	सत्यमेव जयते	Received on : 08-05-2023 Registered on : 08-05-2023 Decided on : 27-04-2026 Duration : YY-MM-DD : 02 -11 -19 **Exhibit :- 202**

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

MACP No.68/2023 (Main) to MACP Nos.72/2023 & 126/2023 to 144/2023

CLAIMANT(s) :-

In MACP No.68 of 2023 (Main)

(Following are the legal heirs of deceased Jayantibhai Masurbhai Taral)

1) Savitaben Wd/O. Jayantibhai Masurbhai Taral
Age : 44 Years, Occupation : Household Work,

2) Vipulkumar Jayantibhai Taral
Age : 26 Years, Occupation : Household Work,

3) Naniben Masurbhai Taral
Age : 76 Years, Occupation : Household Work,

All are R/o. At- Taral Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.69 of 2023

(Following are the legal representatives of deceased Babubhai Masurbhai Chokiyat)

1) Bhavnaben Wd/o. Babubhai Masurbhai Chokiyat
Age : 32 Years, Occupation : Household Work,

2) Minor Sejalben Babubhai Chokiyat
Age : 14 Years, Occupation : Study,

3) Minor Sureshbhai Babubhai Chokiyat
Age : 12 Years, Occupation : Study,

4) Minor Anitaben Babubhai Chokiyat
Age : 09 Years, Occupation : Study,

5) Masurbhai Javarabhai Chokiyat
Age : 67 Years, Occupation : Retired,

6) Naniben Masurbhai Chokiyat
Age : 63 Years, Occupation : Household Work,

All are R/o. At Chokiyat Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.70 of 2023</u>

(Following are the legal representatives of deceased Nanabhai Javrabhai Chokiyat)

1) Kamlaben Wd/o. Nanabhai Javrabhai Chokiyat
Age : 58 Years, Occupation : Household Work,

2) Jayantibhai Nanabhai Chokiyat
Age : 36 Years, Occupation : Agri-Labour,

Both are R/o. At Chokiyat Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.71 of 2023</u>

(Following are the legal representatives of deceased Arvindbhai Nanabhai Baria)

1) Manguben Wd/o. Arvindbhai Nanabhai Baria
Age : 45 Years, Occupation : Household Work,

2) Bhartiben Arvindbhai Baria
Age : 24 Years, Occupation : Study,

3) Minor Manishaben Arvindbhai Baria
Age : 16 Years, Occupation : Study,

4) Minor Ankitbhai Arvindbhai Baria

Age : 13 Years, Occupation : Study,

All are R/o. At Baria Faliyu, Nani Palli,
Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.72 of 2023</u>

(Following are the legal representatives of deceased Nanabhai Bhurabhai Taral)

1) Savitaben Wd/o. Nanabhai Bhurabhai Taral
Age : 36 Years, Occupation : Household Work,

2) Nileshkumar Nanabhai Taral
Age : 20 Years, Occupation : Study,

3) Minor Hetalben Nanabhai Taral
Age : 17 Years, Occupation : Study,

4) Champaben Bhurabhai Taral
Age : 55 Years, Occupation : Household Work,

All are R/o. At-Taral Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.126 of 2023</u>

Bariya Rameshbhai Nanabhai
Age : 40 Years, Occupation : Agriculture,
R/o. At Palli, Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.127 of 2023</u>

Taral Babubhai Bhurabhai
Age : 54 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

<u>In MACP No.128 of 2023</u>

Babubhai Sardarbhai Bariya
Age : 42 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.129 of 2023

Kanabhai Arjanbhai Makwana
Age : 60 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.130 of 2023

Nathabhai Dhirabhai Taral
Age : 65 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.131 of 2023

Mangalbhai Chandubhai Bariya
Age : 48 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.132 of 2023

Vaghabhai Zavarabhai Chokiyat
Age : 52 Years, Occupation : Agriculture,
R/o. At Chokiyat Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.133 of 2023

Kiranbhai Vaghabhai Chokiyat
Age : 18 Years, Occupation : Agriculture,
R/o. At Chokiyat Faliyu, Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.134 of 2023

Rameshbhai Mangalbhai Bariya
Age : 36 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.135 of 2023

Dineshbhai Babubhai Taral
Age : 28 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.136 of 2023

Dineshkumar Shankarbhai Bariya

Age : 24 Years, Occupation : Agriculture,
R/o. At Gadha (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.137 of 2023

Minor Ankitkumar Arvindbhai Bariya
Age : 14 Years, Occupation : Study,
Through his mother Manguben Arvindbhai Bariya
Age : 42 Years, Occupation : Household Work,
R/o. At Nani Palli, Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.138 of 2023

Minor Jigarkumar Rameshbhai Bariya
Age : 08 Years, Occupation : Study,
Through his Father & Next Friend Rameshbhai Mangalbhai Bariya
Age : 36 Years, Occupation : Agriculture,
R/o. At Gadha, Rajgadh, Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.139 of 2023

Minor Rahulkumar Rameshbhai Bariya
Age : 05 Years, Occupation : Study,
Through his Father & Next Friend Rameshbhai Mangalbhai Bariya
Age : 36 Years, Occupation : Agriculture,
R/o. At Gadha, Rajgadh, Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.140 of 2023

Bhikhabhai Masurbhai Bariya
Age : 62 Years, Occupation : Agriculture,
R/o. At Nani Palli, Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.141 of 2023

Kalubhai Masurbhai Bariya
Age : 65 Years, Occupation : Agriculture,
R/o. At Palli, Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.142 of 2023

Babubhai Kodarbhai Taral
Age : 35 Years, Occupation : Agriculture,
R/o. At Gadha, (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.143 of 2023

Minor Kishanbhai Amrabhai Taral
Age : 16 Years, Occupation : Study,
Through his Father Amarsinh Ranchhodbhai Taral
Age : 37 Years, Occupation : Agriculture,
R/o. At Gadha, (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

In MACP No.144 of 2023

Minor Manish @ Mayur Dineshbhai Taral
Age : 07 Years, Occupation : Study,
Through his Father & Next Friend Dineshbhai Babubhai Taral
Age : 28 Years, Occupation : Agriculture,
R/o. At Gadha, (Rajgadh), Tal.-Lunawada, Dist.-Mahisagar.

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

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

(Driver, Owner, Insurer of Tempo No.GJ-35-T-0526)

1. Pagi Jashwantbhai Amrabhai
Adult, Driver
At Limbodra, Tal.-Lunawada, Dist.-Mahisagar.

2. Malivad Mehulkumar Ratnabhai
Adult, Owner,
At Malivad Faliyu, Gadha Rajgadh,
Tal.-Lunawada, Dist.-Mahisagar.

3. Shriram General Insurance Co. Ltd.
Insurer,
At Prabhu Complex, Above
HDFC Complex, Nr. Patel Automobiles,
Highway, Mehsana.

(Driver, Owner, Insurer of Indigo Car No.GJ-17-N-8584)

4. Kanaiyalal Ramjibhai Panchal
Adult, Driver
At Malvan, Tal.-Kadana, Dist.Mahisagar.
~~~

5. Kalaben Jayantilal Panchal
Adult, Owner,
At Malvan, Panchal Faliyu,
Tal.-Kadana, Dist.- Mahisagar.

6. The New India Insurance Co. Ltd.
Insurer
At Charkosia Naka,
Lunawada, Dist.-Mahisagar.

Appearance :- (Common in all MACPs)

Learned Advocate **Mr. M. P. Dhanekar** for claimants.

Learned Advocate **Mr. A. M. Sajorawala** for opponent No.1.

Learned Advocate **Mr. B. P. Solanki** for opponent No.2.

Learned Advocate **Mr. V. B. Trivedi** for opponent No.3.

Learned Advocate **Mr. A. S. Panchal** for opponent Nos.4 & 5.

Learned Advocate **Mr. A. B. Raval** for opponent No.6.

-: COMMON - JUDGMENT :-

(1) All these claim petitions are arising out of the same accident and offending vehicles involved in the accident are also same. Hence, learned Advocates for the opponents - Insurance Companies have given an application vide Exh.109 to consolidate all these claim petitions and therefore in view of the guidelines issued by the Hon'ble High Court regarding consolidation of matters arising from the same accident, the Tribunal, by order dated 08-08-2025 directed to consolidate all these claim petitions and the evidence be recorded in the MACP No.68/2023 (Main).

(2) All the claim petitions were filed by the respective legal

representatives and claimants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the MV Act'), to seek compensation for the death as well as injuries sustained by them in the alleged accident. The details of the respective claim petitions regarding the claimed amount are as follows :-

Sr. No.	MACP Number	Claim Amount in ₹
1.	68/2023	52,65,840/-
2.	69/2023	55,95,840
3.	70/2023	17,61,000/-
4.	71/2023	52,90,000/-
5.	72/2023	45,00,000/-
6.	126/2023	50,000/-
7.	127/2023	3,00,000/-
8.	128/2023	2,00,000/-
9.	129/2023	1,00,000/-
10.	130/2023	1,00,000/-
11.	131/2023	50,000/-
12.	132/2023	2,00,000/-
13.	133/2023	2,00,000/-
14.	134/2023	50,000/-
15.	135/2023	1,00,000/-
16.	136/2023	50,000/-
17.	137/2023	3,00,000/-
18.	138/2023	50,000/-
19.	139/2023	50,000/-
20.	140/2023	1,00,000/-
21.	141/2023	2,00,000/-
22.	142/2023	1,00,000/-
23.	143/2023	1,00,000/-
24.	144/2023	50,000/-

(3) Moreover, for the sake of convenience, the claimants in all the claim petitions shall hereinafter be referred to as the legal representatives of the "deceased" or as the "injured claimant," as the case may be, in the respective claim petitions.

(4) The factual matrix of the case is that on 22.02.2023, at approximately 13:50 hours, the deceased as well as injured claimants were going to village Sat Talav for a marriage ceremony (Paghdi) in a Tempo bearing Registration No.GJ-35-T-0526 and the said Tempo was being driven by the opponent No.1 with due care and caution on the left side of the road. When they reached at near place of occurrence at village Samala crossing at village Aritha on Lunawada to Malekpur road at that time opponent No.4 came by driving his Indigo Car bearing Registration No.GJ-17-N-8584 in a rash and negligent manner, at an excessive and uncontrollable speed from behind the long vehicle suddenly from a wrong side. The opponent No.1 tried his level best to avoid the said accident and suddenly applied short break but at a moment the car was in a full speed. Due to full speed the opponent No.4 could not control over his car and dashed with Tempo violently. As a result, the Tempo turned turtle and the car turned the left direction of the road. As a result, the deceased sustained grievous injuries and subsequently succumbed to the same, whereas the injured claimants sustained serious injuries.

The said incident was registered with Lunawada Taluka Police Station vide I.C.R. No.1187010230015/2023 against opponent No.1. Consequently, the legal representatives of the deceased as well as injured claimants have filed the present claim petitions seeking compensation from the opponents under various heads.

(5) Notices were duly served upon the opponents.

(6) The learned Advocate, Mr. A. M. Sajorawala, appeared on behalf of opponent No.1 and filed a written reply vide Exh.28, wherein most of the averments made in the claim petitions have been denied. It is contended that opponent No.1 was driving his tempo on the left side of the road at a moderate speed, whereas opponent No.4, while driving his Indigo car in a rash and negligent manner and at an excessive and uncontrollable speed, violently collided with the tempo of opponent No.1. It is, therefore, submitted that the accident occurred solely due to the rash and negligent driving of opponent No.4 and not due to any fault on the part of opponent No.1. Hence, the liability to pay compensation lies upon opponent Nos.4 to 6. It is further contended that the income of the claimants and the deceased has been denied, as no documentary evidence has been produced by the claimants to substantiate the same. Lastly, a prayer has been made to dismiss the present claim petitions with costs.

(7) The learned Advocate, Mr. B. P. Solanki, appeared on behalf of opponent No.2 and filed a written statement vide Exh.31, wherein most of the averments made in the claim petitions have been denied. It is contended that necessary parties have not been joined in the present claim petitions and, therefore, the same are liable to be dismissed for non-joinder of necessary parties. It is further contended, on the basis of the statements of opponent No.4 – Kanaiyalal Ramjibhai Panchal and Jyotsnaben Kanaiyalal Panchal, that the accident in question occurred due to a motorcyclist who overtook the Indigo car, and hence, the said motorcyclist was a necessary party to the present claim petitions. Moreover, it is submitted that from the spot panchnama and the police investigation, it clearly appears that the accident occurred due to the negligence on the part of the driver of the Indigo Car bearing Registration No.GJ-17-N-8584. It is further contended that the income of the claimants and the deceased has been denied, as no documentary evidence has been produced by the claimants to substantiate the same. It is also submitted that, at the time of the accident, the said tempo was insured with opponent No.3 and, therefore, if any liability arises on the part of opponent No.2, the same would be that of opponent No.3. Lastly, the prayer has been made to dismiss the present claim petitions with costs.

(8) The learned Advocate Mr. V. B. Trivedi appeared on behalf of the opponent No.3 and filed written statement vide Exh.29 and it was submitted that the opponent No.1 driver of the Vehicle

Tempo No.GJ.35.T.0526 did not hold any kind of valid and effective driving license with necessary endorsement of particular type of vehicle authorization at the time of the accident and further opponent No.1 driver was not qualified for holding or obtaining such driving license and has not satisfied the requirements of the Rule No.3 of the Central Motor Vehicles Rules, 1989. Thus the driver & owner of Vehicle Tempo No.GJ.35.T.0526 has contravened the proviso of the M.V. Act and the Rule framed there under and has committed the breach of the terms and conditions of the Policy by not holding valid license at the time of accident. Hence, opponent No.3 is not liable for any compensation. It was further submitted that the deceased was an unauthorized passenger, as deceased was traveling in the vehicle as an unauthorized passenger against the terms and conditions of the policy, the opponent No.3 is not liable to indemnify the insured. The conveyance of passenger in the goods vehicle is prohibited and since the deceased was an unauthorized passenger. The opponent No.3 is not liable to pay any amount of compensation. Moreover, limitation as to use of policy: Goods Carrying Vehicles - Class A: Use only in Carriage of goods within the meaning of Motor Vehicle Act. As this is a violation of the limitation to use of the policy. Hence opponent No.3 is not liable to pay compensation. It was further submitted that the seating capacity of Vehicle Tempo No.GJ.35.T.0526 was three persons whereas at the time of accident there were more than 38 persons travelling on Vehicle Tempo No.GJ.35.T.0526. Hence the opponent is not liable to pay compensation for the breach committed by opponent No.2 i.e owner and hence the opponent No.3 should be exonerated from all liabilities. Further, mere filling FIR and offence is registered against opponent No.1 driver is no criteria for to decide involvement of the vehicle and negligence of driver opponent No.1. Hence, involvement and negligence of opponent No.1 driver is not admitted. Thus, opponent No.3 is not liable for any compensation. Lastly, the prayer has been made to dismiss the present claim petitions with costs.

(9) The learned Advocate Mr. A. S. Panchal appeared for the opponent Nos.4 and 5 and filed written statement vide Exh.24 wherein most of the averments made in the claim petitions have been denied. It is contended that from the FIR, it clearly appears that the said accident took place due to the rash and negligent driving of the only opponent No.1-Tempo No.GJ-35-T-0526 as he lost the control over his tempo and dashed with the Car bearing Registration No.GJ-17-N-8584 which was being driven by the side of the road. Moreover, the FIR has been filed against the opponent No.1. It is further contended that the income of the claimants and the deceased has been denied, as no documentary evidence has been produced by the claimants to substantiate the same. It is also submitted that, at the time of the accident, the said car was insured with opponent No.6 and, therefore, if any liability arises on the part of opponent No.5, the same would be that of opponent No.6. Lastly, the prayer has been made to dismiss the present claim petitions with costs.

(10) The learned Advocate Mr. A. B. Raval for opponent No.6

appeared and filed written statement vide Exh.38 wherein most of the averments made in the claim petitions have been denied. It is contended that the opponent No.4 driver of the Vehicle Car No.GJ.17.N.8584 did not hold valid and effective driving license with necessary endorsement of particular type of vehicle authorization at the time of the accident and further opponent No.4 driver was not qualified for holding or obtaining such driving license and has not satisfied the requirements of the Rule No.3 of the Central Motor Vehicles Rules, 1989. Thus the driver and owner of Vehicle Car No. GJ.17.N.8584 has contravened the proviso of the M.V. Act and the Rule framed there under and has committed the breach of the terms and conditions of the policy by not holding valid license at the time of accident. Hence, opponent No.6 is not liable for any compensation. Further, it is submitted that the alleged accident took place due to the sole negligence on the part of the rider of Vehicle Tempo No.GJ.35.T.0526 and police investigation officer has charge sheeted the driver of Vehicle Tempo No.GJ.35.T.0526 for his negligent driving after the investigation. Hence, the opponent is not liable to pay claim. Moreover, the accident took place because of sole negligence on part of driver of Vehicle Tempo No.GJ.35.T.0526. It is submitted that driver of Vehicle Car No.GJ.17.N.8584 was driving his Car No.GJ.17.N.8584 at a moderate speed and on the correct side of the road and was blowing horn as and when found necessary. But, the driver of vehicle Tempo No.GJ.35.T.0526 had driven his vehicle Tempo at an excessive speed, rashly and negligently, so as to endanger human life and came on wrong side and dashed with Car No.GJ.17.N.8584 from backside and caused accident and there was no negligence whatsoever on part of driver of Car No.GJ.17.N.8584 and, therefore, the driver of Car No.GJ.17.N.8584 cannot be held liable for the accident. Hence, opponent No.6 is not liable to pay any amount of compensation. Although if in case of liability of opponent arise then negligence on the part of the rider of Tempo No.GJ.35.T.526 should be decided and considered on the larger extent in the interest of justice. Lastly, he requested to dismiss the present claim petitions with costs.

(11) From the pleadings of the parties, following issues were framed by my learned Predecessor for determination of these claim petitions :-

<u>(In MACP Nos.68 to 72/2023)</u>

1. Whether it is proved that the deceased sustained injuries and died on account of rashness or negligence in driving on the part of the driver of the vehicle(s) involved in the accident ?
2. Whether amount, if any, the claimant(s) is / are entitled to get by way of compensation and from whom which of the opponents ?
3. What order ?

<u>(In MACP No.126 to 144/2023)</u>

1. Whether it is proved that the claimants have

sustained injuries on account of rashness or negligent driving on the part of the driver(s) of the vehicle involved in the accident ?

2. Whether amount, if any, the claimant(s) is / are entitled to get by way of compensation and from whom which of the opponents ?

3. What order?

(12) My findings for the aforesaid issues are as under :-

<u>(In MACP Nos.68 to 72/2023)</u>

1. In Affirmative.
2. Yes, the amount of compensation **as per final order** from the opponent **Nos.1 to 3 to the extent of 30%** and from **opponent Nos.4 to 6 to the extent of 70%** jointly and severally.
3. As per final order.

<u>(In MACP No.126 to 144/2023)</u>

1. In Affirmative.
2. Yes, the amount of compensation **as per final order** from the opponent **Nos.1 to 3 to the extent of 30%** and from opponent **Nos.4 to 6 to the extent of 70%** jointly and severally.
3. As per final order.

(13) Before I proceed 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.

Oral Evidence	Exhibit
Affidavit of claimant No.1 in MACP No.68/2023	41
Affidavit of claimant No.1 in MACP No.69/2023	42
Affidavit of claimant No.1 in MACP No.70/2023	43
Affidavit of claimant No.1 in MACP No.71/2023	44
Affidavit of claimant No.1 in MACP No.72/2023	45
Affidavit of Examination-in-chief (Dr. Manojbhai E.N.T. Surgeon)	184
Affidavit of claimant in MACP No.126/2023	110
Affidavit of claimant in MACP No.127/2023	69
Affidavit of claimant in MACP No.128/2023	70
Affidavit of claimant in MACP No.129/2023	71
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Affidavit of claimant in MACP No.142/2023	112

Affidavit of claimant in MACP No.143/2023	113
Affidavit of claimant in MACP No.144/2023	76
Documentary Evidence (In MACP Nos.68 to 72/2023)	**Exhibit**
Copy of complaint/FIR	48
Copy of spot panchnama	49
Copy of R. C. Book (Opponent No.2)	50
Copy of Insurance policy (Tempo)	51
Copy of R. C. Book (Opponent No.5)	52
Copy of Insurance policy (Car)	53
Copy of Driving licence (Opponent No.4)	54
Copy of Inquest panchnama (Deceased-Jayantibhai)	55
Copy of Post Mortem Report (Deceased-Jayantibhai)	56
Copy of Post Mortem Report (Deceased-Babubhai)	57
Copy of Inquest panchnama (Deceased-Nanabhai Javrabhai)	58
Copy of Post Mortem Report (Deceased-Nanabhai Javrabhai)	59
Copy of Inquest panchnama (Deceased-Nanabhai Bhurabhai)	60
Copy of Post Mortem Report (Deceased-Nanabhai Bhurabhai)	61
Copy of Inquest panchnama (Deceased-Arvindbhai)	62
Copy of Post Mortem Report (Deceased-Arvindbhai)	63
Certificate issued to Nanabhai Javrabhai by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar	73

Copy of Revenue Survey Records (Nanabhai Javrabhai)	74
Certificate issued to Arvindbhai by Milk Producers Cooperative Society Ltd. Vandhela, Lunawada, Mahisagar	75
Copy of Revenue Survey Records (Arvindbhai's father)	76
Certificate issued to Nanabhai Bhurabhai by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar	77
Copy of Revenue Survey Records (Nanabhai Bhurabhai)	78
Certificate issued to Jayantibhai by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar	79
Copy of Revenue Survey Records (Jayantibhai)	80
Certificate issued to Babubhai by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar	81
Copy of Revenue Survey Records (Babubhai's father)	82

MACP Number	Documentary Evidence	Exhibit
126/2023	Chest X-Ray Report issued by Ved Imaging Centre	118
	Prescription by Shifa Surgical Hospital, Lunawada	119
127/2023	Treatment Certificate by Ayush Hospital, Lunawada	120
	Disability Certificate issued by Shah Orthopedic Hospital, Lunawada	121
	Medical Bills	122

128/2023	Treatment Certificate issued by Harvi Hospital, Lunawada	123
	Disability Certificate (Tentative) issued by Dr. Manoj Tank	124
	Original Fee Receipt	125
	Medical Bill	126
129/2023	Disability Certificate (Tentative) issued by Dr. Manoj Tank	127
	Original Receipt & Medical Bills	128
130/2023	Discharge Summary issued by Unity Hospital, Modasa	129
	Disability Certificate issued by Shah Orthopedic Hospital, Lunawada	130
	X-Ray issued Shah Orthopedic Hospital, Lunawada	131
	Medical Bills	132
132/2023	Discharge Summary issued by Ashish Orthopaedic Hospital, Modasa	133
	Disability Certificate issued by Shah Orthopeadic Hospital, Lunawada	134
	X-Ray issued Shah Orthopaedic Hospital, Lunawada	135
	Medical Bills	136
133/2023	Medicolegal Certificate issued by Ashish Orthopaedic Hospital, Modasa	137
	Disability Certificate issued by Shah Orthopaedic Hospital, Lunawada	138
	X-Ray issued by Shah Orthopaedic Hospital, Lunawada	139
	Medical Bills	140
134/2023	Medicolegal Certificate issued by	141

	Ayush Hospital, Lunawada	
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135/2023	Disability Certificate (Tentative) issued by Nidhi Hospital, Ahmedabad	143
	Original Receipt & Medical Bills	144
	Treatment papers issued by Aarna Surgical Hospital, Modasa	145
137/2023	Discharge Card, Civil Hospital, Ahmedabad	146
	Disability Certificate issued by Shah Orthopaedic Hospital, Lunawada	147
	X-Ray issued by Shah Orthopaedic Hospital, Lunawada	148
	Fee Bill	149
	Laboratory Report issued by Aashiravad Computerised Laboratory, Lunawada	150
	Pathology Report issued by Maruti Pathology Laboratory, Ahmadabad	151
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	Disability Certificate (Tentative) issued by Nidhi Hospital, Ahmedabad	154
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141/2023	Discharge Summary issued by Sai Hospital, Lunawada	157
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	Shah Orothpaedic Hospital, Lunawada	
	Treatment Papers issued by Sai Hospital, Lunawada	159
	Medical Bills	160
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144/2023	Medicolegal Certificate issued by Ayush Hospital, Lunawada	162
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	X-Ray issued by Shifa X-Ray Clinic, Shifa Hospital, Lunawada	166
143/2023	Case Papers	167
	X-Ray issued by Unity Hospital. Modasa	168
	Treatment Card issued by Unity Hospital, Modasa	169
	Medical Bills	170
136/2023	Treatment Card issued by Shifa Surgical Hospital, Lunawada	171
	Referral Form	172
	X-Ray issued by Shifa X-Ray Clinic, Shifa Hospital, Lunawada	173
139/2023	Injury Certificate issued by Ayush Hospital, Lunawada	174
	Follow-up Treatment Card issued by Ayush Hospital, Lunawada	175
	Medical Bills	176
138/2023	Medicolegal Certificate issued by Ayush Hospital, Lunawada	177

	Follow-up Treatment Card issued by Ayush Hospital, Lunawada	178
	Medical Bills	179
142/2023	Injury Certificate issued by Vinayak Orthopaedic Hospital, Lunawada	180
	Disability Certificate issued by Shah Orthopaedic Hospital, Lunawada	181
	X-Ray issued by Shah Orthopaedic Hospital, Lunawada	182
	Medical Bills issued by Vinayak Orthopaedic Hospital, Lunawada	183

(14) The learned Advocate for the opponent No.3 - Insurance company has filed following oral as well as documentary evidence.

Oral Evidence	Exhibit
Deposition of Chintanbhai Dashrathbhai Patel (ARTO)	95
Deposition of opponent No.1	99
Affidavit of Hardikbhai Sureshbhai (Officer)	102
Documentary Evidence	**Exhibit**
Vehicle History Report (Tempo No.GJ-35-T-0526)	96
Certified copy of Certificate cum Policy Schedule (Tempo No.GJ-35-T-0526)	105

(15) The learned Advocate for the opponent No.6 - Insurance company has filed following oral as well as documentary evidence.

Oral Evidence	Exhibit
Affidavit of Examination-in-chief	190

opponent No.4	
Documentary Evidence	**Exhibit**
Police Paper, Statements, Panchnama	193

(16) Closing pursis have been filed by the claimants (Exh.185); opponent Nos.2 and 3 (Exhs. 186 and 187); opponent No.6 (Exh.195); and opponent Nos.4 and 5 (Exh.196). Accordingly, their right to adduce further evidence stands closed.

(17) Learned Advocate Mr. M. P. Dhanekar, appearing for the claimants, submitted that the present claim petitions have been preferred by the legal representatives of the deceased as well as the injured claimants arising out of the unfortunate accident. It was contended that the accident occurred on 22.02.2023 at about 13:50 hours, which stands duly proved on record. The injured claimants, being eye-witnesses to the incident, have supported the case through their affidavits, and their version deserves due credence. It was further argued that both the vehicles involved contributed to the occurrence, and therefore, all concerned parties are jointly and severally liable to pay compensation. Learned Advocate submitted that the income of the deceased and injured has been established by way of affidavits, entitling them to just compensation from the opponents, and accordingly prayed for allowing the claim petitions. It was additionally contended that, while computing compensation for the injured claimants, future prospects ought to be considered, placing reliance upon the judgment of the Hon'ble High Court of Gujarat in *Sahbudin Mohammad Baadi vs. Gopaji Bhikhaji Padhiyar & Ors.* (R/First Appeal No. 2433 of 2019). With regard to minor injured claimants, it was submitted that compensation be determined in light of the principles laid down in *Mallikarjun vs. Divisional Manager, National Insurance Company Limited & Anr.*, reported in (2014) 14 SCC 396, as followed by the Hon'ble High Court of Gujarat in *Nikitakumari Arjanbhai vs. Bhupendrasinh Natversinh Solanki* (R/First Appeal No.3469 of 2022). Reliance was also placed on the Gazette of India notification prescribing monthly wages of ₹15,000/-, and it was urged that the said amount be considered as notional income in cases where no documentary proof of income has been produced. 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.

(18) Learned Advocate Mr. B. P. Solanki, appearing for opponent Nos.1 and 2, submitted that the claimants, being persons of limited means and unaware of legal provisions, had travelled in a goods vehicle to attend a function, during which the accident occurred, resulting in four fatalities and multiple injuries. It was contended that approximately 72 persons were travelling in the said tempo

at the relevant time. On the issue of negligence, it was argued that the spot panchnama prepared by the police clearly indicates fault on the part of opponent No.4. It was further submitted that, although the initial complaint was lodged against opponent No.1, i.e., the driver of the tempo, a subsequent application for further investigation attributed rash and negligent driving of the car driver i.e. opponent No.4, leading to the accident. Learned Advocate further contended that the cross-examination of the car driver, examined on behalf of opponent No.6, clearly establishes that the entire negligence rests with opponent No.4. Accordingly, it was urged that opponent Nos.4 to 6 are liable to pay compensation to the claimants.

(19) Learned Advocate Mr. V. B. Trivedi for the opponent No.3 filed written arguments vide Exh.199 and argued that the insurance company had insured the Tempo owner having insurance policy however there is no negligence on the part of the Tempo driver i.e. opponent No.1. That the accident occurred due to the negligence on the part of the opponent No.4. Initially, the complaint was registered by complainant Mr. Pratapbhai Nathabhai Taral against the opponent No.1 and the complainant was travelling in the Tempo as the function of his daughter's marriage was there. Moreover, villagers and relatives were travelling in the Tempo while the accident occurred and 37 persons who were travelling in the Tempo, got injured. The learned Advocate further relied upon the place of occurrence and stated that at the place of occurrence, the Car driver i.e. opponent No.4 lost his control over the the car and the car dashed with the full speed from the back side of the driver after passing the cabin of the Tempo and dashed with the petrol tank therefore, the Tempo turned turtle at the road side and due to that injuries occurred to all the claimants and out of them, five passengers died. It was further argued that as the owner of the Tempo had taken insurance policy for the goods vehicle only so, the gratitude passengers and even fair passengers are not entitled for the recovery of any amount from insurance company. Therefore, the insurance company is required to be exonerated from paying any compensation to the claimants. It was also argued that the claimants have produced the evidence i.e. spot panchnama vide Exh.49 and from spot panchnama, it clearly appears that there is clear negligence on the part of the opponent No.4. It was further submitted that all the injured claimants have been examined and they stated in their depositions that the accident took place due to negligence of the opponent No.4 i.e. the Car driver. Moreover, no cross-examination of the claimant witnesses have been done by the opponent Nos.4 and 5 which means all the eye-witnesses' version unchallenged and from oral and documentary evidence, the negligence of the Car driver is proved. It was further argued that the opponent No.4 is the RFO and the Police did not register complaint against him and the opponent

No.4 has not made any attempt to file complaint and tried to flee away. Even though the FIR was filed against the opponent No.1 however the real negligence was of the opponent No.4. It was also contended that reasons are not known to police has tried to defend the opponent No.4. Moreover, the complainant filed an application for re-investigation. From the entire facts and circumstances, it appears that the opponent No.4 is responsible for causing the accident. Moreover, the learned Advocate for the opponent No.3 filed written arguments vide Exh.199 and same things have been reiterated in the arguments. 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.

(20) Many opportunities were provided to the opponent Nos.4 and 5 but neither they nor their learned Advocate remained present before the Tribunal for the arguments. Therefore, their right of the argument was closed.

(21) Learned Advocate Mr. A. B. Raval appeared on behalf of the opponent No.6 and filed written argument vide Exh.197. The learned Advocate stated the facts of the accident in his arguments. It was also stated that as the opponent No.1 dashed his Tempo bearing Registration No.GJ-35-T-0526 with the Car bearing Registration No.GJ-17-N-8584 of the opponent No.4 so the charge-

sheet was filed against the opponent No.1. Therefore, the accident occurred due to the sole negligence on the part of the opponent No.1 and there is no negligence of the opponent No.4. It was argued that the opponent No.6-insurance company is not liable to pay any compensation and in support of his arguments, he placed reliance upon the following judgments which are as under

1. Usha Rajkhowa & Ors V/S Paramount Industries & Ors. reported in 2009 (2) TAC Pg-11-(SC).
2. Jiju Kuruvila and others V/S Kunjujamma Mohan and others reported in 2013 ACJ 2141.
3. United India Co. Ltd V/S Bharti Kaniyalal Chauhan reported in 2007 (0) GLHEL-HC-217482.
4. Hon'ble Gujarat High Court Oriental Insu. V/S Lakhdhirbhai Devabhai Rabari & 2 reported in F.A. No-1140 of 2012 dated 19/4/2012.
5. Ranjeet & Anr. vs. Abdul Kayam Neb & Anr. Hon'ble Supreme Court of India SLP (C) No.10351 of 2019 decided on 25-02-2025.
6. Kaminiben And Others Vs. The Oriental Insurance Company Limited and Others Hon'ble Supreme Court decided on 11-02-2026.
7. Meghubhai Amrabhai Chunara (Vagri) Vs. Mahendrabhai Maganbhai Rathod And Others Hon'ble High Court of Gujarat decided on 02-03-2026
8. Anu Bhanvara Etc. Vs. Iffco Tokio General

Insurance Company Ltd. Hon'ble Supreme Court reported in 2019 (0) AIJEL-SC 64604

(22) The learned Advocate for the opponent No.6 further argued that the best evidence regarding the vehicle can be given by RTO Officer. The RTO officer in his cross-examination stated that the Tempo driver can take his family members and relatives in the Tempo but the RTO officer has not stated what was the laden capacity of the Tempo and in R. C. Book weight has been mentioned. It was further argued that the complainant has stated in the deposition that he has given re-investigation application on what documentary basis such documents were not produced and recalled the application has not been produced with police papers. Moreover, the complainant has not challenged the charge-sheet before competent authority and also not filed any quashing petition before the Hon'ble High Court. Therefore, in order to avoid the payment of compensation willingly diverted the negligence on the opponent No.4. It was further argued that even though the gratitude passengers were travelling in the Tempo but the Hon'ble Supreme Court and Hon'ble High Court in many judgments passed the order of Pay & Recover to the insurance company. Therefore, the opponent No.3 is liable to pay compensation to all the petitioners and the opponent No.6 i.e. insurance company is not liable to pay any compensation as the whole negligence on the part of the opponent No.1 i.e. the Tempo driver. In light of the above submissions, the learned Advocate for opponent No.6 prayed that the opponent No.6- Insurance Company be exonerated from any liability to pay compensation to the claimants.

(23) This Tribunal has meticulously examined the entire material on record, taken into consideration the submissions and arguments advanced by the respective parties, and duly considered the citations relied upon by them.

-: R E A S O N S :-

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

(24) 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**.

(25) In order to succeed in the claim petitions, the claimants are required to establish that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. The Tribunal must assess the evidence on the basis of preponderance of probabilities and determine

whether the involvement of the vehicles is established, so as to adjudicate the question of negligence. In the present case, to substantiate the issue of negligence, all claimants filed their affidavit of examination-in-chief, wherein they reiterated the averments made in the claim petitions. It appears from the record that the FIR vide Exh.48 was lodged by complainant Mr. Pratapbhai Nathabhai Taral against the Tempo driver i.e. opponent No.1.

(26) However, opponent No.1 entered the witness box to rebut the allegations made against him in the claim petitions and deposed that the opponent No.4 was riding his Car in rash and negligent manner, resulting the accident. The opponent No.1 further denied any negligence on his part in causing the accident. However, opponent No.4 i.e. the driver of car also entered the witness box to rebut the allegations made against him in the claim petitions and he also denied any negligence on his part in causing the accident.

(27) However, the spot panchnama vide Exh.49 indicates that the accident was a clear case of a collision between two vehicles i.e. Tempo bearing Registration No.GJ-35-T-0526 and Indigo Car bearing Registration No.GJ-17-N-8584. It is pertinent to note that merely filing of FIR against the opponent No.1 is not the only ground to hold sole liability of the opponent No.1. During the course of cross-examination, the opponent No.4 admitted that the accident

occurred and his car was also involved in the said accident. It is pertinent to note that all the witnesses stated the negligence on the part of the opponent No.4. However, stricto sensu is not applicable. While considering the aspect of the negligence, in this respect it was held by the Hon'ble Punjab-Haryana High Court in case of **Chhoti vs Jaswant Singh** on 12 March, 2026 as under :-

> **8.** In the considered opinion of this Court, the approach adopted by the learned Tribunal cannot be sustained. Firstly, the judgment of acquittal passed in the criminal case cannot be treated as conclusive proof for determining negligence in a motor accident claim case. It is now well settled that the standard of proof in proceedings under the Motor Vehicles Act is entirely F.A.O. No. 2068 of 2003(O&M) and F.A.O. No. 2282 of 2003(O&M) 5 / 11 different from that required in criminal proceedings. The claimants are only required to establish their case on the touchstone of preponderance of probabilities and not beyond reasonable doubt. The Hon'ble Supreme Court in Bimla Devi and others vs. Himachal Road Transport Corporation and others, 2009 (13) SCC 530, held that strict proof of negligence is not required in motor accident claim cases and the learned Tribunal can draw reasonable inferences from the facts and circumstances of the case. In Motor vehicle accident claim petitions, the learned Tribunals must adopt a pragmatic approach while dealing with accident cases and should not succumb to technicalities which may defeat the object of the beneficial legislation. It is also well settled that the acquittal of an accused in a criminal case does not automatically absolve him from civil liability in claim proceedings arising out of the same accident.
>
> **11.** Furthermore, the claimants had produced on record the FIR registered against the driver of the offending vehicle in relation to the accident in question. The learned Tribunal erred in ignoring the aforesaid material evidence merely on the ground that the accused was subsequently acquitted in the criminal case. The Hon'ble Supreme Court in Mangla Ram vs. Oriental Insurance Company Ltd., 2018 (5) SCC 656, has held that in claim petitions under the Motor Vehicles Act, once the involvement of the offending vehicle in the accident is established, the learned Tribunal should adopt a liberal approach while determining negligence. In other words, the approach of the learned Tribunal should be holistic analysis of

the entire pleadings and evidence by applying the principles of preponderance of probability.

(28) Moreover, the Hon'ble Supreme Court in case of **Mangla Ram vs The Oriental Insurance Company Ltd** on 6 April, 2018, reported in **(2018) 2 ACC 118** it was held as under :

> 16. The question is: whether this approach of the High Court can be sustained in law? While dealing with a similar situation, this Court in Bimla Devi (supra) noted the defence of the driver and conductor of the bus which inter alia was to cast a doubt on the police record indicating that the person standing at the rear side of the bus, suffered head injury when the bus was being reversed without blowing any horn. This Court observed that while dealing with the claim petition in terms of Section 166 of the Motor Vehicles Act,1988 the Tribunal stricto sensu is not bound by the pleadings of the parties, its function is to determine the amount of fair compensation. In paragraphs 11-15, the Court observed thus:
>
> > "11. While dealing with a claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, a tribunal stricto sensu is not bound by the pleadings of the parties; its function being to determine the amount of fair compensation in the event an accident has taken place by reason of negligence of that driver of a motor vehicle. It is true that occurrence of an accident having regard to the provisions contained in Section 166 of the Act is a sine qua non for entertaining a claim petition but that would not mean that despite evidence to the effect that death of the claimant's predecessor had taken place by reason of an accident caused by a motor vehicle, the same would be ignored only on the basis of a postmortem report vis-a-vis the averments made in a claim petition.
> >
> > 12. The deceased was a constable. Death took place near a police station. The postmortem report clearly suggests that the deceased died of a brain injury. The place of accident is not far from the police station. It is, therefore, difficult to believe the story of the driver of the bus that he slept in the bus and in the morning found a dead body wrapped in a blanket. If the death of the constable had taken place earlier, it is wholly unlikely that his dead body

in a small town like Dharampur would remain undetected throughout the night particularly when it was lying at a busstand and near a police station. In such an event, the court can presume that the police officers themselves should have taken possession of the dead body.

13. The learned Tribunal, in our opinion, has rightly proceeded on the basis that apparently there was absolutely no reason to falsely implicate Respondents 2 and 3. The claimant was not at the place of occurrence. She, therefore, might not be aware of the details as to how the accident took place but the fact that the first information report had been lodged in relation to an accident could not have been ignored.

14. Some discrepancies in the evidence of the claimant's witnesses might have occurred but the core question before the Tribunal and consequently before the High Court was as to whether the bus in question was involved in the accident or not. Forn the purpose of determining the said issue, the Court was required to apply the principle underlying the burden of proof in terms of the provisions of Section 106 of the Evidence Act, 1872 as to whether a dead body wrapped in a blanket had been found at the spot at such an early hour, which was required to be proved by Respondents 2 and 3.

15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be become in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stroies set forth by both the parties." (emphasis supplied)

(29) In the present case, the photographs indicate that the car sustained impact on the petrol tank side, suggesting that it was struck by the tempo from that direction. Therefore, prima-facie, entire negligence cannot be attributed to the tempo driver. Moreover, the car driver (opponent No.4), in cross-examination, admitted that he gave way to a speeding motorcycle immediately before the accident, though he denied returning to his original lane. **This circumstance is a relevant factor indicating a higher degree of negligence on the part of Opponent No.4.** Form the cross-examination of the opponent Nos.1 and 4, it clearly emerges that both the drivers of the vehicles involved were required to exercise due care and caution to avoid the mishap, but they failed to do so. Had they exercised reasonable care and caution while driving, the accident could have been averted. Accordingly, this Tribunal holds that opponent No.1-Tempo Driver was negligent to the extent of 30%, and the opponent No.4-Car driver was negligent to the extent of 70%. Such an apportionment, in this Tribunal's considered view, would meet the ends of justice. Hence, this Tribunal finds on issue No.1 is recorded accordingly.

Issue No. 2 :-

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

(31) The learned Advocate for the claimants, Mr. M. P. Dhanekar, has placed reliance upon a Gazette of India notification prescribing a notional monthly income of ₹15,000/-, and has urged that the same be adopted in the present case in the absence of documentary evidence regarding income. However, upon consideration, it is evident that the provisions of the Employees' Compensation Act, 1923 are not attracted to the facts of the present case, as the deceased/injured does not fall within the ambit of an "employee" as defined under the said Act. Consequently, the said notification cannot be made applicable for the purpose of determining notional income herein. In such circumstances, where no cogent evidence of income is forthcoming and the statutory framework relied upon by the claimants is inapplicable, this Tribunal deems it appropriate to assess the income on the basis of the minimum wages prevailing in the State of Gujarat at the relevant point of time, which provides a reasonable and just yardstick for such determination.

(32) Before adjudicating the present claim petitions, it is necessary to consider the principles laid down by the Hon'ble Supreme Court and the Hon'ble High Court of Gujarat in the judgments referred to below.

(32.1) For the purpose of determining the number of legal heirs or legal representatives of the deceased, it is essential to consider the ratio laid down by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited vs. Birender and Others*, 2020 (0) AIJEL-SC 65611**. In the relevant paragraph, the Hon'ble Apex Court has held as under :-

> 15. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/- and Rs.1,50,000/- per annum. In that sense, they were largely dependant on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.

(32.2) The Hon'ble High Court of Gujarat in case of **TATA AIG General Insurance Co. Ltd. Vs. Bhumi Hareshkumar Ramnani & Ors.** in **R/First Appeal No.4116 of 2024** clarified in para-15 that

> "It is painful to note that despite the settled principle of law being laid down by the highest Court of the nation, whereby, the Constitutional Bench of the Supreme Court has expressed and held the victims/ claimants of motor vehicle accident entitled to compensation under the head of loss of consortium along with other heads recognized, and the aforesaid principle being further clarified by the Hon'ble Supreme Court holding each of the dependent being entitled to loss of consortium under the related heads, this Court has noticed that the Tribunals have failed to implement the aforesaid ratio in its true spirit."

(33) As per the law laid down by the Hon'ble Supreme Court of India in **Nagappa v. Gurudayal Singh** reported in **2003-SCC-2-274**, it has been unequivocally held that there is no statutory restriction preventing a court from awarding compensation in excess of the amount claimed. The paramount duty of the Court is to determine and award "just compensation" in accordance with the facts and circumstances of the case. Therefore, in view of the aforesaid binding precedent, it would be just, proper, and reasonable for this Hon'ble Court to award compensation exceeding the amount claimed by the petitioners in the present claim petitions, wherever deemed appropriate.

In MACP No.68/2023

(34) According to the claimants, the deceased was aged about 45 year and he was good state of health at the time of the accident. However, the claimants failed to produced any documentary evidence to prove the age of the deceased therefore, this Tribunal constrained to take into consideration the age of the deceased (45 years) as mentioned in Post-mortem vide Exh.56. With regard to the income of the deceased, the claimants have stated in the claim petition that the deceased was earning ₹15,000/- per month from Home Guard Service and Agriculture like vegetable growing and selling and earning ₹1,00,000/- per annum. The claimant has produced certificate vide Exh.79 issued to deceased by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar stating that the annual income of the deceased is ₹1,24,000/-. But this Tribunal is of the considered view that the income from milk selling can not stop even after the demise of the deceased because the other family member of deceased can get the same income from milk selling. Moreover, during the course of cross-examination, it was admitted by the claimant No.1 that she has not produced any written document regarding the work and income of her husband. 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 deceased is assessed at Rs.9,237.80/- per month which can be rounded off Rs.9,240/- per month.

(34.1) At the time of accident, age of the deceased was 45 years as mentioned in post-mortem report vide Exh.56 and therefore, considering the ratio laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi and Ors.** reported in **AIR 2017 SC 5157**, since the deceased was self employed or on a fixed salary, 25% of actual income should be added to the income of the deceased for the assessment of future prospects. Therefore, on addition of 25% amount, the amount would work out to ₹11,550/- [9240 + 2310], which would be the monthly income of the deceased for future prospects. Further, so far as the deduction of personal expenses of the deceased is concerned, considering the judgment of **Sarla Verma v/s. Delhi Transport Corporation** reported in **2009 ACJ 1298 (SC)**, 1/3 amount as personal expenses of the deceased should be deducted from monthly income of the deceased as there are three dependents. Hence, after deducting 1/3 amount out of Rs.11,550/- towards personal expenses of the deceased, the amount would work out to ₹7,700/- [11,550/3 = 3850]. Now, with a view to ascertain yearly income, it requires to be multiplied by 12 and thereby the amount would come to ₹92,400/- [7,700 x 12]. The deceased was aged 45 years at the time of accident and from the documents available on record, age of the deceased comes under the age group of 41 to 45 years and therefore, the claimants are entitled to get multiplier of 14, hence, the amount would come to ₹12,93,600/- [92,400 x 14]. Therefore, the claimants are entitled to get amount of **₹12,93,600/-** towards the loss of **dependency benefit**.

(34.2) Further, as per the ratio laid down by Hon'ble Apex Court in the case of ***Sandhya Rani Debbarma and Others Vs. National Insurance Co. Ltd. and Another***, reported in **2016 TAC 165 SC**, & also keeping-in-mind the ratio laid down in **Sarla Verma** and **Pranay Sethi**, it is required to be considered Rs.40,000/- under the head of consortium, Rs.15,000/- under head of loss of estate and Rs.15,000/- under the head of funeral expense. Further, it is to be noted that in the case of **Pranay Sethi**, Hon'ble Supreme Court of India has held that Loss of Estate, Loss of Consortium and Funeral Expenses should be increased with 10% after every 3 years. Now in remain claim petitions for deceased same thing is applicable.

(34.3) Therefore, considering the **TATA AIG (Supra)**, this

Tribunal holds that the claimants are entitled for **₹48,400/- Each** under the head of **loss of consortium**, also **₹18,150/- towards loss of estate and ₹18,150/- towards funeral expenses**. Now in remain claim petitions for deceased same thing is applicable.

(35) In view of the above referred discussions, claimants are entitled for following amount as compensation :-

Heads of compensation	**Amount In Rupees**
Towards loss of dependency	12,93,600
Towards loss of consortium to claimant Nos.1 to 3 (₹48,400 X 3)	1,45,200
Towards loss of estate	18,150
Towards loss of funeral expenses	18,150
Total amount of compensation	**14,75,100/-**

In MACP No.69/2023

(36) According to the claimants, the deceased was 47 years age old and was good state of health at the time of the accident. However, the claimants failed to produced any documentary evidence to prove the age of the deceased. In order to access the age of the deceased, this Tribunal gone through the post mortem report vide Exh.57 where in the deceased's age is mentioned about 55 years. This Tribunal constrained to take into consideration the age of the deceased (55 years) as mentioned in Post-mortem. With regard to the income of the deceased, the claimants have

stated in the claim petition that the deceased was earning ₹21,000/- per month by engaging in Masonry work and also agriculture activities earning ₹1,00,000/- per annum and support of it, the claimants have produced certificate vide Exh.81 issued to the deceased by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar stating that the annual income of the deceased is ₹1,20,000/-. But this Tribunal is of the considered view that the income from milk selling can not stop even after the demise of the deceased because the other family member of deceased can get the same income from milk selling. Moreover, during the course of cross-examination, it was admitted by the claimant No.1 that she has not produced any written document regarding the work and income of her husband. 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 deceased is assessed at Rs.9,237.80/- per month which can be rounded off Rs.9,240/- per month.

(36.1) At the time of accident, age of the deceased was 47 years as mentioned in post-mortem report vide Exh.57 and therefore, considering the ratio laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi and Ors.** reported in **AIR 2017 SC 5157**, since the deceased was self employed or on a fixed salary, 25% of actual income should be added to the income of the deceased for the assessment of future prospects. Therefore, on addition of 25% amount, the amount would work out to ₹11,550/- [9240 + 2310], which would be the monthly income of the deceased for future prospects. Further, so far as the deduction of personal expenses of the deceased is concerned, considering the judgment of **Sarla Verma v/s. Delhi Transport Corporation** reported in **2009 ACJ 1298 (SC)**, 1/4 amount as personal expenses of the deceased should be deducted from monthly income of the deceased as there are six dependents. Hence, after deducting 1/4 amount out of Rs.11,550/- towards personal expenses of the deceased, the amount would work out to ₹8662.5/- [11,550/3 = 2887.5] which can be rounded off ₹8,663/-. Now, with a view to ascertain yearly income, it requires to be multiplied by 12 and thereby the amount would come to ₹1,03,956/- [8,663 x 12]. The deceased was aged 55 years at the time of accident and from the documents available on record, age of the deceased comes under the age group of 51 to 55 years and therefore, the claimants are entitled to get multiplier of 11, hence, the amount would come to ₹11,43,516/- [1,03,956 x 11]. Therefore, the claimants are entitled to get amount of **₹11,43,516/-** towards the loss of **dependency benefit**.

(37) In view of the above referred discussions, claimants are entitled for following amount as compensation :-

Heads of compensation	Amount In Rupees
Towards loss of dependency	11,43,516
Towards loss of consortium to claimant Nos.1 to 6 (₹48,400 X 6)	2,90,400
Towards loss of estate	18,150
Towards loss of funeral expenses	18,150
Total amount of compensation	**14,70,216/-**

In MACP No.70/2023

(38) According to the claimants, the deceased was aged about 59 year and he was good state of health at the time of the accident. However, the claimants failed to produced any documentary evidence to prove the age of the deceased therefore, this Tribunal constrained to take into consideration the age of the deceased (60 years) as mentioned in Post-mortem vide Exh.59. With regard to the income of the deceased, the claimants have stated in the claim petition that the deceased was earning ₹21,000/- per month from Centing work and other benefit contribution his income can be accessed ₹1,68,000/- per annum. The claimant has produced certificate vide Exh.73 issued to deceased by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar stating that the annual income of the deceased is ₹1,10,000/-. But this Tribunal is of the considered view that the income from milk selling can not stop even after the demise of the deceased because the other family member of deceased can get the same income from milk selling. Moreover, during the course of cross-examination, it was admitted by the claimant No.1 that she has not produced any written document regarding the work and income of her husband. 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 deceased is assessed at Rs.9,237.80/- per month which can be rounded off Rs.9,240/- per month.

(38.1) At the time of accident, age of the deceased was 60 years as mentioned in post-mortem report vide Exh.59 and therefore, considering the ratio laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi and Ors.** reported in **AIR 2017 SC 5157**, since the deceased was self employed or on a fixed salary, 10% of actual income should be added to the income of the deceased for the assessment of future prospects. Therefore, on addition of 10% amount, the amount would work out to ₹10,164/- [9240 + 924], which would be the monthly income of the deceased for future prospects. Further, so far as the deduction of personal expenses of the deceased is concerned, considering the judgment of **Sarla Verma v/s. Delhi Transport Corporation** reported in **2009 ACJ 1298 (SC)**, 1/3 amount as personal expenses of the deceased should be deducted from monthly income of the deceased as there are two dependents. Hence, after deducting 1/3 amount out of Rs.10,164/- towards personal expenses of the deceased, the amount would work out to ₹6,776/- [10,164/3 = 3388]. Now, with a view to ascertain yearly income, it requires to be multiplied by 12 and thereby the amount would come to ₹81,312/- [6,776 x 12]. The deceased was aged 60 years at the time of accident and from the documents available on record, age of the deceased comes under the age group of 56 to 60 years and therefore, the claimants are entitled to get multiplier of 09, hence, the amount would come to ₹7,31,808/- [81,312 x 09]. Therefore, the claimants are entitled to get amount of **₹7,31,808/-** towards the loss of **dependency benefit**.

(39) In view of the above referred discussions, claimants are entitled for following amount as compensation :-

Heads of compensation	**Amount In Rupees**
Towards loss of dependency	7,31,808
Towards loss of consortium to claimant Nos.1 & 2 (₹48,400 X 2)	96,800
Towards loss of estate	18,150
Towards loss of funeral expenses	18,150
Total amount of compensation	**8,64,908/-**

<u>In MACP No.71/2023</u>

(40) According to the claimants, the deceased was aged about 46 year and he was good state of health at the time of the accident. However, the claimants failed to produced any documentary evidence to prove the age of the deceased therefore, this Tribunal constrained to take into consideration the age of the deceased (42 years) as mentioned in Post-mortem vide Exh.63. With regard to the income of the deceased, the claimants have stated in the claim petition that the deceased was earning ₹25,000/- per month from private service as a skill labour in textile mill at Ahmedabad and also agriculture income ₹1,15,000/-per annum and his monthly income and other benefits his contribution can be assessed and it would be ₹3,15,000/- per annum. The claimant has produced certificate vide Exh.75 issued to deceased by Milk Producers Cooperative Society Ltd. Vandhela, Lunawada, Mahisagar stating that the annual income of the deceased is ₹1,80,000/-. But this Tribunal is of the considered view that the income from milk selling can not stop even after the demise of the deceased because the other family member of deceased can get the same income from milk selling. Moreover, during the course of cross-examination, it was admitted by the claimant No.1 that she has not produced any written document regarding the age and income of her husband. 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 deceased is assessed at Rs.9,237.80/- per month which can be rounded off Rs.9,240/- per month.

(40.1) At the time of accident, age of the deceased was 42 years as mentioned in post-mortem report vide Exh.63 and therefore, considering the ratio laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi and Ors.** reported in **AIR 2017 SC 5157**, since the deceased was self employed or on a fixed salary, 25% of actual income should be added to the income of the deceased for the assessment of future prospects. Therefore, on addition of 25% amount, the amount would work out to ₹11,550/- [9240 + 2310], which would be the monthly income of the deceased for future prospects. Further, so far as the deduction of personal expenses of the deceased is concerned, considering the judgment of **Sarla Verma v/s. Delhi Transport Corporation** reported in **2009 ACJ 1298 (SC)**, 1/4 amount as personal expenses of the deceased should be deducted from monthly income of the deceased as there are four dependents. Hence, after deducting 1/4 amount out of Rs.11,550/- towards personal expenses of the deceased, the amount would work out to ₹8,662.5/- [11,550/4 = 2887.5] and the same can be rounded off ₹8,663/- per month. Now, with a view to ascertain yearly income, it requires to be multiplied by 12 and thereby the amount would come to ₹1,03,956/- [8,663 x 12]. The deceased was aged 42 years at the time of accident and from the documents available on record, age of the deceased comes under the age group of 41 to 45 years and therefore, the claimants are entitled to get multiplier of 14, hence, the amount would come to ₹14,55,384/- [1,03,956 x 14]. Therefore, the claimants are entitled to get amount of **₹14,55,384/-** towards the loss of **dependency benefit**.

(41) In view of the above referred discussions, claimants are entitled for following amount as compensation :-

Heads of compensation	**Amount In Rupees**
Towards loss of dependency	14,55,384
Towards loss of consortium to claimant Nos.1 to 4 (₹48,400 X 4)	1,93,600
Towards loss of estate	18,150
Towards loss of funeral expenses	18,150
Total amount of compensation	**16,85,284/-**

In MACP No.72/2023

(42) According to the claimants, the deceased was aged about 38 year and he was good state of health at the time of the accident. However, the claimants failed to produced any documentary evidence to prove the age of the deceased therefore, this Tribunal constrained to take into consideration the age of the deceased (35 years) as mentioned in Post-mortem vide Exh.61. With regard to the income of the deceased, the claimants have stated in the claim petition that the deceased was earning ₹21,000/- per month from centing work and also agriculture income ₹1,00,000/-per annum and considering the monthly income and other benefits his contribution can be assessed and it would be ₹2,35,5000/- per annum. The claimant has produced certificate vide Exh.77 issued to deceased by Milk Producers Cooperative Society Ltd. Rajgadh, Lunawada, Mahisagar stating that the annual income of the deceased is ₹1,22,000/-. But this Tribunal is of the considered view that the income from milk selling can not stop even after the demise of the deceased because the other family member of deceased can get the same income from milk selling. Moreover, during the course of cross-examination, it was admitted by the claimant No.1 that she has not produced any written document regarding the work and income of her husband. 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 deceased is assessed at Rs.9,237.80/- per month which can be rounded off Rs.9,240/- per month.

(42.1) At the time of accident, age of the deceased was 35 years as mentioned in post-mortem report vide Exh.61 and therefore, considering the ratio laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi and Ors.** reported in **AIR 2017 SC 5157**, since the deceased was self employed or on a fixed salary, 40% of actual income should be added to the income of the deceased for the assessment of future prospects. Therefore, on addition of 40% amount, the amount would work out to

₹12,936/- [9240 + 3696], which would be the monthly income of the deceased for future prospects. Further, so far as the deduction of personal expenses of the deceased is concerned, considering the judgment of **Sarla Verma v/s. Delhi Transport Corporation** reported in **2009 ACJ 1298 (SC)**, 1/4 amount as personal expenses of the deceased should be deducted from monthly income of the deceased as there are four dependents. Hence, after deducting 1/4 amount out of Rs.12,936/- towards personal expenses of the deceased, the amount would work out to ₹9,702/- [12,936/4 = 3234]. Now, with a view to ascertain yearly income, it requires to be multiplied by 12 and thereby the amount would come to ₹1,16,424/- [9,702 x 12]. The deceased was aged 35 years at the time of accident and from the documents available on record, age of the deceased comes under the age group of 31 to 35 years and therefore, the claimants are entitled to get multiplier of 16, hence, the amount would come to ₹18,62,784/- [1,16,424 x 16]. Therefore, the claimants are entitled to get amount of **₹18,62,784/-** towards the loss of **dependency benefit**.

(43) In view of the above referred discussions, claimants are entitled for following amount as compensation :-

Heads of compensation	**Amount In Rupees**
Towards loss of dependency	18,62,784
Towards loss of consortium to	1,93,600

claimant Nos.1 to 4 (₹48,400 X 4)	
Towards loss of estate	18,150
Towards loss of funeral expenses	18,150
Total amount of compensation	**20,92,684/-**

In MACP No.126/2023

(44) It is the case of the injured claimant that at the time of accident, he 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 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month.

(44.1) As per the claim petition, age of the claimant was 40 years at the time of accident however he has not produced in evidence in support of his age. Moreover, during the course of cross-examination, it was admitted by the injured claimant that except medical papers he has not produced any disability certificate. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. Moreover, the injuries near left chest is reflected from medical papers Exh.118. 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. It is the duty of the petitioner to prove his 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 him that he has not suffered any fracture and any disability in the accident. As, he has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, he is not entitled for any future loss of income. Further, the claimant has produced medical papers vide Exh.118 and 119 for the treatment he has taken. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹25,000/-** by way of compensation and hence I award the same.

In MACP No.127/2023

(45) The injured claimant in his affidavit vide Exh.69 submitted that at the time of accident, he was earning total ₹15,000/-

per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(45.1) As per the claim petition, age of the claimant was 54 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.121 wherein the age of the injured claimant is mentioned as 56 years on 25/03/2025 and the accident took place on 22/02/2023 means the injured claimant was about 54 years at the time of accident. Therefore, this Tribunal is of the opinion that the age of the claimant might be between 51 to 55 years at the time of accident and therefore he is entitled to get multiplier of '11' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(45.2) Claimant has produced disability certificate at Exh.121 wherein disability of injured is assessed at 34% partial/ permanent disability of left upper limb but later the claimant and the opponents made endorsement on the disability certificate to consider permanent/partial impairment **15%** of whole body. In view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 11 multiplier x 15% disability) = **₹1,82,952/-**.

(45.3) From the deposition of claimant as well as from treatment certificate vide Exh.120, it clearly appears that the claimant has sustained fracture injuries. 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 **₹15,000/-** and **₹10,500/-**, respectively under the above referred heads.

(45.4) It transpires from the medical records, that the claimant sustained fracture injuries and received primary treatment at General Hospital, Lunawada followed by in a Private Hospital, Lunawada. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of three months. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹27,720/-** for three month under the head of **actual loss of income**.

(45.5) Claimant has produced medical bill vide Exh.122 for the treatment he has taken and of medicines, which comes to the total of about ₹52,102/-. 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 **₹52,102/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	1,82,952/-
Pain, shock and sufferings	15,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	27,720/-
Medical expenses	52,102/-
Total amount of compensation	**2,88,274/-**

In MACP No.128/2023

(47) The injured claimant in his affidavit vide Exh.70 submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(47.1) As per the claim petition, age of the claimant was 42 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.124 wherein the age of the injured claimant is mentioned as 44 years on 02/04/2025 and the accident took place on 22/02/2023 means the injured claimant was about 42 years at the time of accident. Therefore, this Tribunal is of the opinion that the age of the claimant might be between 41 to 45 years at the time of accident and therefore he is entitled to get multiplier of '14' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(47.2) Claimant has produced disability certificate (Tentative) at Exh.124 wherein disability of injured is assessed at 15% body as a whole according to Keesler left Ear permanent disability. But, this Tribunal is of the considered view that the 10% disability is appropriate. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 14 multiplier x 10% disability) = **₹1,55,232/-**.

(47.3) From the deposition of claimant as well as from disability certificate vide Exh.124, it clearly appears that the claimant has sustained ear injury along with other injuries. 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 **₹10,000/-** and **₹10,500/-**, respectively under the above referred heads.

(47.4) It transpires from the medical records, that the claimant sustained multiple injuries and received primary treatment at General Hospital, Lunawada followed by in a Private Hospital, Lunawada. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one month. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one month under the head of **actual loss of income**.

(47.5) Claimant has produced medical bills vide Exhs.125 and 126 for the treatment he has taken and of medicines, which comes to the total of about ₹2,760/-. 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 **₹2,760/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	1,55,232/-
Pain, shock and sufferings	10,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	9,240/-
Medical expenses	2,760/-
Total amount of compensation	**1,87,732/-**

In MACP No.129/2023

(49) The injured claimant in his affidavit vide Exh.71 submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(49.1) As per the claim petition, age of the claimant was 60 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.127 wherein the age of the injured claimant is mentioned as 66 years on 02/04/2025 and the accident took place on 22/02/2023 means the injured claimant was about 58 years 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 he 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**.

(49.2) Claimant has produced disability certificate (Tentative) at Exh.127 wherein disability of injured is assessed according to Keesler percentage for permanent Facial disfigurement is 15% and chewing disability is also 15% and both together disability is 30% body as a whole. But, this Tribunal is of the considered view that the 10% disability body as a whole is appropriate. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 09 multiplier x 10% disability) = **₹99,792/-**.

(49.3) From the deposition of claimant as well as from disability certificate vide Exh.127, it clearly appears that the claimant has sustained facial along with mouth injuries. 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 **₹10,000/-** and **₹10,500/-**, respectively under the above referred heads.

(49.4) It transpires from the medical records, that the claimant sustained facial and other injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Modasa. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one month. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one month under the head of **actual loss of income**.

(49.5) Claimant has produced medical bills vide Exh.128 for the treatment he has taken and of medicines, which comes to the total of about ₹17,993/-. 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 **₹17,993/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	99,792/-
Pain, shock and sufferings	10,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	9,240/-
Medical expenses	17,993/-
Total amount of compensation	**1,47,525/-**

In MACP No.130/2023

(51) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(51.1) As per the claim petition, age of the claimant was 65 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadahar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.130 wherein the age of the injured claimant is mentioned as 72 years on 10/02/2025 and the accident took place on 22/02/2023 means the injured claimant was about 70 years at the time of accident. But, this Tribunal is of the opinion that the age of the claimant might be between 65 to 70 years at the time of accident and therefore he is entitled to get multiplier of '05' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(51.2) Claimant has produced disability certificate at Exh.130 wherein disability of injured is assessed at 29% body as a whole. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 14% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of

loss of future income : (₹1,10,880/- x 05 multiplier x 14% disability) = **₹77,616/-**.

(51.3) From the deposition of claimant as well as from disability certificate vide Exh.130, it clearly appears that the claimant has sustained fracture and chest injuries. 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.

(51.4) It transpires from the medical records, that the claimant sustained chest and multiple injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Modasa. Considering the nature and severity of the injuries and the period of treatment 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 **₹18,480/-** for two months under the head of **actual loss of income**.

(51.5) Claimant has produced medical bills vide Exh.132 for the treatment he has taken and of medicines, which comes to the total of about ₹31,685/-. 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 **₹31,685/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	77,616/-
Pain, shock and sufferings	14,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	18,480/-
Medical expenses	31,685/-
Total amount of compensation	**1,52,281/-**

In MACP No.131/2023

(53) It is the case of the injured claimant that at the time of accident, he 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 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month.

(53.1) As per the claim petition, age of the claimant was 48 years at the time of accident however he has not produced in evidence in support of his age. Moreover, during the course of cross-examination, it was admitted by the injured claimant that except medical papers he has not produced any disability certificate. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. 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 but from the examination-in-chief he stated that musls pain and seven stitches were taken for head injury. It is the duty of the petitioner to prove his 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 him that he has not suffered any fracture and any disability in the accident. As, he has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, he is not entitled for any future loss of income. Further, the claimant has produced medical papers vide Exh.165 and 166 for the treatment he has taken. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.132/2023

(54) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(54.1) As per the claim petition, age of the claimant was 52 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadahar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.134 wherein the age of the injured claimant is mentioned as 58 years on 10/02/2025 and the accident took place on 22/02/2023 means the injured claimant was about 56 years at the time of accident. But, this Tribunal is of the opinion that the age of the claimant might be between 51 to 55 years at the time of accident and therefore he is entitled to get multiplier of '11' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(54.2) Claimant has produced disability certificate at Exh.134 wherein disability of injured is assessed at 40% body as a whole. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 35% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 11 multiplier x 35% disability) = **₹4,26,888/-**.

(54.3) From the deposition of claimant as well as from disability certificate vide Exh.134, it clearly appears that the claimant has sustained fracture injuries on his left leg tibia and he was admitted in hospital as an indoor patient for ten days. 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 **₹35,000/-** and **₹10,500/-**, respectively under the above referred heads.

(54.4) It transpires from the medical records, that the claimant sustained chest and multiple injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Modasa. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of three months. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹27,720/-** for three months under the head of **actual loss of income**.

(54.5) Claimant has produced medical bills vide Exh.136 for the treatment he has taken and of medicines, which comes to the total of about ₹97,770/-. 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 **₹97,770/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	**Amount in ₹**
Future loss of income	4,26,888/-
Pain, shock and sufferings	35,000/-
Transportation, attendants and special diet	10,500/-

Actual loss of income	27,720/-
Medical expenses	97,770/-
Total amount of compensation	**5,97,878/-**

<u>**In MACP No.133/2023**</u>

(56) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(56.1) As per the claim petition, age of the claimant was 18 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadahar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.138 wherein the age of the injured claimant is mentioned as 20 years on 11/02/2025 and the accident took place on 22/02/2023 means the injured claimant was about 18 years at the time of accident. But, this Tribunal is of the opinion that the age of the claimant might be between 16 to 20 years at the time of accident and therefore he is entitled to get multiplier of '18' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(56.2) Claimant has produced disability certificate at Exh.138 wherein disability of injured is assessed at 24% left upper limb. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 10% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 18 multiplier x 10% disability) = **₹1,99,584/-**.

(56.3) From the deposition of claimant as well as from Medico-Legal Certificate vide Exh.137 and disability certificate vide Exh.138, it clearly appears that the claimant has sustained fracture injuries. 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 **₹10,000/-**

and **₹10,500/-**, respectively under the above referred heads.

(56.4) It transpires from the medical records, that the claimant sustained bone fracture and multiple injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Modasa. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of three months. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹27,720/-** for three months under the head of **actual loss of income**.

(56.5) Claimant has produced medical bills vide Exh.140 for the treatment he has taken and of medicines, which comes to the total of about ₹6,869/-. 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 **₹6,869/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	**Amount in ₹**
Future loss of income	1,99,584/-
Pain, shock and sufferings	10,000/-
Transportation, attendants and special diet	10,500/-

Actual loss of income	27,720/-
Medical expenses	6,869/-
Total amount of compensation	**2,54,673/-**

In MACP No.134/2023

(58) It is the case of the injured claimant that at the time of accident, he was earning total ₹15,000/- per month by doing agricultural activities and 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 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month.

(58.1) As per the claim petition, age of the claimant was 36 years at the time of accident however he has not produced in evidence in support of his age. Moreover, during the course of cross-examination, it was admitted by the injured claimant that except medical papers he has not produced any disability certificate. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. In his affidavit, the claimant stated that he sustained injuries on the forehead of the left eye and five stitches were taken and also all body musles pain. 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. It is the duty of the petitioner to prove his 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 him that he has not suffered any fracture and any disability in the accident. As, he has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, he is not entitled for any future loss of income. Further, the claimant has produced medical papers vide Exh.141 and medical bills vide Exh.142 worth ₹2,444/- for the treatment he has taken. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.135/2023

(59) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(59.1) As per the claim petition, age of the claimant was 28 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.143 wherein the age of the injured claimant is mentioned as 30 years on 02/03/2025 and the accident took place on 22/02/2023 means the injured claimant was about 28 years at the time of accident. But, this Tribunal is of the opinion that the age of the claimant might be between 26 to 30 years at the time of accident and therefore he is entitled to get multiplier of '17' as held by the Hon'ble Apex Court in **Sarla Verma &**

Ors. Vs. Delhi Transport Corporation & Anr. reported in **2009 A.C.J. 1298**.

(59.2) Claimant has produced disability certificate at Exh.143 wherein disability of injured is assessed at 23.3% body as a whole, permanent disability, resulting from head injury. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 20% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 17 multiplier x 20% disability) = **₹3,76,992/-**.

(59.3) From the deposition of claimant as well as disability certificate vide Exh.143, it clearly appears that the claimant has sustained head injuries. 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 **₹20,000/-** and **₹10,500/-**, respectively under the above referred heads.

(59.4) It transpires from the medical records, that the claimant sustained head along with multiple injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Modasa. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one months. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one months under the head of **actual loss of income**.

(59.5) Claimant has produced medical bills vide Exh.144 for the treatment he has taken and of medicines, which comes to the total of about ₹16,344/-. 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 **₹16,344/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	3,76,992/-
Pain, shock and sufferings	20,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	9,240/-
Medical expenses	16,344/-
Total amount of compensation	**4,33,076/-**

In MACP No.136/2023

(61) It is the case of the injured claimant that at the time of accident, he was earning total ₹15,000/- per month by doing agricultural activities and 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 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month.

(61.1) As per the claim petition, age of the claimant was 24 years at the time of accident and the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Moreover, during the course of cross-examination, it was admitted by the injured claimant that except medical papers he has not produced any disability certificate. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. The claimant in his affidavit stated that injuries on forehead of left eye and eight stitches were taken. 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. It is the duty of the petitioner to prove his 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 him that he has not suffered any fracture and any disability in the accident. As, he has also not produced any Disability Certificate on record, and therefore, in absence of any cogent and reliable documentary evidence, he is not entitled for any future loss of income. Further, the claimant has produced medical papers vide Exhs.171 to 173 for the treatment he has taken. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.137/2023

(62) It is an undisputed fact that the present petition has been filed by the present claimant through his mother, acting as his guardian and next friend, as he was a minor at the time of filing this petition as well as at the time of the accident. However, the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.147 wherein the age of the injured claimant is mentioned as 15 years on 25/12/2024 and the accident took place on 22/02/2023 means the injured claimant was about 14 years i.e. minor at the time of accident.

(62.1) The claimant has produced medical papers which were issued by Civil Hospital, Ahmedabad. On perusal of it shows that the claimant was having serious injury over fingers of right leg in road traffic accident. The discharge card produced at Exh.146 suggests that the claimant was operated at Civil Hospital, Ahmedabad and date of admission is 23.02.2023 and 21.03.2023 is the discharge date. The claimant has also produced a disability certificate, issued by Dr. Sanjay C. Shah, at Exh.147 wherein partial permanent disability is assessed as 28% of the right lower limb. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 12% disability as a whole body of the injured claimant. Considering that, at the time of the accident, the claimant was a minor and was studying, whatever disability is admitted by the claimant seems quite reasonable. Therefore, this Tribunal believes that the claimant has a 12% disability body as a whole.

(62.2) Herein, the claimant was minor at the time of accident. Therefore, this Tribunal would like to refer the judgment of the Hon. Apex Court in the case of ***Master Mallikarjun V/s. Divisional Manager, National Ins. Co. Ltd.*** reported in **2013 SAR (Civil) 1088**, wherein, Hon'ble Apex Court has laid down following precedent. Therefore the relevant para 12 is hereby reproduced hereunder;

> Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a M.V. accident, having regard to the relevant factors, precedents and the approach of various High Court, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc should be, if the disability is above 10% and up to 30% to the whole body Rs.3 lac up to 60% Rs. 4 lac, up to 90% 5 lac and above 90% it should be Rs. 6 lac. For permanent disability up to 10% it should be Rs.1 lac unless there are exceptional circumstances to take different yardstick.

(62.3) In the case before the Hon'ble Apex Court, the child was 12 years old and was having disability of 18%, whereas in the present case, the victim is about 14 years old and having admitted 12% permanent disability of whole body. Therefore, I am of the view that the present claimant is having 12% permanent disability i.e. disability of claimant is upto 30% to the whole body. Therefore, considering the present case and the precedent set by the Hon'ble Apex Court in the case of **Master Mallikarjun (Supra)**, **Rs.3,00,000/-** would be an appropriate amount for the disability the minor has suffered, as well as for the pain and suffering already endured and to be suffered in the future. This includes mental and physical shock, hardship, inconvenience, discomfort, and loss of amenities in life due to permanent disability.

(62.4) So far as the cited case is concerned, the injured was hospitalized for about two months whereas in the present case the injured had hospitalized for about one month and therefore **Rs.12,000/-** is required to award under the head of Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization.

(62.5) The claimant has produced fee bill worth Rs.3,500/- at Exh.149. Moreover, considering the ratio laid down in the above referred case of *Master Mallikarjun (Supra)*, the Hon'ble Apex Court has awarded Rs.25,000/- towards Medical and incidental expenses during the period of hospitalization for 58 days. However, considering that the injured claimant was hospitalized for about 27 days, hence the claimant is awarded **Rs.12,000/-** for the same head.

(62.6) The Hon'ble Apex Court, in the above referred case, has awarded Rs.25,000/- under the head of Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment. In the present case, the claimant was aged 14 years and the claimant has not adduce any cogent evidence to show that he has undergone for treatment for considerable long time after the accident. Therefore, the claimant is not entitled to get under the head of 'Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment'.

(63) Therefore, the claimant is entitled to get the compensation as calculated herein under;

Heads of Compensation	Amount in ₹
Pain & suffering already undergone and to be suffered in future mental and physical shock, hardship, inconvenience, and discomforts etc. and loss of amenities in life on account of disability	3,00,000/-
Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization	12,000/-
Medical and incidental expenses during the period of hospitalization for 27 days	12,000/-
T O T A L . . .	**3,24,000/-**

In MACP No.138/2023

(64) It is an undisputed fact that the present petition has been filed by the present claimant through his father, acting as his guardian and next friend, as he was a minor at the time of filing this petition as well as at the time of the accident. However, the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through Medico-Legal Certificate vide Exh.177 wherein the age of the injured claimant is mentioned as 5 years on 05/11/2025 and the accident took place on 22/02/2023 means the injured claimant was minor

at the time of accident.

(64.1) The claimant has produced medical papers which were issued by Ayush Hospital, Lunawada. On perusal of it shows that the claimant was having head injury over forehead in road traffic accident. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has produced medical bills worth ₹500/-. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. 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. It is the duty of the petitioner to prove his 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 as, he has also not produced any Disability Certificate on record. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.139/2023

(65) It is an undisputed fact that the present petition has been filed by the present claimant through his father, acting as his guardian and next friend, as he was a minor at the time of filing this petition as well as at the time of the accident. However, the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age. Therefore, in order to access the age of the injured claimant having gone through Injury Certificate vide Exh.174 wherein the age of the injured claimant is mentioned as 8 years on 01/11/2025 and the accident took place on 22/02/2023 means the injured claimant was minor at the time of accident.

(65.1) The claimant has produced medical papers which were issued by Ayush Hospital, Lunawada. On perusal of it shows that the claimant was having right wrist joint pain and swelling and no any other injury in road traffic accident. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has produced medical bills worth ₹2,430/-. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. 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. It is the duty of the petitioner to prove his 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 as, he has also not produced any Disability Certificate on record. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.140/2023

(66) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(66.1) As per the claim petition, age of the claimant was 62 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove his age. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.154 wherein the age of the injured claimant is mentioned as 62 years on 30/01/2025 and the accident took place on 22/02/2023. However, this Tribunal is of the considered opinion that the age of the claimant might be between 61 to 65 years at the time of accident and therefore he 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**.

(66.2) Claimant has produced disability certificate (Tentative) at Exh.154 wherein disability of injured is assessed at 50% body as a whole. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 40% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 07 multiplier x 40% disability) = **₹3,10,464/-**.

(66.3) From the deposition of claimant as well as from disability certificate vide Exh.154, it clearly appears that the claimant has sustained facial along with head injuries. 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 **₹40,000/-** and **₹10,500/-**, respectively under the above referred heads.

(66.4) It transpires from the medical records, that the claimant sustained facial and head injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospitals, Lunawada and Vadodara. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one month. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one month under the head of **actual loss of income**.

(66.5) Claimant has produced medical bills vide Exh.156 for the treatment he has taken and of medicines, which comes to the total of about ₹1,13,881/-. 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 **₹1,13,881/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	Amount in ₹
Future loss of income	3,10,464/-
Pain, shock and sufferings	40,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	9,240/-
Medical expenses	1,13,881/-
Total amount of compensation	**4,84,085/-**

In MACP No.141/2023

(68) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(68.1) As per the claim petition, age of the claimant was 65 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced Pan Card.

Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.158 wherein the age of the injured claimant is mentioned as 60 years on 25/12/2024 and the accident took place on 22/02/2023. However, this Tribunal is of the considered opinion that the age of the claimant might be between 61 to 65 years at the time of accident and therefore he 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**.

(68.2) Claimant has produced disability certificate at Exh.158 wherein disability of injured is assessed at 33% body as a whole. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 28% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 07 multiplier x 28% disability) = ₹2,17,324.8/- which can be rounded off **₹2,17,325/-.**

(68.3) From the deposition of claimant as well as from disability certificate vide Exh.158, it clearly appears that the claimant has sustained multiple injuries including fracture. 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 **₹28,000/-** and **₹10,500/-**, respectively under the above referred heads.

(68.4) It transpires from the medical records, that the claimant sustained fracture injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospital, Lunawada. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one month. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one month under the head of **actual loss of income**.

(68.5) Claimant has produced medical bills vide Exh.160 for the treatment he has taken and of medicines, which comes to the total of about ₹25,382/-. 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 **₹25,382/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	**Amount in ₹**
Future loss of income	2,17,325/-
Pain, shock and sufferings	28,000/-
Transportation, attendants and	10,500/-

special diet	
Actual loss of income	9,240/-
Medical expenses	25,382/-
Total amount of compensation	**2,90,447/-**

In MACP No.142/2023

(70) The injured claimant in his affidavit submitted that at the time of accident, he was earning total ₹15,000/- per month by doing agriculture and labour but no any evidence produced on record to prove the income. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has not produced any documentary evidence to prove 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 ₹9,237.80/- per month which can be rounded off ₹9,240/- per month and the annual income is assessed ₹1,10,880/- (9240 X 12).

(70.1) As per the claim petition, age of the claimant was 35 years at the time of accident but the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced Aadhar Card. It is pertinent to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through disability certificate vide Exh.181 wherein the age of the injured claimant is mentioned as 35 years on 10/10/2025 and the accident took place on 22/02/2023. However, this Tribunal is of the considered opinion that the age of the claimant might be between 36 to 40 years at the time of accident and therefore he is entitled to get multiplier of '15' as held by the Hon'ble Apex Court in **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009 A.C.J. 1298**.

(70.2) Claimant has produced disability certificate at Exh.181 wherein disability of injured is assessed at 20% body as a whole. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 13% disability as a whole body of the injured claimant. Therefore, in view of above referred discussion, claimant is entitled following amount under the head of **loss of future income** : (₹1,10,880/- x 15 multiplier x 13% disability) = **₹2,16,216/-.**

(70.3) From the deposition of claimant as well as from MLC certificate vide Exh.180, it clearly appears that the claimant has sustained blunt trauma on chest and fracture. 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 **₹13,000/-** and **₹10,500/-**, respectively under the above referred heads.

(70.4) It transpires from the medical records, that the claimant sustained fracture injuries and received primary treatment at General Hospital, Lunawada followed by in Private Hospital, Lunawada. Considering the nature and severity of the injuries and the period of treatment and recovery, this Tribunal is of the considered opinion that the claimant was unable to perform his usual work for a period of one month. In view of these peculiar facts and circumstances, the claimant is entitled to compensation of **₹9,240/-** for one month under the head of **actual loss of income**.

(70.5) Claimant has produced medical bills vide Exh.183 for the treatment he has taken and of medicines, which comes to the total of about ₹13,225/-. 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 **₹13,225/-** towards **medical expenses** to the claimant.

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

Heads of Compensation	**Amount in ₹**
Future loss of income	2,16,216/-
Pain, shock and sufferings	13,000/-
Transportation, attendants and special diet	10,500/-
Actual loss of income	9,240/-
Medical expenses	13,225/-
Total amount of compensation	**2,62,181/-**

In MACP No.143/2023

(72) It is an undisputed fact that the present petition has been filed by the present claimant through his father, acting as his guardian and next friend, as he was a minor at the time of filing this petition as well as at the time of the accident. However, the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through Medico-Legal Certificate vide Exh.167 wherein the age of the injured claimant is mentioned as 15 years 23/02/2023 means the injured claimant was minor at the time of accident.

(72.1) The claimant has produced medical papers which were issued by Unity Hospital, Lunawada. On perusal of it shows that the claimant was having chest injury in road traffic accident. Moreover, during the course of cross-examination, it was admitted by the injured claimant that he has produced medical bills worth ₹132/-. However, it is mentioned by the claimant in his affidavit that, in the alleged vehicular accident he has sustained injuries as per medical papers and two family member were engaged to look after him. 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. It is the duty of the petitioner to prove his 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 as, he has also not produced any Disability Certificate on record. Therefore, in absence of any cogent and reliable documentary evidence, however, considering his age, income and medical expenses incurred towards check up it would be just, proper and reasonable to award lump sum amount of **₹20,000/-** by way of compensation and hence I award the same.

In MACP No.144/2023

(73) It is an undisputed fact that the present petition has been filed by the present claimant through his father, acting as his guardian and next friend, as he was a minor at the time of filing this petition as well as at the time of the accident. However, the claimant has not produced any documentary evidence like school leaving certificate etc. to prove his age but has produced his Aadhar Card. It is required to note that the Aadhar Card is the proof of identity and not of the date of birth. Therefore, in order to access the age of the injured claimant having gone through MLC vide Exh.162 wherein the age of the injured claimant is mentioned as 7 years on 21/08/2023 and the accident took place on 22/02/2023 means the injured claimant was about minor at the time of accident.

(73.1) The claimant has produced medical papers which were issued by Ayush Hospital, Lunawada. On perusal of it shows that the claimant was having fracture injury over left hand in road traffic accident. The claimant has also produced a disability certificate, issued by Dr. Sanjay C. Shah, at Exh.163 wherein partial permanent disability is assessed as 15% of the left upper limb. However, subsequently, an endorsement has been made by the claimant as well as the opponents agreeing that the 07% disability as a whole body of the injured claimant. Considering that, at the time of the accident, the claimant was a minor and was studying, whatever disability is admitted by the claimant seems quite reasonable. Therefore, this Tribunal believes that the claimant has a 07% disability body as a whole.

(73.2) Herein, the claimant was minor at the time of accident. Therefore, this Tribunal would like to refer the judgment of the Hon. Apex Court in the case of ***Master Mallikarjun V/s. Divisional Manager, National Ins. Co. Ltd.*** reported in **2013 SAR (Civil) 1088**, wherein, Hon'ble Apex Court has laid down following precedent. Therefore the relevant para 12 is hereby reproduced hereunder;

> Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a M.V. accident, having regard to the relevant factors, precedents and the approach of various High Court, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc should be, if the disability is above 10% and up to 30% to the whole body Rs.3 lac up to 60% Rs. 4 lac, up to 90% 5 lac and above 90% it should be Rs. 6 lac. For

permanent disability up to 10% it should be Rs.1 lac unless there are exceptional circumstances to take different yardstick.

(73.3) In the case before the Hon'ble Apex Court, the child was 12 years old and was having disability of 18%, whereas in the present case, the victim is about 07 years old and having admitted 07% permanent disability of whole body. Therefore, I am of the view that the present claimant is having 07% permanent disability i.e. disability of claimant is upto 10% to the whole body. Therefore, considering the present case and the precedent set by the Hon'ble Apex Court in the case of **Master Mallikarjun (Supra)**, **₹1,00,000/-** would be an appropriate amount for the disability the minor has suffered, as well as for the pain and suffering already endured and to be suffered in the future. This includes mental and physical shock, hardship, inconvenience, discomfort, and loss of amenities in life due to permanent disability.

(73.4) So far as the cited case is concerned, the injured was hospitalized for about two months whereas in the present case the injured firstly treated at Civil Hospital, Lunawada followed by Ayush Hospital, Lunawada but it is not on record that how many days he was treated in the hospital but this Tribunal is of the view that **₹5,000/-** is required to award under the head of Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization.

(73.5) The claimant has produced fee bill worth Rs.3,500/- at Exh.164. Moreover, considering the ratio laid down in the above referred case of ***Master Mallikarjun (Supra)***, the Hon'ble Apex Court has awarded Rs.25,000/- towards Medical and incidental expenses during the period of hospitalization for 58 days. However, in the present case, it is not on record that how many days the claimant was hospitalized. Hence, this Tribunal is of the view that the claimant is awarded **₹5,000/-** for the same head.

(73.6) The Hon'ble Apex Court, in the above referred case, has awarded Rs.25,000/- under the head of Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment. In the present case, the claimant was aged 07 years and the claimant has produced evidence vide Exh.162 to show that he has undergone for treatment for considerable long time i.e. 21/08/2023 after the accident. Therefore, the claimant is entitled to get **₹5,000/-** under the head of 'Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment'.

(74) Therefore, the claimant is entitled to get the compensation as calculated herein under;

Heads of Compensation	**Amount in ₹**
Pain & suffering already undergone and to be suffered in future mental and physical shock, hardship, inconvenience, and discomforts etc. and loss of	1,00,000/-

amenities in life on account of disability	
Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization	5,000/-
Medical and incidental expenses during the period of hospitalization	5,000/-
Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment.	5,000/-
T O T A L . . .	**1,15,000/-**

<u>Liability</u> :- (In All MACPs)

(75) So for as the liability is concerned, as I have discussed in the observation of issue No.1 that opponent No.1-Tempo Driver was negligent to the extent of 30%, and the opponent No.4-Car driver was negligent to the extent of 70%. So far as the liability is concerned, learned Advocate for the opponent No.3-insurance company has argued that the opponent No.1 was not holding valid and effective driving license at the time of accident and thereby breached the terms and conditions of the policy and therefore the insurer is not liable to pay compensation. Having gone through the record of the case, it is found that the opponent No.1 was not holding valid driving licence at the time of accident. However, Exh.51 is the policy issued by opponent No.3 and the policy was in force at the time of accident and opponent No.2 is named as the insured. Therefore, the opponent No.3- Insurance Company cannot evade from its liability to pay compensation to the claimants. Moreover, the

opponent Nos.1 and 2 is liable to pay the part of compensation to the extent of 30% as they have used the goods vehicle for travelling for the gratitude passengers.

(76) At this stage, it is necessary to take into consideration the ratio laid down by the Hon'ble Supreme Court in the case of ***Rama Bai v. M/s. Amit Minerals through In-charge Officer/Competent Officer,*** reported in **2025 (0) AIJEL-SC-75939**, wherein the relevant observations are as under :-

> 5. The submission on part of the appellant that the High Court ought to have applied the pay and recover principle rests on the decision of this Court in Shamanna1 (supra) and Parminder Singh 2 (supra). In Shamanna1 (supra) this Court dealt with the claim of compensation by third party victim of the motor accident. In para 5 of the judgment, this Court referred to its own earlier decision in **National Insurance Co. Ltd. v. Swaran Singh and Others, (2004) 3 SCC 297** to reiterate that the insurer has to pay the compensation amount payable to the third party and the insurance company may recover the same thereafter from the insured.
>
> 5.1 In Shamanna1 in which the doctrine of pay and recover was considered, the driver had no valid licence and the insurance policy was violated. Similar principle, as applied in Parminder Singh2 in which the driver of the offending vehicle was found driving the vehicle in breach of the policy conditions, the insurance company was absolved and the principle of pay and recover was applied.
>
> 6. In the present case as stated above, on the date of accident, the driver had no valid license and the licence was not renewed. The insurance company was entitled to take a valid defence in that regard under Section 149 (2)(a)(ii) as the driver of the offending vehicle was not duly licensed, to avoid its liability to pay the compensation. The conditions in law are satisfied to absolve the insurance company from the payment of compensation.

(77) Moreover, the Hon'ble Gujarat High Court also laid down the ratio in case of **United India Insurance Company Ltd vs**

Minor Shobhaben Madhubhai Patadia on 2 December, 2025 wherein it was held as under :-

> 18. In view of the above, the Hon'ble Apex Court has already decided the issue in Swaran Singh (supra). Considering the undefined subsequent pronouncements discussing the scope of the 'pay and recover' order and the benevolent object of the legislation, as earlier explained in paragraph 14 of this order, the principle of 'pay and recover' reflects judicial empathy ensuring that victims are not left uncompensated due to disputes between the owner and the insurer. Therefore, the argument canvassed by the learned advocate for the appellant regarding contractual accountability is not acceptable and Tribunal has not committed any error in passing the order of "pay and recover".
>
> 19. The appellant-Insurance Company is directed to pay the amount of compensation determined by the Tribunal, with liberty to recover the same from the owner of the offending vehicle in accordance with law. In view of the law laid down by the Hon'ble Apex Court in Oriental Insurance Co. Ltd. v. Nanjappan, (2004) 13 SCC 224, it is always open for the Insurance Company to recover the amount from opponent Nos.1 and 2 by initiating appropriate proceedings before the Executing Court, without being required to file a separate suit. While passing the order of "pay and recover", the Tribunal shall issue appropriate directions to protect the interest of the Insurance Company, as directed by the Hon'ble Apex Court in Nanjappan (supra), subject to suitable conditions and safeguards.

(78) Therefore, herein also, the order as to "pay & recover" is required to be passed for the opponent No.3.

(79) Also, learned Advocate for the opponent No.6-insurance company has argued that the opponent No.4 was not holding valid and effective driving licence at the time of accident and thereby breached the terms and conditions of the policy and therefore the insurer is not liable to pay compensation. But looking to the copy of driving licence of the opponent No.4

produced by the claimants at Exh.54, it transpires that the opponent No.4 was holding valid and effective driving licence at the time of accident. Therefore, the argument advanced by the Ld. Advocate for the insurer does not stand on its leg. It also transpires from R. C. Book of opponent No.5 (Exh.52) and insurance policy (Car) vide Exh.53 that the opponent No.5 was the registered owner of the Car and it was insured with the opponent No.6 – insurance company and the policy was in force at the time of accident. Therefore, for the negligent act of the driver of the offending Car, the opponent Nos.4, 5 and 6 are jointly and severally liable to pay the compensation to the extent of 70% to the claimants. Therefore, my answer to the issue No.2 is accordingly.

(80) The awarded amount shall carry interest at the rate of 7% per annum from the date of the application till realization. Hence, I pass the following final order for issue No.3.

|| <u>O R D E R</u> ||

1. The all claim petitions are hereby partly allowed.

2. The petitioners of respective claim petitions are entitled to have compensation at the following amount and the <u>opponent Nos.1, 2 and 3 (in the ratio of 30%) : the opponent Nos.4, 5 and 6 (in the ratio of 70%)</u> are jointly and severally liable to pay the compensation amount, with simple interest @ 7% per annum of awarded amount, from

the date of respective claim petition till payment or realization, as mentioned below in the table;

Sr. No.	MACP Number	Claim Amount in ₹
1.	68/2023	14,75,100/-
2.	69/2023	14,70,216/-
3.	70/2023	8,64,908/-
4.	71/2023	16,85,284/-
5.	72/2023	20,92,684/-
6.	126/2023	25,000/-
7.	127/2023	2,88,274/-
8.	128/2023	1,87,732/-
9.	129/2023	1,47,525/-
10.	130/2023	1,52,281
11.	131/2023	20,000/-
12.	132/2023	5,97,878/-
13.	133/2023	2,54,673/-
14.	134/2023	20,000/-
15.	135/2023	4,33,076/-
16.	136/2023	20,000/-
17.	137/2023	3,24,000/-
18.	138/2023	20,000/-
19.	139/2023	20,000/-
20.	140/2023	4,84,085/-
21.	141/2023	2,90,447/-
22.	142/2023	2,62,181/-
23.	143/2023	20,000/-
24.	144/2023	1,15,000/-

3. The opponent No.3, shall pay the awarded amount with interest and costs as ordered to the petitioners. Subsequently, the insurance company is at liberty to recover the amount paid towards compensation from the

the opponent Nos.1 and 2 within two months from the date of payment by the insurer.

4. Opponent No.3, the insurance company, and opponent Nos.4 to 6 are directed to deposit the aforesaid amount in the ratio of 30% and 70%, respectively, along with applicable interest and costs with this Tribunal, within 30 days from the date of receipt of the Judgment and award as per the guideline of the 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. In MACP Nos.68/2023, 70/2023, From the remaining amount, **₹48,400/- EACH towards loss of consortium** be paid separately to the respective claimants by A/c. Payee Cheque or through NEFT/RTGS mode. Thereafter, the remaining amount is ordered to be disbursed amongst the claimants in **Equal shares**. Out of the amount came into share of each applicant, 30% amount be paid to the respective claimant by A/c. Payee Cheque only and remaining 70% be invested in any Nationalized Bank as per the choice of the claimant in his/her name in separate Fixed Deposit Receipt for period of 5 (Five) years.

9. In MACP Nos.69/2023 From the remaining amount, **₹48,400/- EACH towards loss of consortium** be paid separately to the respective major claimants by A/c. Payee Cheque or through NEFT/RTGS mode. Thereafter, the remaining amount is ordered to be disbursed amongst the claimants in **Equal shares**. Out of the amount came into share of each major applicant, 30% amount be paid to the respective claimant by A/c. Payee Cheque only and remaining 70% be invested in any Nationalized Bank as per the choice of the claimant in his/her name in separate Fixed Deposit Receipt for period of 5 (Five) years.

(a) In MACP No.69/2023 that minor claimant Nos.2, 3 and 4 are entitled to get **₹48,400/- EACH towards loss of consortium** and the amount be invested in F.D.R. in the name of minor claimants in any Nationalized Bank for the period of five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimants be invested on behalf of claimant No.1 as a guardian/mother.

(b) That the 100% amount came into share of minor claimants Nos.2 to 4 be invested in F.D.R. in the name of minor claimants in any Nationalized Bank for the period of (5) Five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimants be invested on behalf of claimant No.1 as a guardian/mother.

10. In **MACP Nos.71/2023** From the remaining amount, **₹48,400/- EACH towards loss of consortium** be paid separately to the respective major claimants by A/c. Payee Cheque or through NEFT/RTGS mode. Thereafter, the remaining amount is ordered to be disbursed amongst the claimants in **Equal shares**. Out of the amount came into share of each major applicant, 30% amount be paid to the respective claimant by A/c. Payee Cheque only and remaining 70% be invested in any Nationalized Bank as per the choice of the claimant in his/her name in separate Fixed Deposit Receipt for period of 5 (Five) years.

(a) In **MACP No.71/2023** that minor claimant Nos.3 and 4 are entitled to get **₹48,400/- EACH towards loss of consortium** and the amount be invested in F.D.R. in the name of minor claimants in any Nationalized Bank for the period of five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimants be invested on behalf of claimant No.1 as a guardian/mother.

(b) That the 100% amount came into share of minor claimants Nos.3 and 4 be invested in F.D.R. in the name of minor claimants in any Nationalized Bank for the period of (5) Five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimants be invested on behalf of claimant No.1 as a guardian/mother.

11. In MACP Nos.72/2023 From the remaining amount, **₹48,400/- EACH towards loss of consortium** be paid separately to the respective major claimants by A/c. Payee Cheque or through NEFT/RTGS mode. Thereafter, the remaining amount is ordered to be disbursed amongst the claimants in **Equal shares**. Out of the amount came into share of each major applicant, 30% amount be paid to the respective claimant by A/c. Payee Cheque only and remaining 70% be invested in any Nationalized Bank as per the choice of the claimant in his/her name in separate Fixed Deposit Receipt for period of 5 (Five) years.

(a) In MACP No.72/2023 that minor claimant No.3 is entitled to get **₹48,400/- towards loss of consortium** and the amount be invested in F.D.R. in the name of minor claimant in any Nationalized Bank for the period of five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimants be invested on behalf of claimant No.1 as a guardian/mother.

(b) That the 100% amount came into share of minor claimant No.3 be invested in F.D.R. in the name of minor claimant in any Nationalized Bank for the period of (5) Five years or till he/she attains the age of majority, whichever is later, with a direction to the Bank not to grant any loan or advance on the said FDRs without prior and express permission of this Tribunal. That the FDRs in the name of minor claimant be invested on behalf of claimant No.1 as a guardian/mother.

12. In the MACP No.126/2023, 128/2023, 129/2023, 130/2023, 131/2023, 134/2023, 136/2023, 138/2023, 139/2023, 143/2023 and 144/2023 the amount of compensation is hereby ordered to be paid to the claimants through the mode of RTGS/NEFT or by A/c Payee cheque.

13. That in the MACP 127/2023/, 132/2023, 133/2023, 135/2023, 137/2023, 140/2023, 141/2023, 142/2023 the 30% compensation amount be paid to the respective claimant by way of NEFT / RTGS or A/c. Payee Cheque only after due verification whereas remaining 70% amount be kept in Fix Deposit in any Nationalized Bank in the name of respective claimant for the period of 5 (Five) years.

14. The investment of the petitioners shall carry the following terms and conditions;

(a) The interest on the Fixed Deposit investment as and when it becomes due shall be paid to the applicants.

(b) No loan, overdraft or advance, known by any other name or nomenclature, shall be made available on the said Fixed Deposit investment and the Bank shall not allow any encumbrance on the said Fixed Deposit.

(c) The bank shall intimate to the Tribunal the particulars of Fixed Deposit Investment such as the date of investment, number of Fixed Deposit Receipt, date of maturity, etc. immediately after the issuance of FDR.

(d) The bank shall be at liberty to issue in the first instance, deposit for lesser period, if as per the rules of the bank, the same cannot be issued for the entire period of five years, and upon the maturity renew the same till the remaining period of five year is over.

15. Award to be drawn accordingly.

16. The copy of this judgment be kept in the group matters bearing MACP No.69/2023 to MACP No.72/2023 and, from MACP No.126/2023 to MACP No.144/2023.

Pronounced in the open Court today on this 27th day of April, 2026.

Date : 27.04.2026
Lunawada.

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

DKumar