



Exh. 44
 Received on 08/04/2023
 Registered on 08/04/2023
 Decided on 12/05/2026
 Duration Y M D
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**BEFORE THE 6TH ADDITIONAL DISTRICT JUDGE AND MOTOR
 ACCIDENT CLAIMS TRIBUNAL
 (AUX-6TH), KACHCHH – BHUJ.**

M.A.C.P. No. 156/2023

APPLICANTS :-

**LEGAL HEIRS OF DECEASED
 JADEJA KANUBHA CHANUBHA,**

- 1. JADEJA KUSUMBA KANUBHA,**
Age 50 years, Occupation : Household,
- 2. JADEJA SURPALSINH KANUBHA,**
Age : 34, Occu. Labourer,
- 3. JADEJA GIRIRAJSIKH KANUBHA,**
Age : 29, Occu. Labourer,
All R/o. Village: Rampar,
Tal. Abdasa-Kachchh

Vs.

OPPONENTS :-

**PARTIES OF MOTOR CYCLE NO.
 GJ-12-EQ-6377**

- 1. ABDULKARIM OSMAN TURIYA,**
Age:- Adult, Occupation : Business,
R/o. Village: Rampar,
Tal. Lakhpat-Kachchh

2. MEGMA HDI GENERAL INS.CO.LTD

Office at Plaza Center,
2nd Floor, Plot No. 17, Sector 8
Tagor Road, Gandhidham

**3. NODAL OFFICER,
MEGMA HDI GENERAL INS.CO.LTD**

Office at Plaza Center,
2nd Floor, Plot No. 17, Sector 8
Tagor Road, Gandhidham

**PARTIES OF TRACTOR NO.
GJ-12-K-3283**

4. SUNIL KANJI KOLI,
Aged: Adult, Occu. Business,
R/o. Village: Goyla,
Tal. Abdasa-Kachchh

4. BHACHHU TRIKAM CHHANGA,
Aged: Adult, Occu. Business,
R/o. Village: Dhaneti,
Tal. Bhuj-Kachchh

**Claim u/s.164 of the M.V. Act for getting compensation of
Rs.5,00,000/-....**

A P P E A R A N C E :

1. L.A. **Mr. M.R.Lakhani** for the claimants.
2. Opponents No.1- Ex-parte.
3. L.A. **Mr. G.R.Prajapati** for opponents No. 2 & 3.
4. L.A. **Mr. P.B.Siju** for the opponent No.4.
5. L.A. **Mr.V.K.Gor** for the opponent No. 5.

-: J U D G M E N T -:

1. The present 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.5,00,000/- for the fatal injuries sustained by deceased Jadeja Kanubha Chanubha in the vehicular accident, dated 20.03.2023, along with the costs and interest at the rate of 18% per annum from the date of petition till realization, against the opponents.

1.1 It is pertinent to note that, earlier the applicant has filed the application for getting compensation from the opponent under Section 166 of M.V.Act but during the proceeding of the present claim petition, the Ld. Advocate for the applicant has filed application at Exh. 40 and prayed to convert the present claim petition from 166 to 164 of MV Act and same was granted by the Ld. Tribunal and therefore, the present claim petition is being proceeded under Section 164 of M.V.Act.

2. *Brief facts of present claim petition are that,* on 20/03/2023, the deceased Kanubha Chanubha Jadeja was proceeding on the Motor cycle bearing Registration No.GJ-12-EQ-6377 as pillion rider along with his friend. The friend of the deceased was riding the Motor cycle No.GJ-12-EQ-6377 in full speed, rash and negligent manner. When they reached at the place of accident, suddenly a jump was appeared, the Motor cycle was slipped and on the back side, one Tractor No.GJ-12-K-3283 was came in full speed, and due to over speed he lost control over the steering and thus, the Tractor run over the deceased, as a result, the deceased sustained serious injuries and he succumbed due to it. Thus, claimant has filed present claim petition for getting compensation from the opponents under Section 164 of M.V.Act.

2.1 Upon service of notices, the opponent No. 1 did not appear and therefore, the present claim petition is proceeded ex-parte against him. The opponent No. 2& 3 appeared through Ld. Advocate Mr.

G.R.Prajapati and filed written statement at Exh. 35 interalia denied the fact of an accident. It is submitted that, the driver of Motor cycle No.GJ-12-EQ-6377 was not holding valid and effective driving licence and therefore, there is clear breach of terms and condition of the Insurance Policy. It is submitted that, deceased was traveling as a pillion rider on the Motor cycle who was not wearing of protective headgear and due to that he sustained injuries and thereby there is breach of provision of Section 129 of M.V.Act and hence, the Insurance Company should be exonerated. It is submitted that, the present claim petition is barred by non joinder of necessary party. It is submitted that, accident took place due to sole negligence on the part of driver of Tractor No.GJ-12-K-3283. It is therefore prayed to exonerate the Insurance Company.

2.2 The opponent No. 4 appeared through Ld. Advocate Mr. P.B.Siju and filed written statement at Exh. 19 interalia denied the fact of an accident. It is denied the negligence on the part of opponent No. 4. It is submitted that, if any negligence would ascertain then the opponent No. 2 and 3 are liable to pay compensation.

2.3 The opponent No. 5 appeared through Ld. Advocate Mr. V.K.Gor and filed written statement at Exh. 18 interalia denied the fact of the accident. It is denied the age, income and occupation of the deceased. It is denied the negligence on the part of driver of Tractor. He has submitted that, he had already sold the vehicle and therefore, no negligence came on their shoulder.

3. Ld. Tribunal had framed the following issues at Exh. 21 that,

[1] Whether the petitioner proves that alleged death caused due to the use of the Motor vehicle ?

[2] Whether petitioner proves that they are entitled for any compensation from the opponents? If yes, what amount of compensation should be allowed ?

[3] What is order ?

4. 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 :-

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

Oral Evidence:-

Exh. No.	Description of Document
23	An affidavit of Jadeja Girirajsinh Surpalsinh

Documentary Evidence:-

Exh. No.	Description of Document
24	FIR
25	Panchanama of place of an offence
26	P.M. Report
27	Final Report
28	Driving Licence
29	R.C.Book of vehicle No.GJ-12-EQ-6377
30	Insurance Policy of Motor cycle
31	R.C.Book of Tractor

ISSUE NO.1 & 2 COLLECTIVELY :

6. Heard Ld. Advocates for the parties and perused the record. Ld. Advocate for claimant has argued that, the present application is filed U/s. 164 of M.V.Act (Amended, 2019) and thus, as per the Sub- Section 2 of Section 164 establishes a no-fault liability framework. It allows claimants to receive compensation without needing to prove negligence or wrongful act by the vehicle owner or driver. It is submitted that, the claimant has sustained serious injuries in the accident as such, he has passed away. It is further submitted that, as per the sub-Section 1 of Section 164 of M.V. Amended Act, the owner of the Motor vehicle or the authorised insurer shall be liable to pay in case of death or grievous hurt due to any accident arising out of the use of the motor vehicle, a compensation, or a sum of five laks rupees in case of death or two and half lakh rupees in case of grievous hurt to the legal heirs of the victim, as the case may be. Hence, he has prayed to award Rs. 5,00,000/- to the claimants.

6.1 Upon perusal of the Rojkam, it appears that, the right to argue of opponent No. 4 & 5 was closed. Per contra, Ld. Advocate for Insurance Company has argued that, FIR and charge sheet has been filed against the driver of the Tractor No.GJ-12-K-3283 i.e. opponent No. 4 & 5 and thus, the opponents No. 2 & 3 are not liable to pay compensation to the claimants.

7. 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 claimants are entitled to receive compensation without needing to prove negligence or wrongful act by the vehicle owner or driver. Hence, in view of the above provision, no negligence is required to be proved.

8. Further, it is the case of the claimant that, on 20/03/2023, the deceased Kanubha Chanubha Jadeja was proceeding on the Motor cycle bearing Registration No.GJ-12-EQ-6377 as pillion rider along with his friend. The friend of the deceased was riding the Motor cycle No.GJ-12-EQ-6377 in full speed, rash and negligent manner. When they reached at the place of accident, suddenly a jump was appeared, the Motor cycle was slipped and on the back side, one Tractor No.GJ-12-K-3283 was came in full speed, and due to over speed he lost control over the steering and thus, the Tractor run over the deceased, as a result, the deceased sustained serious injuries and he succumbed due to it.

9. Further, I have perused the FIR which is produced at Exh. 24 from which it appears that, the same has been filed by Sureshsinh Gopalji Jadeja against the driver of Tractor bearing Registration No.GJ-12-K-3283. It also appears from the said document that, driver of the Tractor bearing Registration No.GJ-12-K-3283 was driving the said vehicle on negligent manner. Ahead on the road, he struck a Motor cycle No.GJ-12-EQ-6377 driven by Abdul Karim Osman Turiya, and deceased Kanubha Chanubha Jadeja who was sitting behind him, fell onto the road from the Motor cycle. The wheels of the tractor run over him, causing serious injuries that resulted in his death. The claimants have relied upon the panchanama of place of an offence which is produced at Exh. 25 from which it appears that, the wheel mark of Tractor was found. It also appears that, the driver of the Motor cycle had took overtake from the Tractor but he lost control over the steering and the Motor cycle went off road, the deceased fell down from the Motor cycle and thereafter, the Tractor came on back side run over the deceased and he succumbed due to it. The claimants have relied upon the P.M. Report of deceased at Exh. 26 from which it appears that, deceased sustained serious injuries and he succumbed due to it. Further, the claimants have relied upon the Final

Report /Charge sheet at Exh. 27 from which it appears that, after completion of investigation, the charge sheet has been filed against the driver of Tractor.

9.1 Further, deposition of claimant is recorded at Exh.23. The bare perusal of above referred oral evidence depicts the fact that, he was not eye witness of an accident and therefore, he is unable to say who is negligent for an accident.

However, as per the provision of sub-Section 1 of Section 164 of M.V.[Amended] Act, the claimants 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 vehicles or of the vehicle concerned or of any other person. Therefore, I decide Issue No.1 accordingly.

ISSUE NO.2 :

10. The applicant- Girirajsinh Surapalsinh egorically stated on oath (Exh.23) that, at the time of accident, the deceased was earning Rs.25,000/- *per annum* by doing agricultural activity. So far as age of the deceased is concerned, bare perusal of the P.M. Report (Exh 26) depicts the age of claimant was 50 Years. Therefore, I hold that the age of the deceased was 50 years at the time of accident.

11. As held hereinabove since the incident in question took place on 20.03.2023 and the claimant have filed the present claim petition under Section 164 of M.V.[Amended] Act, 2019 in respect of death of deceased Kanubha Chanubha Jadeja due to serious injuries in the vehicular accident. 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”

11.1 Therefore, as per the aforesaid provisions of the amended sub-Section 1 of Section 164 of M.V.Act, in death case, compensation payable shall be *Five Lakh* rupees to the claimants. Therefore, considering the provisions of section 1 of Section 164 of the M.V. [Amended] Act, 2019, I hold that, the claimants are entitled for **Rs.5,00,000/-** towards the compensation.

LIABILITY :

12. As discussed hereinabove, in the present accident, Motor cycle and Tractor are involved. The present claim petition is filed U/s 164 of M.V. [Amended] Act, no negligence is required to be proved. Further, as per sub-Section 1 of Section 164 of M.V.Act, all opponents shall be liable to pay in the case of death due to any accident arising out of the use of motor vehicle. The deceased was pillion rider on the Motor cycle, he was not negligent for an accident. The Insurance Policies of the both the vehicles are on record and the same were valid and effective at the time of accident. No other defence is taken by the opponents since they have not produced rebuttal evidence. Hence, the opponent Nos. 1 to 5 are jointly and severally liable to pay compensation.

INTEREST :

13. The claimant has prayed for interest at the rate of 18% per annum. Therefore, I have gone through the judgment delivered by the Hon'ble Apex Court in the case of **Hanumantharaju B (Dead) By Lr Vs. M. Akram Pasha and Anr reported in 2025 INSC 682** wherein Tribunal had awarded 9% interest which was reduced by the Hon'ble High Court to 6% and the Hon'ble Supreme Court granted rate of 7% may be more appropriate to ensure fairness. Hence, considering the above judicial pronouncement, the claimant is entitled to get an interest @ 7% p.a., from the date of filling of the present claim petition. The Issue No.2, is, therefore, answered accordingly and the following final order is passed in the interest of justice.

∴ ORDER ∴

[1] The present Motor Accident Claim Petition is “**ALLOWED**”

- [2] The claimants are entitled to recover the amount of **Rs.5,00,000/- (Rupees Five Lacs Only)** from **opponent Nos.1 to 5**, along with proportionate costs and interest at the rate of **07% (Seven Percentage)** per annum from the date of filing the claim petition, till the amount is realized.
- [3] The aforesaid opponent is 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, and the amount of interim relief, if any, awarded under Section 140 of the M.V.Act be deducted first from the amount. The awarding amount shall be disbursed to applicants as follows that applicant No. 1 shall get 50%, applicant No. 2 shall get 40% and applicant No. 3 shall get 10%.
- [4] In case of major claimant, 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 BHUJ, 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. 12th Day of May, 2026

Dtd. 12/05/2026
Place: Bhuj

[Veerat Ashok Buddha]
6th Additional District Judge &
M.A.C. Tribunal (Auxi),
Bhuj-Kachchh
GJ-00702

/Rajesh Vaghela/