribunals shall deposit the full amount with the Tribunal and shall not deduct tax u/s 194A of the Income Tax Act on the interest awarded by the Motor Accident Claims Tribunal.

Award be drawn accordingly.

Signed and pronounced in the open Court today i.e. 22nd April, 2026.

Dtd.22/04/2026
Place: Bhuj

(Tushar N. Khandhadiya)
8th Additional District Judge &
M.A.C. Tribunal (Auxi),
Bhuj-Kachchh, GJ00953

/Rajesh Vaghela/