



Exh. 64  
Received on 05/05/2023  
Registered on 05/05/2023  
Decided on 30/03/2026  
Duration Y M D  
02 11 00

**BEFORE THE 6TH ADDITIONAL DISTRICT JUDGE AND**  
**MOTOR ACCIDENT CLAIMS TRIBUNAL**  
**(AUX-6TH)**

**KACHCHH – BHUJ.**

**M.A.C.P. No. 216/2023**

**APPLICANT :-**

**RITESH SHIVJI DANGAR,**

Age 22 years, Occupation : Agricultural and  
Animal Husbandry,  
Residing at Village: Kunariya,  
Tal. Bhuj-Kachchh

Vs.

**OPPONENTS :-**

- 1. SHAMBHUBHAI VALABHAI GAGAL,**  
(Driver cum owner of Motor cycle No.GJ-12-ED-8844)  
Age:- 39 Years, Occupation : Agriculturist,  
Residing at Dhori, Tal. Bhuj
- 2. BHARAT KANJI KOVADIYA,**  
(Insured of Motor cycle No.GJ-12-ED-8844)  
Aged: Adult, Occu. Agriculturist,  
R/o. Aahir Vas, Dhori,  
Tal. Bhuj-Kachchh
- 3. BRANCH MANANGER,**  
**GO DIGIT GENERAL INSURANCE CO.LTD**

(Ins. Co. of Motor cycle No.GJ-12-ED-8844)  
Bhagat Complex, First Floor,  
Lal Tekri, Bhuj

4. **NODAL OFFICER,  
BHAVESH KHAINI,  
Go Digit General Ins. Co. Ltd**  
Bhagat Complex, First Floor,  
Lal Tekri, Bhuj
  
5. **PRAVIN SAVA DANGAR,**  
(Driver cum owner of Motor cycle no.GJ-12-CB-3784)  
Aged: 30, Occu. Agriculturist,  
R/o. Village : Kunariya,  
Tal. Bhuj-Kachchh
  
6. **BRANCH MANAGER,  
MEGMA HDI GENERAL INS.CO.LTD**  
(Ins. Co. of Motor cycle No.GJ-12-CB-3784)  
MDS Enclave, Office No. 3,  
Second Floor,  
Plot No. 311, Ward No. 12B  
Nr. LIC Building, Gandhidham
  
7. **NODAL OFFICER,  
MEGMA HDI GENERAL INS.CO.LTD**  
(Ins. Co. of Motor cycle No.GJ-12-CB-3784)  
MDS Enclave, Office No. 3,  
Second Floor,  
Plot No. 311, Ward No. 12B  
Nr. LIC Building, Gandhidham

**Claim u/s.166 of the M.V. Act for getting  
compensation of Rs.25,00,000/-....**

**APPEARANCE :**

1. L.A. **Mr. M.J.Daiya** for the claimant.
2. Served but remained absent for opponents No. 1, 2 & 5

3. L.A. **Mr. A.A.Sahedani** for opponents No. 3 & 4
4. L.A. **Mr. M.D.Buch** for opponents No. 6 & 7

**J U D G M E N T**

1. The claimant has preferred the present claim petition under Section 166 of the Motor Vehicles Act, 1988 ('the M V Act'), claiming compensation of Rs.25,00,000/- (Rupees Twenty Five Lakh Only) for the injuries sustained by him in the vehicular accident, dated 02.01.2023, 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 02.01.2023 at about 11.00 in the morning, the applicant was going from Rudrani Hotel to Kunariya in the Motor cycle bearing Registration No.GJ-12-CB-3784 owned by the opponent No. 5, as pillion rider. When they reached at the place of the accident, the opponent No. 1 came from the opposite side by driving the Motor cycle bearing Registration No.GJ-12-ED-8844 in rash and negligent manner, dashed with the Motor cycle bearing Registration No. GJ-12-CB-3784 where the applicant was proceeding as pillion rider, and thereby accident was occurred wherein the claimant sustained serious injuries resulted into disability. Thus, claimant has filed present claim petition.

2.1 Though, the opponents No.1,2 and 5 is duly served with the notices but they did not remain present nor filed written statements.

3. The opponent No. 3 & 4- Insurance Company and its Nodal Officer of Motor cycle No.GJ-12-ED-8844 has appeared through Ld. Advocate Mr. Sahedani and has filed written statements at Exh. 46 *interalia* denied the factum of the accident. It is submitted that, the claimant has failed to prove the income, age and work at the time of accident. It is submitted that, the driver of the Motor cycle was not holding valid and effective driving licence and thus, there is a breach of terms and condition of the Insurance policy. It is submitted that, as per the statement of the claimant, the accident occurred due to negligent driving by driver of Motor cycle no.GJ-12-CB-3784. It is further submitted that, no FIR has been lodged by the present claimant against the driver of Motor cycle No.GJ-12-ED-8844. It is submitted that, claimant was traveling as a pillion rider on the Motor cycle without wearing protective headgear. On these grounds, the present claim petition is requires to be dismissed.

4. The opponents No. 6 and 7- Insurance Company and its Nodal Officer appeared through Ld. Advocate Mr. Buch and filed written statements at Exh. 56 *interalia* denied the factum of accident. It is submitted that, herein the case, the accident reported in Madhapar Police Station bearing MLC No.3/2023, there are neither FIR is lodged against the Driver nor charge sheet is filed. It is submitted that, driver of the Motor cycle no.GJ-12-CB-3784 was not holding valid and effective driving licence. It is submitted that, claimant, who was pillion rider on the Motor cycle, was not wearing protective headgear. It is therefore prayed to dismiss the present claim petition.

5. Ld. Tribunal had framed the following issues at Exh. 24 that,

- [1] Whether petitioner proves that alleged injury due to the use of the Motor vehicle ?
- [2] Whether petitioner proves that he is entitled for any compensation from the opponents ? If yes, what amount of compensation should be allowed ?
- [3] What order ?

6. 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 :-**

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

**ORAL EVIDENCE:-**

<b>Exh. No.</b>	<b>Description of Document</b>
<b>25</b>	An affidavit of Applicant- Riteshbhai Shivjibhai Dangar

**DOCUMENTARY EVIDENCE :-**

<b>Exh.No.</b>	<b>Description of Document</b>
<b>27</b>	MLC Entry/ Janva Jog Entry
<b>28</b>	Panchanama of place of accident.
<b>29</b>	Statement of Pravinbhai Shivjibhai Dangar and other witness
<b>30</b>	Driving Licence of Opponent No. 1
<b>31</b>	R.C.Book of M.C. No.GJ-12-ED-8844

<b>32</b>	Insurance Policy of M.C.No.GJ-12-ED-8844
<b>33</b>	Driving Licence of Opponent No. 5
<b>34</b>	R.C.Book of M.C. No.GJ-12-CB-3784
<b>35</b>	Ins.Policy of M.C. No.GJ-12-CB-3784
<b>36</b>	Discharge Summary
<b>38</b>	Aadhar Card of claimant
<b>39</b>	Pan Card of claimant
<b>40</b>	Bank Passbook
<b>41</b>	Discharge Summary
<b>43</b>	Disability Certificate
<b>51</b>	Discharge Card
<b>52</b>	Medical Bills Rs. 93,964/-
<b>53</b>	Closing pursis

**7.1** The opponent No. 6 - Insurance Company as produced the Insurance Policy of Motor Cycle bearing Registration No.GJ-12-CB-3784 at Mark 57/1 and thereafter, filed the closing pursis at Exh. 59.

**ISSUE NO.1 & 2 COLLECTIVELY :-**

**8.** Heard Ld. Advocates for the parties at length and perused the record. I have also perused the written arguments produced by Ld. Advocate for the Insurance Company i.e opponent No. 6 at Exh. 62.

**9.** While deciding the point of negligence, it has to be borne in mind that the negligence is required to be proved in claim petition u/s 166 of the act only on the touchstone of the preponderance of probability and not beyond doubt. Above

referred ratio is laid down by Hon'ble Apex Court in the cases of **Bimla Devi v/s H.R.T.C., reported in AIR 2009 SC 2819** and **Parmeshwari Devi v/s Amir Chand, reported in 2011 (11) SCC 635.**

**10.** As far as the negligence is concerned, the claimant has deposed on oath *vide* Exh. 25 and thereby reiterated the averments made in the claim petition. During the cross examination, he has admitted that, it is true fact that, accident took place in day hour and both vehicles were collided head on head.

**11.** Upon perusal of the M.L.C/ Janva Jog Entry at Exh. 27 from which it transpires that, the claimant was proceeding on the Motor cycle bearing Registration No.GJ-12-CB-3784 and going from Kunariya to Bhuj, at that time, the Motor cycle No.GJ-12-ED-5844 came from the back side, dashed with Motor cycle No.GJ-12-CB-3784 and claimant fell down from the Motor cycle and thereby accident occurred. The rider of the Motor cycle no.GJ-12-CB-3784 has suffered injuries also. The claimant has produced the Discharge summary at Exh. 36 from which it transpires that, he suffered serious injuries in the accident and thus, he had taken treatment from Kutch Orthopaedic Hospital, Bhuj as indoor patient from 02.01.2023 to 04.01.2023. The claimant has relied upon the panchanama of place of offence at Exh. 28 from which it transpires that, one Bullet and one Motor cycle were lying at the place of accident. It also transpires that, front headlights of bullet were broken whereas in Motor cycle, front headlights, side signal and plastic body were broken. Hence, from perusal of the said panchanama, it is proved that,

accident took place between two vehicles due to head on head collision. The said fact has been admitted by the claimant in his cross examination. Therefore, it clearly reveals from the documentary evidence that, accident occurred due to composite negligence on the part of the drivers of the Motor cycle and Bullet. Looking to the Janvajog Entry and Panchnama, it is crystal clear that, both the vehicles were dashed with each other and both the vehicles were lying in damage condition on the place of incident therefore, in my opinion, if the drivers of the Motor cycle and Bullet have exercised extra care and diligence while driving their vehicles, the accident could be avoided. Moreover, Ld. Advocates for the Insurance companies have not examined the drivers of the Motor cycle and Bullet to prove and point out that they were not negligent in causing the said accident. Since Ld. Advocate for the opponents Nos. 3 & 6 have failed to examine the drivers of the Motor cycle and Bullet, adverse inference is required to be drawn, accordingly same is drawn. As per the judgments of Hon'ble Gujarat High Court reported in (1) **1996 (1) G.L.H.1007** in the case of **Amarsi Jugabhai and Ors. Versus Vijayaben Hemantlal Dhulia and Ors.** (2) **2014 (1) T.A.C.335 (Guj.)** in the case of **Mayaben Ramanlal Jaiswal and Another Versus Rajubhai Chimanlal Jaiswal and Another** (3) **2007 (2) CACC 31** in the case of **Kusumben Vipinchandra Shah and another Verus Arvindbhai Narmadashankar Raval and others.** Moreover, as per the judgment of Hon'ble Supreme Court of India reported in **2008 (0) GLHEL-SC 40567** in the case of **T.O.Anthony Versus Karvarnan.** Hence, as per the judgments of the Hon'ble Supreme Court of India as well as the Hon'ble Gujarat High Court, I hold

that due to composite negligence of the drivers of the Motor cycle and Bullet, the accident occurred and in which the claimant sustained serious injuries. Thus, I come to the conclusion that it is the case of composite negligence, claimant can recover compensation from all or any of the tort-feasor, therefore, both the drivers of the offending vehicles were negligent for the occurrence. In view of the above referred discussions, **I decide issue No.1 in AFFIRMATIVE.**

**ISSUE NO.2 :**

**12.** The claimant has pleaded (Exh.25) that, at the time of the accident, he was 22 years old and was earning more than Rs. 15,000/- per month from agricultural activity and animal husbandry. During the cross examination, he has admitted that, he has not produced any document to prove occupation and income. He has admitted that, one man cannot be handled both agricultural work and animal husbandry work, all family members can do such work jointly. Herein the present case, the claimant have failed to prove cogent documentary evidence to prove the exact income. Hence, in absence of any cogent evidence in respect of the income of the claimant, this Tribunal has gone through the Minimum wage for determining the income of deceased. The accident took place on 02.01.2023 and considering the minimum wage, the income of deceased is taken at Rs. 9,237/- per month and thus, annual income comes **Rs.1,10,844/-**

**13.** So far as the age of the claimant is concerned, in the affidavit for examination in chief the claimant has stated that his age was 22 years at the time of accident and in support thereof he

has relied upon the copy of Pan Card *vide* Exh. 39. Bare perusal of the Pan Card *vide* Exh. 39 depicts the date of birth is 01/06/2000 whereas, the accident occurred on 02/01/2023. As against this there is no evidence in rebuttal by the opponents with the respect to the age of the claimant. So, this Tribunal is of the opinion that at the time of accident, the age of the claimant was 22 Years. Therefore, the claimant would fall under the age group of 21 to 25, therefore, claimants would be entitled to get compensation calculated on the basis of the multiplier of **18**.

**14.** So far the income of future prospect in injury case is concerned, in the case of **Pappu Deo Yadav Vs. Naresh Kumar, AIR 2020 SC 4424** the Hon'ble Apex Court has held in Para 7 as under ;

*" 7 : Two questions arise for consideration; one, whether in case of permanent disablement incurred as a result of a Motor accident, the claimant can seek, apart from compensation for future loss of income, amount for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding that Pranay Sethi involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-judge bench decision in Jagdish was not binding, but rather that the subsequent decision in Anant to the extent that it did not award compensation for future prospects, was binding. This Court is of the opinion that there was no justification for the High Court to have read the previous rulings of this Court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi is illogical, because it denied altogether the possibility of the living victim progressing further in life in accident cases- and admits such possibility of future prospects, in case of the victim's death. "*

**14.1** This Tribunal also places reliance on the judgment of the Hon'ble Supreme Court in the case of **Erudhaya Priya V. State Express Transport Corporation Ltd., AIR 2020 4284**

wherein the victim aged about 23 who had sustained 31.1% permanent disability, the Hon'ble Apex Court granted 50% rise in the income of the claimant.

**15.** On perusal of the above referred ratios of the Hon'ble Apex Court which are based on the ratio laid down by the Larger Bench of the Hon'ble Supreme Court rendered in the case of **National Insurance Company vs. Pranay Sethi, 2017 (16) SCC 680**, it becomes clear that even in the injury case which has resulted into permanent partial disablement, the future prospect can be taken into consideration. Herein the present case, it is the case of the claimant that, due to accident, the claimant has sustained injuries like Distal end femur right side compound grade III, proximal phalanx of right middle finger close without DNVD and 4<sup>th</sup> metacarpal left side. He cannot do any heavy type of work. The claimant is having difficulty in walking. The said fact is also narrated in disability certificate [Exh. 43]. Further, considering the age of the claimant at the time of accident, this is a fit case to give rise of 40% i.e. **Rs.44,337/- (Rs.1,10,844/- X 40%)** in the actual income of the claimant. On doing so, the annual income of the claimant can be worked out as **Rs.1,55,181/-**.

**16.** As far as the disability sustained by the claimant is concerned, the claimant has relied upon the medical papers and other documentary evidence of his treatment taken in the hospital, the disability certificate [Exh. 43] wherein the Doctor has certified that, claimant is having permanent physical disability of right lower limb by 32%, right upper limb by 9% and left upper limb by 9%. Upon perusal of the said disability

certificate, the parties are agreed to consider **18%** disability body as whole. Hence, in view of the peculiar facts in the case on hand, **this Tribunal deems fit to consider 18% disability body as whole.**

17. Considering the above facts that the above disablement did not result into any functional disability and even it is not stated so in the disability certificate, I do not find it fit to hold that because of the vehicular injuries, claimant has suffered any functional disability. Taking into account the physical disability of the claimant which is assessed as **18%** body as a whole, his yearly loss of income would come to **Rs.27,932/- p.a. (Rs.1,55,181/- X 18%)**. As noted hereinabove, considering the age of the claimant (22 years), the multiplier of **18** would be applicable, hence, the future economic loss of income would come to around **Rs.5,02,776/- i.e. rounded off Rs. 5,02,800/- p.a.**

18. So far as medical expenses is concerned, the claimant has produced Hospital Bills, Medical Bills, Laboratory Bills at Exh. 52 at Rs. 93,964/-. No rebuttal evidence is produced by the Insurance Company. Hence, considering the medical papers as well as treatment papers, claimant is entitled to get **Rs. 93,964/-** towards medical expenditure. Due to the accident, claimant has suffered injures and he was treated as an indoor patient from 02.01.2023 to 04.01.2023, **Rs.10,000/-** is allowed for pain, shock and sufferings and **Rs.10,000/-** for attendant charges, transportation and rich diet. Last but not the least, the claimant is also entitled for 01 month's actual loss of income, as

he was admitted in the hospital and was advised to take bed rest for quite some time, which comes to **Rs. 9200/-**. The claimant is entitled to get the aforesaid amount of compensation, which can be reclassified as under.

<b>Description</b>	<b>Amount</b>
Future loss of income.	Rs.5,02,800=00
Pain, shock and sufferings,	Rs.0,10,000=00
Attendant Charges, Transportation, Rich diet	Rs.0,10,000=00
Actual loss of income	Rs.0,09,200=00
Medical expenses	Rs.0,93,964=00
<b>TOTAL AMOUNT OF COMPENSATION ROUNDED OFF</b>	<b>Rs.6,25,964,=00 RS.6,26,000=00</b>

### **LIABILITY :**

**19.** So far as liability is concerned, in the present case two vehicles are involved in the accident and as discussed above the accident is taken place due to composite negligence of both the drivers of the offending vehicles. Herein the present case, the opponent No. 1 is the driver, opponent no. 2 is the owner and Opponent No. 3 is the Insurance company of Motor cycle no.GJ-12-ED-8844 and opponent No. 4 is its Nodal Officer whereas the opponent No. 5 is the driver cum owner, opponent No. 6 is the Insurance Company and opponent No. 7 is the Nodal Officer of Motor cycle No.GJ-12-CB-3784. It is pertinent to note that Motor cycle No.GJ-12ED-8844 was insured with the opponent no.3, Insurance Company and the claimant has produced Insurance Policy vide Exh.32 and the said policy is covered on the date of incident. Opponent no.4 is the driver of the offending

Bullet Opponent No. 5 is the owner of the offending bullet. It is pertinent to note that the said vehicle was insured with the opponent no.6, Insurance Company and the claimant has produced Insurance Policy vide Exh.35 and the said policy is covered on the date of incident. As the claimant was not tortfeasor, he was third party. It is the case of composite negligence, claimant can recover compensation from all or any of the tortfeasor, therefore, the opponents are jointly and severally liable to pay the compensation awarded to the claimants.

**INTEREST :**

**20.** 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 filing 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 partly allowed.
- [2] The claimant is entitled to recover the amount of **Rs.6,26,000/- (Rupees Six lakh Twenty Six Thousand Only)** from **opponents Nos. 1 to 7 are jointly and/ or**

**severally**, 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 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, and the amount of interim relief, if any, awarded under Section 140 of the M.V.Act be deducted first from the amount.
- [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 on 30<sup>th</sup> March, 2026**

Dtd.30.03.2026  
Place: Bhuj

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

/Rajesh Vaghela/