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Exh.
Received on
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Decided on 29/06/2026
Duration Y M Days

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUX.) & 7TH ADDITIONAL DISTRICT **JUDGE, KACHCHH – BHUJ.**

(1) **M.A.C.P. No.26/2023(Main)**

(2) **M.A.C.P. No.39/2023**

(3) **M.A.C.P. No.27/2023**

(4) **M.A.C.P. No.43/2023**

(5) **M.A.C.P. No.262/2023**

(1) **M.A.C.P. No. 26/2023**

DINESH LALJI KUVARIYA (VADHIYARA)
Aged: 36 years, Occu. Labourer,
R/o. Ravechi Nagar, Antarjal,
Village: Adipur **....Applicant**

Claim u/s.166 of the M.V. Act for getting compensation of Rs.10,00,000/-....

(2) **M.A.C.P. No. 39/2023**

DEVSHI SOMA DEVIPUJAK
Aged: 55 years, Occu. Business,
R/o. 37, Rajunanagar, Antarjal,
Village: Adipur **....Applicant**

Claim u/s.166 of the M.V. Act for getting compensation of Rs.10,00,000/-....

VS.

Parties of Tanker No.GJ-39-GA-2040

1. **Not Known,**

2. **SANTOSH SHRIKANT SINGAL,**
Residing at : Amiroki Basti, Barmed,
Rajasthan

3. **United India Insurance Co. Ltd.,**
Office at 2nd Floor, Chandan Square,
Plot No. 323, Behind Croma Store,
Ward No. 12B, Gandhidham

4. **Mamadhusen @ Mamad Jakab Mathda,**
R/o. Devadiya, Tal. Anjar
At present: Antarjal, Rajnagar,
Nr. Sultanpir Dargah,
Tal. Gandhidham-Kachchh **….Opponents**

(3) M.A.C.P. No.27/2023

LEGAL HEIRS OF DECEASED
BHARAT @ ANIL DINESH KUVARIYA
(VADHIYAR)

1. DINESH LALJI KUVARIYA(VADHIYARA)
Father, Aged: 36, Occu. Labourer,

2. GEETA DINESH KUVARIYA(VADHIYARA)
Mother, Aged: 35, Occu. Labourer,

3. SUNITA DINESH KUVARIYA(VADHIYARA)
Sister, Aged: 15, Occu. Study,

4. POONAM DINESH KUVARIYA(VADHIYARA)
Sister, Aged: 07, Occu. Study,

5. NISHA DINESH KUVARIYA(VADHIYARA)
Sister, Aged: 02, Occu. NIL

(Applicant No. 3 to 5 being minor through
their guardian i.e. Applicant No. 2)

All R/o. Ravechi Nagar, Antarjal,
Village: Adipur, Tal. Gandhidham ....**Applicants**

Claim u/s.166 of the M.V. Act for getting compensation of Rs.35,00,000/-....

(4) M.A.C.P. No. 43/2023

DINESH DEVSHI SATHWARA,
Aged: 33 years, Occu. Business,
R/o. 37, Rajunanagar, Antarjal,
Village: Adipur ....**Applicant**

Claim u/s.166 of the M.V. Act for getting compensation of Rs.10,00,000/-....

(5) M.A.C.P. No. 262/2023

MAMADHUSEN @ MAMAD JAKAB MATHDA,
Aged: 31 years, Occu. Driving,
At present : NIL
R/o. Village: Devaliya,
Tal. Anjar-Kachchh ....**Applicant**

Claim u/s.166 of the M.V. Act for getting compensation of Rs.16,00,000/-....

Vs.

Parties of Tanker No.RJ-39-GA-2040

1. **Not Known,**

2. **SANTOSH SHRIKANT SINGAL,**
Residing at : Amiroki Basti, Barmed,
Rajasthan

3. **United India Insurance Co. Ltd.,**
Office at 2nd Floor, Chandan Square,
Plot No. 323, Behind Croma Store,
Ward No. 12B, Gandhidham ......**Opponents**

APPEARANCE:

1. L.A. **Mr. R.I.Sama** for claimants.
2. Not Known- Opponent No. 1
3. L.A. **Mr. Y.A.Solanki** for opponent No. 2.
4. L.A. **Mr. A.A.Sahedani** for opponent No. 3
5. Served but remained absent for opponent No. 4 in claim petition No. 26/2023 & 39/2023.

-: COMMON JUDGMENT :-

(1) These claim petitions are filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 ('the M V Act') arising out of a vehicular accident dated 07/12/2022, along with the costs and interest at the rate of 18% per annum from the date of petition till realization, against the opponents.

(1.2) It is pertinent to note that these claim petitions have arisen out of the same accident. Hence, evidences of these matter is recorded collectively and all the claim petitions are decided by this common judgment.

(2) *Brief facts of present claim petitions are that,* on 07/12/2022, the applicants were traveling in Chhakada Rickshaw bearing Registration No.GJ-04-AT-4852 and driver of Chhakada Rickshaw was driven the said vehicle in moderate speed and on the right side of the road and when they reached at the place of an accident, the opponent No. 1 came by driving the Tanker No.RJ-39-GA-2040 in full speed, rash and negligent manner, dashed with Rickshaw thereby accident has occurred wherein the claimants sustained serious injuries and injured occupant Bharatbhai has caused serious injuries and he succumbed due to it. This accident occurred due to the negligent driving by driver of Tanker. Therefore, the claimants have filed the claim petitions for getting compensation from the opponents.

(2.1) In these claim petitions, the opponent No. 1 is not known. Likewise, though service of notices to opponent No. 4, he did not remain present nor filed written statement. Upon service of notice, the opponent No. 2 appeared through Ld. Advocate Mr. Solanki in all claim petitions and filed written statements interalia denied the fact of the accident. It is denied the age, income and occupation of the claimant as well as deceased. It is however submitted that, if this Tribunal would ascertain negligence on the part of the driver of Tanker, the owner had taken the Insurance Policy for covering the risk of occupants and therefore, the Insurance Company is liable to pay compensation in these claim petitions.

(2.2) The opponent No. 3- Insurance Company has appeared through Ld. Advocate Mr. Sahedani and filed a written statements in claim petitions and denied the facts of the accident. It is further denied the age, income and occupation of the claimants as well as deceased person. It is further submitted that, driver of the Tanker was not holding valid and effective driving licence to drive the said vehicle at the time of an accident and therefore, there is clear breach of terms and conditions of the Insurance Policy and thus, the Insurance company is not liable to pay compensation. It is further submitted that, claim petitions are barred by non joinder of necessary parties. Herein the present case, two vehicles were involved in the accident, Rickshaw and

Tanker but the claimants have not joined driver, owner and Insurance Company of Rickshaw. It is submitted that, both the vehicles collided head on head and therefore, the negligence on the part of the driver of Rickshaw is requires to be considered. On these grounds, it is prayed to exonerate the Insurance Company to pay compensation.

(3) In view of the pleadings of the parties, the following common issues are required to be determined.

1. Whether it is proved that injured claimants/ deceased sustained serious injuries due to rash and/or negligent act of the driver of the vehicles involved in the accident?
2. Whether applicants are entitled to compensation from the opponents or any of them? If yes, what amount and from whom?
3. What Award ?

(4) My findings to the above Issues are as under:-

1. In the partly affirmative.
2. As per the final order.
3. As per the final order.

-: R E A S O N S :-

(5) To prove the pleading of the claim petitions and disprove the contents of the claim petitions, the parties have produced the following oral and documentary evidence on record:

(1) MACP No.26/2023

Exh. No.	Particulars
	Oral Evidence
22	Affidavit of examination in Chief of Dinesh Lalji Kuvariya (Vadhiyara)
	Documentary Evidence
43	FIR
44	Panchanama of place of offence
45	Charge Sheet
46	R.C.Book of Tanker
47	Ins. Policy of Tanker
48	MLC Certificate
49	Disability Certificate
50	Aadhar Card of claimant
72	Closing pursis

(2) MACP No.39 /2023

Exh. No.	Particulars
	Oral Evidence
24	Affidavit of examination in Chief of Devshi Soma Devipujak (Sathwara)
	Documentary Evidence
55	MLC Certificate
56	Discharge Summary
57	Treatment papers
58	Disability Certificate
59	Aadhar Card of applicant

(3) MACP No.27 /2023

Exh. No.	Particulars
	Oral Evidence
23	Affidavit of examination in Chief of Dinesh Lalji Kuvariya (Vadhiyara)

	Documentary Evidence
51	Inquest Panchanama
52	P.M. Report
53	Birth Certificate of deceased
54	Aadhar Card of applicant No. 1

(4) MACP No.43 /2023

Exh. No.	Particulars
	Oral Evidence
25	Affidavit of examination in Chief of Dinesh Devshi Sathwara
	Documentary Evidence
60	MLC Certificate
62	Aadhar Card of applicant

(5) MACP No. 262/2023

Exh. No.	Particulars
	Oral Evidence
27	Affidavit of examination in Chief of Mamadhusen @ Mamad Jakab Mathada
	Documentary Evidence
62	MLC Certificate
63	Discharge Summary
64	Microbiology Report
65	Discharge Card
66	CT Brain and Lungs Report
67	MS CT Scan report
68	Photographs of applicant
69	Disability Certificate
70	Medical Bills
71	Aadhar Card of applicant

The opponent No. 2 has produced Insurance Policy, R.C.Book, D.L. and PUC of Tanker at Mark 30/1 to 30/4 respectively. The opponent No. 3- Insurance Company have not produced evidence to prove their defence but has produced the closing pursis at Exh. 73.

ISSUE NO.1 & 2 COLLECTIVELY :

(6) Heard Ld. Advocates for the parties and perused the record. Ld. Advocate for the applicants have produced the written arguments at Exh. 74 and argued as per their pleadings of claim petitions. It is further argued that, due to the accidental injuries, the claimants have entitled to get compensation from the opponents. It is further argued that, claimants were occupants in the Rickshaw and due to accident, some claimants sustained serious injuries and out of them one injured has lost his life. It is therefore prayed to allow appropriate compensation from the opponents.

(6.1) Per contra, Ld. Advocate for the opponent No. 3- Insurance Company has filed written arguments in claim petitions and submitted that, claimants were proceeding in the Rickshaw and there were six occupants. It is further argued that, as per the panchanama of place of offence, it is the case of head on head collusion and thus, the driver of the Rickshaw was also negligent for an accident and as such, liability may be apportioned accordingly. It is submitted that, there is no any coverage of Rickshaw. It is further submitted that, there is not single case of determining functional disability and thus, no future prospect can be considered. In this regard, they have relied upon the judgment in ***Uttar Pradesh Road Transport Corporation Vs. Vibhor Fialok and Anr in Civil Appeal No. 1337-1338 of 2019, judgment Dtd. 18.02.2025.***

(6.2) Herein the present case, the claimant of MACP No. 26/2023 is thoroughly cross examined by Ld. Advocate for the Insurance Company of the offending Tanker wherein he has admitted that, at the time of accident, he was traveling as occupant in the Chhakada Rickshaw. He has denied the fact that, Chhakada Rickshaw and Tanker were collided head on head. He has admitted that, total six occupants were traveling in the Chhakada. He has denied the fact that Chhakada Rickshaw was fully loaded with passengers and thus, it was collided with Tanker. Other claimants were also examined and they too have been cross-examined by the opponent-insurance company but none of them have admitted that there was any neligence on the part of the driver of rickshaw.

(7) At this stage it is worthy to note that, 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.**

(8) So far as the negligence is concerned, claimants have relied upon the FIR, Panchnama of the scene of offence and charge sheet. The FIR was came to be lodged against Driver of Tanker bearing Registration No.RJ-39-GA-2040. It also transpires from the FIR that, driver of Tanker driven the said vehicle in full speed, negligent manner and dashed with Chhakda Rickshaw thereby accident had occurred. Further, the claimants have relied upon the panchanama at Exh. 44 from which it transpires that, Rickshaw was lying at the spot with heavily damaged. It also found the blood stain from the place of accident. Further, the claimants have produced the copy of charge sheet at Exh. 45 from which it transpires that, after completion of the investigation, the investigating officer has filed the charge sheet against the driver of the Tanker bearing Registration No.RJ-39-GA-2040 for negligence of an accident.

It is argued by the Ld. Adv. for the insurance company that excess passengers were traveling in the rickshaw and passengers were traveling beside the driver and as such, the accident has taken place. The insurance company has not tendered any separate evidence to prove the negligence. There is no any cardinal rule that the excess passengers would lead to the negligence and in this case, police has conducted the investigation and after doing has charge sheeted the driver of Tanker and hence, this argument does not hold good.

(9) At this juncture, I would like to note that insurance company of the offending vehicle has not examined the driver of Tanker to lead evidence in rebuttal. Therefore, as per the decision of the Hon'ble Gujarat High Court reported in **2001 (2) GCD 1448 (Guj.), Ahmedabad Municipal Transport Service Vs. Hansaben Natvarlal Dabgar**, an adverse inference is required to be drawn against the driver and owner. Moreover, the charge-sheet is also laid against the driver of the said offending vehicle Tanker and in view of the ratio laid down in the case of **New India Assurance Co. Ltd. Vs. Pazhaniammal**, **2012 ACJ 1370 Kerala HC** that the filing of charge-sheet is sufficient to hold that the alleged accident was caused because of the rash and negligent driving on the part of the driver of Tanker. Therefore, considering the FIR, Charge sheet and panchanama of place of accident, it is proved that, the accident took place due to negligent driving by driver of Tanker No.RJ-39-GA-2040. Therefore, I decide Issue No.1 in AFFIRMATIVE.

ISSUE NO.2 :

(1) M.A.C.P. No. 26/2023

(10) The claimant has deposed (Exh. 22) that at the time of the accident, he was hale and healthy and doing iron scrap business and earning Rs. 10,000/- per month. To prove the said business, he has not produced documentary evidence nor examined witness. He has admitted in cross examination that, he has not produced document to prove monthly income at Rs. 10,000/- from above mentioned work. Hence, in the absence of cogent documentary evidence to prove the claimant's income, this Tribunal shall rely on the prevailing minimum wages. For unskilled labor in Gujarat at the time of the accident on 07.12.2022, the rate was Rs. 355.3 per day. Therefore, in the interest of justice, this Tribunal deems it appropriate to determine the claimant's income at Rs. 9237.80 per month, rounded off to **Rs. 9,200/-** per month and **Rs. 1,10,400/-** per annum.

(11) So far as age of the claimant is concerned, the claimant has pleaded that his age was 35 years. However, the claimant has not produced any cogent documentary evidence like Pan Card and Election Card to prove his actual age. However, the claimant has relied upon the Aadhar Card at Exh. 50 wherein the Birth Date of the claimant is shown 01.12.1987 and accident took place on 07.12.2022 and therefore, it can be said that, at the time of an accident, claimant was 35 years and six days old. Against that the Insurance Company has not produced any rebuttal evidence. Hence, the claimant would fall under the age group 31 to 35 and, therefore, the claimant would be entitled to get compensation calculated on the basis of the multiplier of **16.**

(12) 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. "*

(12.1) 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.

(13) 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, at the time of accident, he was doing iron scrap business which is not permanent job. 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.44,160/- (Rs.1,10,400/- X 40%)** in the actual income of the claimant. On doing so, the annual income of the claimant can be worked out as **Rs.1,54,560/- i.e. rounded off Rs. 1,54,600/-.**

(14) Regarding the disability sustained by the claimant, reliance has been placed on medical records and documentary evidence of the treatment received at the hospital, specifically the disability certificate (Exh.49). In this certificate, the doctor certified that the claimant suffers from a permanent physical disability of 32% in the left lower limb. It also shows that, both the parties are agreed to consider 10% disability body as whole. Consequently, in view of these peculiar facts and circumstances, and upon perusal of the MLC and the disability certificate, this Tribunal deems it fit to assess the physical disability at **10%** body as a whole. Further, it is not the case of the functional disability.

(15) Taking into account the physical disability of the claimant which is assessed as **10%** body as a whole, his yearly loss of income would come to **Rs.15,460/- p.a. (Rs.1,54,600/- X 10%).** As noted hereinabove, considering the age of the claimant (35 years), the multiplier of **16** would be applicable, hence, the future Economic loss of income would come to around **Rs.2,47,360/- i.e. rounded off Rs. 2,47,300/- p.a.**

(16) So far as medical expenses is concerned, the claimant has not produced the medical bills. However, from perusal of the treatment papers, it transpires that, the claimant had taken the treatment as indoor patient from 07.12.2022 for about one week and during the treatment, he might be incurred some expenditure. Further, he had taken the treatment from Private Hospital. Hence, upon going through the treatment papers, the claimant is entitled to get **Rs. 5,000/-** towards medical expenditure. Due to the accident, claimant has suffered injures like Tibia Shaft Left Side close without DNVD and he was treated as an indoor patient at private Hospital and thereafter, he had taken post treatment also, **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 1 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. 9,200/-**. The claimant is entitled to get the aforesaid amount of compensation, which can be reclassified as under.

Description	Amount
Future loss of income.	Rs.2,47,300=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.0,05,000=00
TOTAL AMOUNT OF COMPENSATION	**Rs.2,81,500=00**

(2) M.A.C.P. No. 39/2023:-

(17) The claimant has pleaded (Exh. 24) that at the time of the accident, he was hale and healthy and doing iron scrap business and earning Rs. 10,000/- per month. To prove the said business, he has not produced documentary evidence nor examined witness. He has admitted in cross examination that, he has not produced document to prove monthly income at Rs. 10,000/- from above mentioned work. Hence, in the absence of cogent documentary evidence to prove the claimant's income, this Tribunal shall rely on the prevailing minimum wages. For unskilled labor in Gujarat at the time of the accident on 07.12.2022, the rate was Rs. 355.3 per day. Therefore, in the interest of justice, this Tribunal deems it appropriate to determine the claimant's income at Rs. 9237.80 per month, rounded off to **Rs. 9,200/-** per month and **Rs. 1,10,400/-** per annum.

(18) So far as age of the claimant is concerned, the claimant has pleaded that his age was 56 years. However, the claimant has not produced any cogent documentary evidence like Pan Card and Election Card to prove his actual age. However, the claimant has relied upon the Aadhar Card at Exh. 59 wherein the Birth Date of the claimant is shown 01.01.1966 and accident took place on 07.12.2022 and therefore, it can be said that, at the time of an accident, claimant was 56 years old. Against that the Insurance Company has not produced any rebuttal evidence. Hence, the claimant would fall under the age group 56 to 60 and, therefore, the claimant would be entitled to get compensation calculated on the basis of the multiplier of **9.**

(19) So far the income of future prospect in injury case is concerned, in view of **Pappu Deo Yadav Vs. Naresh Kumar**, **AIR 2020 SC 4424** and the judgment of the Hon'ble Supreme Court in the case of **Erudhaya Priya V. State Express Transport Corporation Ltd., AIR 2020 4284** and also going through the latest 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, at the time of accident, he was doing iron scrap business which is not permanent job. Further, considering the age of the claimant at the time of accident, this is a fit case to give rise of **10% i.e. Rs.11,040/- (Rs.1,10,400/- X 10%)** in the actual income of the claimant. On doing so, the annual income of the claimant can be worked out as **Rs.1,21,440/- i.e. rounded off Rs. 1,21,400/-.**

(20) Regarding the disability sustained by the claimant, reliance has been placed on medical records and documentary evidence of the treatment received at the hospital, specifically the disability certificate (Exh.58). In this certificate, the doctor certified that the claimant suffers from a permanent physical disability of 15% by chest function. It also shows that, both the parties are agreed to consider 10% disability body as whole. Consequently, in view of these peculiar facts and circumstances, and upon perusal of the MLC and the disability certificate, this Tribunal deems it fit to assess the physical disability at **10%** body as a whole. Further, it is not the case of the functional disability.

(21) Taking into account the physical disability of the claimant which is assessed as **10%** body as a whole, his yearly loss of income would come to **Rs.12,140/- p.a. (Rs.1,21,400/- X 10%).** As noted hereinabove, considering the age of the claimant (56 years), the multiplier of **9** would be applicable, hence, the future Economic loss of income would come to around **Rs.1,09,260/- i.e. rounded off Rs. 1,09,300/- p.a.**

(22) So far as medical expenses is concerned, the claimant has not produced the medical bills. However, from perusal of the treatment papers, it transpires that, the claimant had taken the treatment as indoor patient from 09.12.2022 to 14.12.2022 at G.K.General Hospital, Bhuj and during the treatment, he might be incurred some expenditure. Hence, upon going through the treatment papers, the claimant is entitled to get **Rs. 5,000/-** towards medical expenditure. Due to the accident, claimant has suffered injures like right side of chest with pneumothorax and he was treated as an indoor patient at G.K.General Hospital and thereafter, he had taken post treatment also, **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 1 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. 9,200/-**. The claimant is entitled to get the aforesaid amount of compensation, which can be reclassified as under.

Description	**Amount**
Future loss of income.	Rs.1,09,300=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.0,05,000=00
TOTAL AMOUNT OF COMPENSATION	**Rs.1,43,500=00**

(3) M.A.C.P. No. 27/2023:-

(23) The claimant has deposed at Exh. 23 that, at the time of the accident, the deceased was 15 years old and was studying and was brilliant in studies and if he was alive then deceased ought to have earned more then Rs. 15,000/- per month. Since, the deceased was 15 years old at the time of accident, he was non earning person. It is the case of the claimant that, at the time of accident, deceased was 15 years old and therefore, it can be safely said that, he was minor and generally, while computing the income of minor, the notional income is to be considered as per the judgment of **Kajal Vs. Jagdish Chand** reported in **2020(4) SCC 413** wherein it is held that, taking into notional income is not correct approach. Instead, the minimum wages payable to skilled workman in the concerned State has to be taken into consideration because, that would be the minimum amount which she would have earned on becoming a major.

(24) By referring the said principle, the Hon'ble Apex Court has recently delivered the judgment in **Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and Anr** in Civil Appeal No. 10278/2025, judgment Dtd. 08.08.2025 wherein the it is held that, the computation of compensation under the head of loss of income ought to be made by adopting, at a very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. Herein the present case, in view of the above ratio, this Tribunal can go into the prevailing minimum wages, which for the skilled once, as in the year of accident i.e. 07.12.2022, in Gujarat would be Rs. 371.3 pay day, therefore, in the interest of justice, this Tribunal deem it appropriate determine the income of the deceased at Rs. 9,653/- per month, rounding off **Rs. 9,600/-** per month and **Rs.1,15,200/-** per annum.

(25) So far as age of the deceased is concerned, the claimants have pleaded that age of the deceased was 15 years at the time of accident. To which, the claimant has produced the copy of Birth Certificate at Exh. 53 wherein the Birth Date of the deceased is shown 03.04.2007 and accident took place on 07.12.2022, the age of the deceased was 15 years at the time of the accident. In view of the latest judgment of the Hon’ble Apex court in Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and Anr in Civil Appeal No. 10278/2025, judgment Dtd. 08.08.2025 and the judgment of the Hon'ble Apex Court in the case of Pranay Shety and the fact that age of the deceased was 15 years and therefore, the claimants would be entitled to get compensation calculated on the basis of the multiplier of **18.**

(26) As above discussed age of the deceased at the time of death was around 15 years and as per the ratio laid down by the Hon;’ble Apex Court in **Meena Pawaia and Ors Vs. Ashraf Ali,** reported in **2021 Lawsuit (SC) 746**, in case of deceased who was not serving at the time of death and had no income at the time of death, their legal heirs are entitled to future prospects by adding future rise in income as per 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,** income of the deceased shall be increased by 40**%** i.e. **Rs.46,080/-.[Rs. 1,15,200 x 40%]** Doing so, the amount would come to around **Rs.1,61,280/-**

(27) Since the deceased was unmarried, and therefore, as per the law laid down by the Hon'ble Supreme Court in Pranay Sethi case, 1/2 (one half) i.e. Rs.80,640/- [Rs. 1,61,280 x 1/2nd] is required to be deducted towards personal expenses of the deceased. Hence, the amount would come to **Rs.80,640/-.** Since the deceased was aged about 15 years, applying the multiplier of 18, the amount would come to **Rs.14,51,520/-.**

(28) As this Tribunal is deciding the claim petition in the year 2025, as held in para No.61(viii) of the Pranay Sethi's case that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. As six years have been passed form the date of the pronouncement of the pranay Sethi's case, I deem it fit to enhance the amount to be paid under the conventional head at the rate of 20%. Therefore, as per the directions of Hon'ble Supreme Court in Pranay Sethi's case, petitioners are entitled for **Rs.18,000/-** towards loss to estate and **Rs.18,000/-** towards funeral expenses.

(29) So far as grant of consortium to the applicants is concerned, the Hon'ble Apex Court in the latest judgment in case of **Magma General Insurance Com. Ltd. V/s. Nanu Ram @ Churhu Ram, 2018 (18) SCC 130 and United India Insurance Co. Ltd. V. Satinder Kaur @ Satwinder Kaur, 2020 SCC Online 410 (SC) (FB) and N.I.A Com. V/s. Smt. Somwati, 2020 (9) SCC 644** has categorically held that in addition to spouse, the children are entitled for parental consortium in case of death of a parent and Filial consortium is the right of the parents to compensation in case of death of a child and the amount to be awarded for loss of consortium will be as per the amount fixed in Pranay Sethi's case. Furthermore, the Hon'ble Apex Court has categorically given direction to the Tribunals and High Courts to award compensation for loss of consortium as a legitimate conventional head. Hence, in above view of facts and circumstances, this

Tribunal is duty bound to follow the directions issued by the Hon'ble Apex Court in the above judgment.

(29.1) Hence, in this case, the applicant Nos. 1 & 2 are parents of the deceased, they are entitled to get Rs. 48,000/- each under Filial consortium. The applicants No. 3 to 5 are sister of deceased, they are not entitled to get consortium. Hence, the applicants are entitled to the total amount of compensation as under :-

PARTICULARS	**AMOUNT**
FUTURE LOSS OF DEPENDENCY	RS.14,51,520/-
LOSS TO ESTATE	RS.00,18,000/-
FUNERAL EXPENSES	RS.00,18,000/-
CONSORTIUM	RS.00,96,000/-
TOTAL AMOUNT OF COMPENSATION	**RS.15,83,520/-**
ROUNDED OFF	**RS.15,83,500/-**

(4) M.A.C.P. No. 43/2023:-

(30) So far as quantum of compensation is concerned, it is pleaded by the applicant that, at the time of the accident, the claimant, Dinesh Devshi Devipujak was 33 years old. He has deposed at Exh.25 that, he was doing business of iron scarp and thereby earning Rs. 10,000/- per month. He has further deposed that, due to the accident, he suffered serious injuries. However, during the cross examination, he denied the fact that, in the accident he caused only simple injuries. He has admitted that, he had taken treatment from Government Hospital. He has admitted the fact that, he has not produced medical bills to show the expenditure towards treatment. He has admitted that, he has not produced written documents to prove the income and profession.

He has further admitted that, he has not obtained disability certificate from the Government Hospital.

(30.1) Further, the claimant has relied upon the MLC Certificate at Exh.60. It appears from the said document that, claimant had complain of head injury, chest pain and shoulder pain. He has been admitted in the Hospital from 07.12.2022 and discharged on 08.12.2022. He was treated at Adani Hospital, Bhuj. It is admitted by the claimant that, since there is no any serious injuries, he has not produced disability certificate. At this juncture, it is required to be noted that, the claimant has failed to prove the fact that at the time of accident, he was earning from doing business of iron scrap. Therefore, this tribunal is of the considered opinion that the compensation is not be calculated on the basis of the standard formula and the applicant is entitled to get lump-sump compensation. He has not produced any medical bills. As per this evidence affidavit applicant has taken the treatment at G.K. General Hospital. He has admitted that in the Govt. Hospital treatment is at free of cost and has said that medicines are to be purchased from the outside. In view of above, when the applicant has taken the treatment in government hospital for only one day, might have spent some money on outside medicines and he might not have worked for a fortnight and he has suffered a injuries. In view of all these things, this Court is of the considered view that lump sump compensation of **Rs. 25,000/-** would serve the ends of justice.

(5) M.A.C.P. No. 262/2023:-

(31) The claimant has deposed (Exh. 27) that at the time of the accident, he was hale and healthy and driving the chhakada

Rickshaw and earning Rs. 10,000/- per month. To prove the said business, he has not produced documentary evidence nor examined witness. He has admitted in cross examination that, he has not produced document to prove monthly income at Rs. 10,000/- from driving. Hence, in the absence of cogent documentary evidence to prove the claimant's income, this Tribunal shall rely on the prevailing minimum wages. For unskilled labor in Gujarat at the time of the accident on 07.12.2022, the rate was Rs. 355.3 per day. Therefore, in the interest of justice, this Tribunal deems it appropriate to determine the claimant's income at Rs. 9237.80 per month, rounded off to **Rs. 9,200/-** per month and **Rs. 1,10,400/-** per annum.

(32) So far as age of the claimant is concerned, the claimant has pleaded that his age was 31 years. However, the claimant has not produced any cogent documentary evidence like Pan Card and Election Card to prove his actual age. However, the claimant has relied upon the Aadhar Card at Exh. 71 wherein the Birth Date of the claimant is shown 01.09.1991 and accident took place on 07.12.2022 and therefore, it can be said that, at the time of an accident, claimant was 31 years old. Against that the Insurance Company has not produced any rebuttal evidence. Hence, the claimant would fall under the age group 31 to 35 and, therefore, the claimant would be entitled to get compensation calculated on the basis of the multiplier of **16.**

(33) So far the income of future prospect in injury case is concerned, in view of **Pappu Deo Yadav Vs. Naresh Kumar**, **AIR 2020 SC 4424** and the judgment of the Hon’ble Supreme Court in the case of **Erudhaya Priya V. State Express Transport Corporation Ltd., AIR 2020 4284** and also going through the latest 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, at the time of accident, he was driving chhakada Rickshaw which is not permanent job. 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.44,160/- (Rs.1,10,400/- X 40%)** in the actual income of the claimant. On doing so, the annual income of the claimant can be worked out as **Rs.1,54,560/- i.e. rounded off Rs. 1,54,500/-.**

(34) Regarding the disability sustained by the claimant, reliance has been placed on medical records and documentary evidence of the treatment received at the hospital, specifically the disability certificate (Exh.69). In this certificate, the doctor certified that the claimant suffers from a permanent physical disability of 32% of left lower limb, 19% by right upper limb, 18% by facial bones function and disfigurement of face. It also shows that, both the parties are agreed to consider 30% disability body as whole. Consequently, in view of these peculiar facts and circumstances, and upon perusal of the MLC and the disability certificate, this Tribunal deems it fit to assess the physical disability at **30%** body as a whole. Further, it is not the case of the functional disability.

(35) Taking into account the physical disability of the claimant which is assessed as **30%** body as a whole, his yearly loss of income would come to **Rs.46,350/- p.a. (Rs.1,54,500/- X 30%).** As noted hereinabove, considering the age of the claimant (31 years), the multiplier of **16** would be applicable, hence, the future Economic loss of income would come to around **Rs.7,41,600/- p.a.**

(36) So far as medical expenses is concerned, the claimant has produced the statement of medical bills at Exh. 70 wherein the total medical bills is stated at **Rs. 17,396/-**. The Insurance Company has not rebutted any evidence against the medical bills. Therefore, the claimant is entitled to get Rs. 17,396/- under medical expenditures. Due to the accident, claimant has suffered injures like Tibia upper third middle third injunction with # upper end Fibula left side, Radius Ulna right side and facial injury in form of multiple facial bones #s consisting of comminuted multipart displaced #s noted through symphysis menti and right para symphysis menti of Mandible, # Nasal bone and bilateral nasal septum, #s of bilateral lateral pterygoid and right medical pterygoid plate, comminuted displaced #s through all walls of both maxillary sinus with herniation of fat into maxillary antrum, displaced # noted through alveolar arch of maxilla right side, comminuted displaced through lateral wall, medial wall and floor of right orbit, # noted through lateral wall, medial wall and floor of left orbit, # noted through bilateral anterior ethmoidal trabeculae and of right Zygomatic Arch with CLW of about 4 x 5 cm on right cheek with teeth loss and CLW over right little finger,

Rs.50,000/- is allowed for pain, shock and sufferings and **Rs.30,000/-** for attendant charges, transportation and rich diet. Last but not the least, the claimant is also entitled for 2 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. 18,400/-**. The claimant is entitled to get the aforesaid amount of compensation, which can be reclassified as under.

Description	**Amount**
Future loss of income.	Rs.7,41,600=00
Pain, shock and sufferings,	Rs.0,50,000=00
Attendant Charges, Transportation, Rich diet	Rs.0,30,000=00
Actual loss of income	Rs.0,18,400=00
Medical expenses	Rs.0,17,396=00
TOTAL AMOUNT OF COMPENSATION	**Rs.8,57,396=00**
ROUNDED OFF	**Rs.8,57,400=00**

LIABILITY :

(37) As held hereinabove the accident took place due to rash and negligent driving on part of driver of Tanker bearing registration No. RJ-39-GA-2040. Herein the claim petitions, the opponent No. 1 is not known, opponent No. 2 is owner and opponent No. 3 is the Insurance Company of offending vehicle Tanker whereas the opponent No. 4 is owner of Rickshaw. The claimants have produced the Insurance Policy of offending Tanker at Exh. 47 from which it appears that, the Insurance Policy of the Tanker was valid and effective at the time of an accident. It also appears that, the same is Package Policy. Herein the present case, the claimants were traveling in the Rickshaw either occupants or driver and therefore, they are said to be third party for owner and Insurance Company of Tanker. Therefore, the opponent No. 1 to 3 are jointly and severally liable to pay compensation and as a result, the opponent No. 4 is exonerated.

(37.1) So far as the defence taken by the Insurance Company is concerned, they have not produced oral as well documentary evidence to prove their defence.

INTEREST :

(38) 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-claimant is entitled to interest at the rate of 7% on the amount of compensation, from the date of filling 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.

-: O R D E R :-

1. The claim petitions **No. 26/2023, 39/2023, 27/2023, 43/2023 & 262/2023** are "**PARTLY ALLOWED**" accordingly in the following terms.

Claim Case Number	**Amount**
(1) MACP NO.26/2023	**Rs.2,81,500/-**

(Rupees Two Lakh Eight One Thousand Five Hundred Only)

(2) MACP NO.39/2023 Rs.1,43,500/-

(Rupees One Lakh Forty Three Thousand Five Hundred Only)

(3) MACP NO.27/2023 Rs.15,83,500/-

(Rupees Fifteen Lakh Eight Three Thousand Five Hundred Only)

(4) MACP NO.43/2023 Rs.25,000/-

(Rupees Twenty Five Thousand Only)

(5) MACP NO.262/2023 Rs.8,57,400/-

(Rupees Eight Lakh Fifty Seven Thousand Four Hundred Only)

2. The opponent Nos. 1 to 3 are jointly and severally liable to pay compensation to claimants and they are directed to deposit the said amount with 07% p.a. interest from the date of institution of claim petitions until the said amount is realized with proportionate costs within one month from the date of the order. The opponent No. 4 is hereby exonerated.

3. The aforesaid opponents are directed to deposit the awarded amount within one month from today in this Tribunal.

4. On such deposit being made, first of all deficit Court Fees and the amount of interim compensation paid to the claimants, if any, shall be deducted from the awarded amount.

Sr.No.	MACP	DISBURSEMENT
1	26/2023	1. Applicant
2	39/2023	1. Applicant
3	27/2023	1. Applicant No. 1 being father- 30% 2. Applicant No. 2 being mother-30%

		3 Applicant No. 3 to 5 being sisters - Equally (Minors)
4	43/2023	1. Applicant.
5	262/2023	1. Applicant

5. In MACP No. 26/2023, 27/2023, 39/2023 and 262/2023 out of the deposited amounts, 60% shall be invested in Fixed Deposit Scheme in any Nationalized Bank in the name of major claimants for a period of Five years and remaining 40% amount be paid by way of Account Payee cheque to the said claimants. So far as minor claimants are concerned, their entire amount shall be invested in FDR in any Nationalized Bank in the name of the minor claimants through his/her/their guardian for the period of Five Years or till he/she/they attains majority whichever is later. In MACP No. 43/2023 total compensation amount be paid though RTGS/NEFT.

5.1 The concerned Bank is directed not to grant any loan, advances or withdrawal against the said F.D.R. without obtaining prior permission of this Tribunal.

5.2 However, the claimants will be entitled to draw quarterly interest on the amount of deposits in the F.D.Rs.

6. In compliance with Circular No. 9182/2021, which was issued pursuant to the directions of the Hon'ble Supreme Court in Writ Petition (Civil) No. 534/2020 dated 16.11.2021, the opponent is required to deposit the amount as directed.

7. Award shall be drawn accordingly.

Original of this judgment shall be kept in MACP No.26/2023 and certified copy thereof shall be kept with MACP No. 27/2023, 39/2023, 43/2023 and 262/2023.

Signed and pronounced in the open Court today i.e. 29th June, 2026.

Dtd. 29.06.2026
Place: Bhuj

(Tushar N. Khandhadiya)
7th Additional District Judge &
M.A.C. Tribunal (Auxi),
Bhuj-Kachchh
Code No. GJ-00953

/Rajesh Vaghela/