

		Received on : 07-06-2022 Registered on : 07-06-2022 Decided on : 03-04-2026 Duration : <u>YY-MM-DD</u> : 03 -09 -26 Exhibit : 76
--	---	---

**BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL
(Aux.),
MAHISAGAR AT LUNAWADA.**

MACP No.66/2022 (Main) with
MACP No.67/2022 &
MACP No.114/2022

CLAIMANT(s) :-

In MACP No.66 of 2022

Galalben Rumalbhai Vadi

Age : 63 Years, Occupation : Animal Husbandry & Agriculture,
R/o. At Dhalvala, Po.-Kanesar,
Tal.-Lunawada, Dist.-Panchmahal.

M.A.C. Petition preferred under Section-166 of Motor Vehicle Act, 1988 for claim of ₹50,000/-.

In MACP No.67 of 2022

Kalubhai Rumalbhai Vadi

Age : 50 Years, Occupation : Labour & Agriculture,
R/o. At Dhalvala, Po.-Kanesar,
Tal.-Lunawada, Dist.-Panchmahal.

M.A.C. Petition preferred under Section-166 of Motor Vehicle Act, 1988 for claim of ₹5,00,000/-.

In MACP No.114 of 2022

Raval Shardaben Rumalbhai

Age : 57 Years, Occupation : Labour,

R/o. At Bheemjina Muvada, Ditwas,
Tal.-Kadana, Dist.-Mahisagar.

M.A.C. Petition preferred under Section-166 of Motor Vehicle Act, 1988 for claim of ₹2,00,000/-.

~ ~ ~ V E R S U S ~ ~ ~

OPPONENT(s) :- (Common in all MACPs)

(Driver, Owner, Insurer of Rickshaw No.GJ-35-U-1024)

1. Anilkumar Bhikhabhai Bajaniya
Adult, Driver,
R/o. Mota Deghamda, Bus-Stand Faliyu,
Tal.-Khanpur, Dist.-Mahisagar.
2. Maheshbhai Mangalbhai Dholi
Adult, Owner,
R/o. Prajapativas, Bhoi Faliyu,
Kothamba, Tal.-Lunawada, Dist.-Mahisagar.
3. Megma HDI Genearl Ins. Co. Ltd.
Insurer
1, 2, 3, 2nd Floor, Petrit Complex,
Racecourse Road, Hirnagar, Vadodara.
4. Rajendrakumar Prabhatsinh Pateliya
Adult, Owner,
R/o. Mu. Po.-Nandarva,
Tal.-Shahera, Dist.-Panchmahal.
5. Parthkumar Patel
Adult, Driver,
R/o. Mu. Po.-Nandarva,
Tal.-Shahera, Dist.-Panchmahal.

Appearance :-

Learned Advocate **Mr. M. P. Dhanekar/ H. M. Dhanekar** for
claimants. **(In MACP Nos.66 & 67/2022)**

Learned Advocate **Mr. S. B. Patel/ H. K. Patel** for the claimant.
(In MACP No.114/2022)

Learned Advocate **Mr. B. R. Patel** for opponent Nos.1 & 2.

Learned Advocate **Mr. S. S. Parikh** for opponent No.3.

Ex-parte against the opponent Nos.4 & 5.

-: COMMON-JUDGMENT :-

- (1) The claimants in MACP Nos.66/2022, 67/2022 & 114/2022 have preferred the present claim petitions under Section 166 of the Motor Vehicles Act, 1988, claiming compensation for the injuries sustained by them in the vehicular accident.
- (2) All the three claim petitions arise out of the same accident, and in view of the guidelines issued by the Hon'ble High Court regarding consolidation of matters arising from the same accident, the Tribunal, by orders dated 05-01-2024 and 21/07/2023 directed to consolidate all the three claim petitions. It is further ordered that the evidence shall be recorded in MACP No.66/2022 (Main). For the sake of convenience, the claimants in MACP Nos.66, 67 and 114/2022 shall hereinafter be collectively referred to as the "injured claimants".
- (3) The factual matrix of the case reveals that on 24.02.2022, the injured claimants were proceeding to their workplace while travelling in a rickshaw bearing Registration No.GJ-35-U-1024. The said rickshaw was being driven by

opponent No.1 in a rash and negligent manner, at an excessive and uncontrollable speed. At about 10:15 a.m., while passing through the Lunawada–Modasa Highway near Vibrant School, opponent No.1 lost control over the steering and collided with a motorcycle, as a result of which the rickshaw overturned on the road. Owing to the said accident, the claimants sustained grievous injuries on various parts of their bodies. It is the case of the claimants that the accident occurred solely due to the negligence of opponent No.1. It is further alleged that opponent No.1, in collusion with the police, lodged a complaint against the motorcycle driver, i.e., opponent No.5, at Lunawada Police Station, which came to be registered as I.C.R. No.11187006220122/2022. Consequently, the injured claimants have preferred the present claim petitions seeking compensation of ₹50,000/-, ₹5,00,000/- and ₹2,00,000/- respectively from the opponents under various heads.

- (4) Notices were duly served upon the opponents. The opponent Nos.1 and 2 appeared through their learned Advocate Mr. B. R. Patel and filed their written statement vide Exh.13, wherein they denied, in toto, most of the averments made in the claim petitions. It was contended that a case regarding the said accident is still pending in the Hon'ble Court of J. M. F. C., Lunawada and the opponent No.1 has not committed the said accident and he

has been falsely implicated in the matter. It was further averred that at the time of the accident, the Rickshaw bearing Registration No.GJ-35-U-1024 was duly insured with opponent No.3—Insurance Company, and the policy was also valid at the time of accident therefore, the liability to pay compensation does not rest upon opponent Nos.1 and 2. Lastly, he prayed to dismiss the claim petitions with costs.

- (5) The opponent No.3 i. e. The New India Insurance Co. Ltd. appeared through learned Advocate Mr. S. S. Parikh and filed written statement vide Exh.20 wherein he denied most of the facts of the claim petitions and submitted that the age, occupation and monthly income of the applicants are not admitted and hence denied in toto. Applicants need to prove those facts with the supporting documents. It was further submitted that the contents of Para "Brief description of the accident of the claim application regarding the grounds for the accident are not true and hence denied. It is not true that driver of the alleged Rickshaw Reg. no.GJ.35.U.1024 was driving his vehicle rash and negligently. The driver of the alleged Rickshaw Reg. no.GJ.35.U.1024 was not liable at all for the alleged accident. Therefore, opponent No.1 is not liable for accident and hence opponent no.3 is not liable for any kind of compensation. That alleged accident took place due to sole negligence on the driver of Motorcycle Reg. no.GJ.17.AQ.3747. Further, driver, owner and Insurance

Company of another vehicle named Motor cycle Reg. no.GJ.17.AQ.3747 are not joined as party to present proceedings and therefore, claim petition is to be dismissed for non joiner of necessary parties. It is further submitted that the claimant/claimants may be directed to furnish the details of the PAN number, which may be required as per the provisions of the I.T.Act. Lastly, the learned Advocate for the opponent No.3 requested to dismiss the present claim petitions with costs.

- (6) However, the opponent Nos.4 and 5 did not appear either personally or through their learned Advocate therefore, the present matter proceeded as Ex-Parte against the opponent Nos.4 and 5.
- (7) From the pleadings of the parties, following common issues were framed for determination of these claim petitions :-
1. Whether it is proved that the claimants have sustained injuries on account of rashness or negligent driving on the part of the driver of the vehicle 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 order?
- (8) My findings for the aforesaid issues are as under :-

1. In Partly Affirmative.
 2. Yes, the amount of compensation **as per the final order** from the opponent Nos.1, 2 and 3 jointly and severally.
 3. As per final order.
- (9) Before this Tribunal proceeds to appreciate the evidence, following documents are required to be referred since they have been taken into consideration for arising on the determination of the compensation.

<u>Oral Evidence</u>	<u>Exhibits/ Marks</u>
Affidavit of injured claimants	32, 35 & 45
Deposition of Dr. Vijaykumar	50
<u>Documentary Evidence</u>	
<u>(In MACP No.66/2022)</u>	
Copy of complaint/FIR	53
Copy of spot panchnama	54
Copy of Driving licence (opponent No.1)	55
Copy of R. C. Book (Rickshaw)	56
Copy of Insurance Policy (Rickshaw)	57
Copy of Injury Certificate	58
Case Papers (Jai Surgical Hospital, Lunawada)	59
Medical Bill (Vinayak Orthopaedic Hospital, Lunawada)	60
<u>(In MACP No.67/2022)</u>	
Copy of complaint/FIR	61
Copy of spot panchnama	62
Copy of Driving licence (opponent No.1)	63

Copy of R. C. Book (Rickshaw)	64
Copy of Insurance Policy (Rickshaw)	65
Copy of Injury Certificate (General Hospital, Lunawada)	66
Disability Certificate	51
Medical Bill (Vinayak Orthopaedic Hospital, Lunawada)	67
Medical Bill (Nidhi Hospital, Ahmedabad)	52
Copy of counterpart of Charge-sheet	73
Aadhar Card of claimant	4/7
(In MACP No.114/2022)	
Copy of Injury Certificate, Medicolegal Certificate & MLC Certificate	44/1
Copy of Aadhar Card (claimant)	44/2
Medical Bills	44/3

- (10) The claimants and the opponent No.3 have filed the closing pursis vide Exh.68 and Exh.74 respectively and therefore, their right to adduce further evidence has been closed.
- (11) Learned Advocate Mr. M. P. Dhanekar, appearing for the claimants, submitted that the claimants were seating in the Rickshaw bearing Registration No.GJ-35-U-1024 as in the capacity of passengers and the opponent No.1, who was driving Rickshaw bearing Registration No.GJ-35-U-1024, in a rash and negligent manner and violently collided with the motorcycle of opponent No.5. As a result, the accident occurred solely due to the negligent driving of opponent No.1. Due to the said accident, the injured claimants

sustained multiple injuries on various parts of their bodies and medical papers including bills, injury certificates have been produced. Moreover, due the said injuries, the claimants sustained financial loss and they are required to be compensated. In view of the above, it was submitted that the claimants are entitled to receive just and reasonable compensation under various heads from the opponents in the respective claim petitions.

(12) Learned Advocate Mr. H. K. Patel appearing for the claimant submitted that, as a result of the accident, the claimant sustained severe spinal injuries, including displacement of the spinal cord, and underwent surgical intervention wherein plates were implanted through an incision in the throat. It was further submitted that the claimant is engaged in agricultural activities and, due to the said injuries, has suffered considerable physical pain, mental agony, and financial loss. The claimant has also placed on record medical bills pertaining to treatment. In view of the aforesaid, it is contended that the claimant is entitled to just and reasonable compensation under various heads from the opponents.

(13) Learned Advocate Mr. S. S. Parikh appeared on behalf of opponent No.3 and submitted that the claimants have failed to produce any documentary proof of income in support of their claims. As such, it is not admissible to accept the contention that the injured claimants were

earning as stated in the claim petitions. Moreover, during the course of cross-examination, it was admitted by all the claimants that they have not produced any proof of their income. Additionally, it was argued that the accident was a result of negligence on the part of the opponent No.5 who was the driver of the motorcycle bearing Registration No.GJ-17-Q-3747 and also after the occurrence of the accident, the opponent No.5 ran away from the place of accident and the counterpart of the charge-sheet has been filed against the opponent No.5. In light of the above submissions, the learned Advocate for opponent No.3 prayed that the Insurance Company be exonerated from any liability to pay compensation to the claimants.

- (14) Moreover, opponent No.3 has filed written arguments vide Exh.75, contending that none of the injured claimants have produced any documentary evidence to substantiate their income. It is, therefore, submitted that the income as stated in the claim petitions cannot be accepted as proved. It is further contended that, during the course of cross-examination, the claimants have admitted that they have relied upon the FIR. A perusal of the FIR indicates that the accident occurred due to the negligence of the rider of the motorcycle, and that there was no negligence on the part of the driver of the rickshaw. Hence, it is argued that opponent No.3 is not liable to pay any compensation to the claimants, and that opponent Nos.4 and 5 are liable to satisfy the claim.

-: REASONS :-

Issue No.1 – Negligence :- (common for all the claim petitions)

- (15) While deciding the point of negligence, it has to be born 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 i) **Bimla Devi v/s H.R.T.C.**, reported in **AIR 2009 SC 2819** and ii) **Parmeshwari Devi v/s Amir Chand**, reported in **2011(11) SCC 635**.
- (16) In order to succeed in a claim petition under Section 166 of the Motor Vehicles Act, the claimant is required to prove that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle, on the touchstone of preponderance of probabilities. In the case on hand, in order to discharge the burden of proof, the claimants have stepped into the witness box and filed their affidavits in lieu of examination-in-chief, reiterating the averments made in the claim petitions. The said oral evidence is duly corroborated by documentary evidence on record, including the complaint/FIR at Exh.53 and the spot panchnama at Exh.54.
- (16.1) Furthermore, the opponents have failed to adduce any oral or documentary evidence to establish that opponent No.1 was driving the vehicle, namely Rickshaw bearing

Registration No.GJ-35-U-1024, with due care and caution. It is an admitted and undisputed position that the accident occurred due to a collision between two vehicles, i.e., the Rickshaw bearing Registration No.GJ-35-U-1024 and the Motorcycle bearing Registration No.GJ-17-AQ-3747. Moreover, the contents of the complaint and the panchnama clearly indicate that the rickshaw involved in the accident collided with the said motorcycle. In view of the above evidence on record, and in absence of any rebuttal evidence from the opponents, the version put forth by the claimants inspires confidence and deserves acceptance.

(16.2) Further, it is an undisputed fact that the opponent No.1, being the driver of the offending vehicle, namely the rickshaw bearing Registration No.GJ-35-U-1024, has chosen not to enter the witness box to explain the circumstances under which the accident occurred. He has neither presented his version of events nor rebutted the testimony of the claimants. In the absence of any plausible explanation, such abstention warrants drawing an adverse inference against opponent No.1. Moreover, the mere registration of an FIR and filing of counterpart of charge-sheet against the opponent No.5 i.e. the driver of the motorcycle bearing Registration No.GJ-17-AQ-3747 does not ipso facto establish his fault. An FIR is not a substantive piece of evidence and can only be used for limited corroborative purposes. From the oral as well as

documentary evidence produced on record, no reliable or cogent material has been brought on record to conclusively attribute negligence to the motorcycle driver. It is further noted that the place of the accident is situated on a road leading to Vibrant School and a prudent driver is expected to exercise a higher degree of care and caution while driving in the vicinity of a school, where the movement of pedestrians, particularly children, is frequent and often unpredictable. Moreover, there is also sign board of **"School ahead, drive slowly"** which is ignored by the opponent No.1. It is also a matter of common experience that such areas usually have openings in the road dividers to facilitate crossing by pedestrians and local traffic. Therefore, a driver is under a duty to anticipate such contingencies and regulate the speed of the vehicle accordingly. In the present case, opponent No.1 failed to observe the standard of care expected of a reasonable and prudent driver. The evidence on record indicates that he was driving the offending rickshaw at an excessive speed without maintaining proper lookout, control, or vigilance and he failed to slow down despite approaching a sensitive zone and did not take precautionary measures to avoid the accident. Such conduct clearly amounts to rash and negligent driving. It is also pertinent to note that nothing substantial has been elicited in the cross-examination of the claimants so as to discredit their version or create doubt regarding the manner in which the accident

occurred. Furthermore, the principle of preponderance of probabilities, which governs proceedings before the Tribunal, clearly tilts in favour of the claimants. The overall circumstances, coupled with the unrebutted evidence on record and the conduct of opponent No.1, lead to a clear inference that the accident occurred due to his negligence and not of the motorcycle driver. Merely, the opponent No.1 has informed the police regarding the accident and lodged FIR against the opponent No.5, is not sufficient to prove no negligence on his part and thus he cannot run away from his liability. Moreover, the driver of the bigger vehicle bears more accountability while driving the vehicle on road. Accordingly, this Tribunal is of the considered opinion that the accident in question occurred solely on account of rash and negligent driving of the offending vehicle by opponent No.1 only. The issue of negligence is, therefore, answered in the partly affirmative in favour of the claimants and against only opponent Nos.1 to 3.

Issue No. 2 :-

- (17) In view of finding of issue No.1, the claimants are entitled to get the amount of compensation, as determined hereinafter.

In MACP No.66/2022

- (18) It is the case of the injured claimant that at the time of accident, she was earning total ₹15,000/- per month by doing agricultural activities and animal husbandry but no

any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was also admitted by the injured claimant that she has not produced any evidence regarding her income. In the absence of any cogent and reliable documentary evidence to prove the income and considering the applicable Minimum Wage Rates in the State of Gujarat at the relevant time, the notional income of the injured is assessed at ₹8,840/- per month which come to ₹1,06,080/- per annum.

(18.1) As per the claim petition, age of the claimant was 63 years at the time of accident however during the course of cross-examination it was admitted by her that she has not produced in evidence in support of her age. Therefore, in order to access the age of the injured claimant having gone through injury certificate vide Exh.58 wherein the age of the injured claimant is mentioned 62 years at the time of accident. Therefore, this Tribunal is of the opinion that the age of the claimant might be between 61 to 65 years at the time of accident and therefore she is entitled to get **multiplier** of '07' as held by the Hon'ble Apex Court in **Sarla Verma & Ors Vs. Delhi Transport Corporation & Anr.** reported in 2009 A.C.J. 1298.

(19) However, it is mentioned by the claimant in her affidavit that, in the alleged vehicular accident she has sustained injuries on mouth, head and stomach and X-Ray and CT

Scan were done and two family member were engaged to look after her and dressing was also done for two to three times. Moreover, the injuries are reflected from injury certificate Exh.58. It is pertinent to note here that the claimant has not produced any disability certificate on record to substantiate with the disability sustained in this vehicular accident. Moreover, during the course of cross-examination, it was admitted by the claimant that she has not produced any disability certificate. It is the duty of the petitioner to prove her disability by way of leading cogent and reliable oral as well as documentary evidence and therefore, said disability cannot be considered into evidence. Thus, petitioner has not sustained any permanent disability and also during the course of cross-examination, it was admitted by her that she sustained only simple injuries. As, she has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, she is not entitled for any future loss of income. Further, the claimant has produced medical bills vide Exh.60 for the treatment she has taken and of medicines, which comes to the total of about ₹15,000/-. Therefore, in absence of any cogent and reliable documentary evidence, however, considering her age, income and injuries suffered and medical expenses incurred towards medical treatment it would be just, proper and reasonable to award lump sum amount of **₹40,000/-** by way of compensation and hence I award the

same.

In MACP No.67/2022

(20) It is the case of the injured claimant that at the time of accident, he was earning total ₹15,000/- per month by doing labour work as well as agricultural activities but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was also admitted by the injured claimant that he has not produced any evidence regarding his income. In the absence of any cogent and reliable documentary evidence to prove the income and considering the applicable Minimum Wage Rates in the State of Gujarat at the relevant time, the notional income of the injured is assessed at ₹8,840/- per month which come to ₹1,06,080/- per annum.

(20.1) As per the claim petition, age of the claimant was 50 years at the time of accident and in support of his age the claimant has produced copy of Aadhar-card vide Mark-4/7. Therefore, in order to access the age of the injured claimant having gone through same vide Mark-4/7 wherein the age of the injured claimant is mentioned 01-01-1966 and by calculation of claimant's age which comes to 56 years 1 months 23 days at the time of accident. Therefore, this Tribunal is of the opinion that the age of the claimant might be between 56 to 60 years at the time of accident and therefore she is entitled to get **multiplier** of '09' as held by the Hon'ble Apex Court in **Sarla Verma & Ors Vs. Delhi Transport Corporation & Anr.** reported in 2009 A.C.J. 1298.

(20.2) Claimant has produced disability certificate at Exh.51 wherein disability of injured is assessed at 14% body as a whole, permanent disability, resulting from head injury. Moreover, Mr. Vijaykumar, the issuer of the disability certificate has been examined through Video Conference vide Exh.60 wherein he deposed that he issued the disability certificate after taking the history of the accident from the claimant. It was further deposed that he calculated the injury by the formula of book of Dr. Yadav & Dr. Varma, Dr. R. M. Zhala. This Tribunal is of the considered opinion that there is no reason to disbelieve the deposition of the Dr. Vijaykumar as the doctor has been practicing as Neurosurgeon since last 37 years and also claimant has sustained head injury so the assessed disability of 14% body as a whole to the claimant, is just and appropriate. In view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : ($\text{₹}1,06,080/- \times 09 \text{ multiplier} \times 14\% \text{ disability}$) = **₹1,33,660.8/-** which can be rounded off **₹1,33,661/-**.

(21) From the deposition of claimant as well as from Injury Certificate (Exh.66) it clearly appears that the claimant has sustained multiple injuries including head injury. There is no much dispute with regard to the amount which is to be awarded under the heads **like pain, shock & suffering and special diet, attendance & transportation**. Therefore, I award **₹14,000/-** and **₹10,500/-**, respectively under the above referred heads.

(22) It transpires from the medical records, that the claimant sustained multiple injuries and received primary treatment at General Hospital, Lunawada followed treatment at Vinayak Hospital, Lunawada, which are Govt. and private hospitals, respectively. Considering the nature and severity of the injuries and the period of hospitalization and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of two months. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹17,680/- (₹8,840 per month for two months)** under the head of **actual loss of income**.

(23) Claimant has produced medical bill vide Exhs.52 and 67 for the treatment he has taken and of medicines, which comes to the total of ₹93,000/-. I am of the view that the claimant is entitled to get the medical expenses that he spent, therefore it would be just and proper to award **₹93,000/-** towards medical expenses to the claimant.

(24) In view of the foregoing discussion, the claimant is entitled to the following amount :-

Heads of Compensation	Amount in ₹
Future loss of income	1,33,661/-
Pain, shock and sufferings	14,000/-
Transportation, attendants and special diet	10,500/-

Actual loss of income	17,680/-
Medical expenses	93,000/-
Total amount of compensation	2,68,841/-

In MACP No.114/2022

(25) It is the case of the injured claimant that at the time of accident, she was earning total ₹10,000/- per month by doing labour work but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was also admitted by the injured claimant that she has not produced any evidence regarding her income. In the absence of any cogent and reliable documentary evidence to prove the income and considering the applicable Minimum Wage Rates in the State of Gujarat at the relevant time, the notional income of the injured is assessed at ₹8,840/- per month which come to ₹1,06,080/- per annum.

(25.1) As per the claim petition, age of the claimant was 57 years at the time of accident and in support of her age the claimant has produced copy of Aadhar-card vide Mark-44/2. Therefore, in order to access the age of the injured claimant having gone through same vide Mark-44/2 wherein the age of the injured claimant is mentioned 01-01-1964 and by calculation of claimant's age which comes to 58 years 1 months 23 days at the time of accident. Therefore, this Tribunal is of the opinion that the age of the claimant might

be between 56 to 60 years at the time of accident and therefore she is entitled to get **multiplier** of '09' as held by the Hon'ble Apex Court in **Sarla Verma & Ors Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

- (26) However, it is mentioned by the claimant in her affidavit, in the alleged vehicular accident she has sustained serious and grievous injuries i.e. fracture in spinal cord and she was admitted as an indoor patient for the treatment and she also stated that she could not able to do her daily work for the period of three months. However, it is pertinent to note here that the claimant has not produced any disability certificate on record to substantiate with the disability sustained in this vehicular accident. Moreover, during the course of cross-examination, it was admitted by the claimant that she has not produced any disability certificate. It is the duty of the petitioner to prove her disability by way of leading cogent and reliable documentary evidence but here the claimant failed to prove the same. Thus, petitioner has not sustained any permanent disability and she has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, she is not entitled for any future loss of income. Further, the claimant has produced medical bills vide Mark-44/3 for the treatment she has taken and of medicines, which comes to the total of about Rs.86,600/-. Therefore, in absence of any cogent and reliable documentary evidence, however, considering her

age, income and injuries suffered and medical expenses incurred towards medical treatment it would be just, proper and reasonable to award lump sum amount of ₹1,40,000/- by way of compensation and hence I award the same.

Liability (common for all claim petitions) :-

- (27) As discussed herein above and for the reasons stated in the foregoing paras of this judgment, this Tribunal held that the accident occurred due to rash and negligent driving on the part of the opponent No.1—driver of the Rickshaw bearing Registration No.GJ-35-U-1024. So far as the liability to pay the said amount of compensation to the claimants is concerned, it is clear from the records that at the time of accident the opponent No.1 was holding valid and effective driving licence (Exh.55) and from R. C. Book (Exh.56) the opponent No.2 is owner of the vehicle and opponent No.3—insurance company insured the said Rickshaw and it appears from the copy of insurance policy produced at Exh.57 that the policy was in force on the date of accident. No any technical defence raised on behalf of the opponent No.3. Therefore, for the negligent act of the opponent No.1—driver of Rickshaw bearing Registration No.GJ-35-U-1024, the opponent Nos.1, 2 and 3 are jointly and severally liable to pay the calculated amount of compensation to the claimants whereas the opponent Nos.4 and 5 are required to be exonerated. Hence, my answer to the issue No.2 is accordingly.

Interest

- (28) The awarded amount shall carry interest at the rate of 7% per annum from the date of filing of the respective claim petition till realization. Hence, this Tribunal passes the following final order for issue No.3.

|| ORDER ||

1. The present claim petitions are hereby **partly allowed**.
2. The opponent Nos.1, 2 and 3 are held jointly and severally liable to pay compensation of **₹40,000/- (Rupees Forty Thousand Only) to the claimant** in MACP No.66 of 2022 (Main), **₹2,68,841/- (Rupees Two Lakh Sixty-Eight Thousand Eight Hundred Forty-One Only) to the claimant** in MACP No.67 of 2022 and **₹1,40,000/- (Rupees One Lakh Fourty Thousand Only) to the claimant** in MACP No.114 of 2022, together with interest at the rate of 7% per annum from the date of filing of the claim petitions till realization of the awarded amounts.
3. The opponent Nos.4 and 5 are hereby ordered to be exonerated from paying compensation to the claimants.
4. The opponent Nos.1, 2 and 3 are ordered to deposit the awarded amount with interest within 30 days from the date of receipt of the judgment and award as per the guideline of Hon'ble Supreme Court, through RTGS/NEFT into the following Bank account maintained by the Tribunal Mahisagar at Lunawada.

BANK NAME	STATE BANK OF INDIA, LUNAWADA
NAME OF ACCOUNT	MOTOR ACCIDENT CLAIM TRIBUNAL LUNAWADA
TYPE OF ACCOUNT	CA-GOVT-DEPT-AUTO BODY- INR
BANK ACCOUNT NUMBER	40748248570
IFSC CODE	SBIN0001294
BRANCH NAME	FUVARA CHOWK, LUNAWADA
E-MAIL ADDRESS	mact-mahisagar@gujarat.gov.in

5. The concerned opponents shall pay the proportionate costs of claim petitions incurred by the claimants and shall bear their own.
6. From the amount of compensation, amount of requisite Court Fees, if any, be deducted first and credited to the State.
7. From the amount of compensation, amount if any, paid to the claimants as Interim Compensation on the head of “No Fault Liability” be deducted first.
8. Thereafter, **in MACP No.66/2022** on depositing the amount, entire amount be paid to the respective claimant through RTGS/NEFT mode or by A/c. Payee Cheque. Moreover, **in MACP No.67/2022** and **MACP No.114/2022**, 30% from the amount came into share of claimants be paid to them by A/c. Payee Cheque or RTGS/NEFT Mode, after due verification whereas remaining 70% amount be kept in

Fix Deposit in any Nationalized Bank in their names for the period of 5 (Five) years.

9. Copy of this judgment of MACP No.66/2022 (Main) be kept with other consolidated matters MACP No.67/2022 and MACP No.114/2022.

10. Award to be drawn accordingly.

Signed and pronounced in the open Court today on this 03rd day of April, 2026.

Date : 03.04.2026

Lunawada.

(Mukesh M. Parmar)
M. A. C. Tribunal (Aux.),
Mahisagar at Lunawada.
[GJ00881]

DKumar