GJMH010015772023

MACP NO.120 OF 2023 (MAIN)	
Presented on	26.04.2023
Registered on	26.04.2023
Decided on	04.08.2026
Duration	Year-Month-Day
	03 - 03 - 09
Exhibit	111

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN) AT MAHESANA

JUDGEMENT PASSED

IN

MOTOR ACCIDENT CLAIM PETITION NO.120 OF 2023 (MAIN)

WITH

MOTOR ACCIDENT CLAIM PETITION NO.121 OF 2023

WITH

MOTOR ACCIDENT CLAIM PETITION NO.153 OF 2023

WITH

MOTOR ACCIDENT CLAIM PETITION NO.154 OF 2023

WITH

MOTOR ACCIDENT CLAIM PETITION NO.155 OF 2023

WITH

MOTOR ACCIDENT CLAIM PETITION NO.156 OF 2023

&

MOTOR ACCIDENT CLAIM PETITION NO.161 OF 2023

APPLICANTS OF M.A.C.P NO.120 OF 2023:

Heirs of deceased Gajanan Bholanath Upadhyay

1. Sandhya Wd/o. Gajanan Bholanath Upadhyay &
D/o. Santprakash Upadhyay
Aged about 32 years, Occupation: Housework.

2. Minor Diya Gajanan Upadhyay
Age 7 years, Occupation: Study.
Through her guardian Sandhya Wd/o. Gajanan
Bholanath Upadhyay.

3. Minor Akshat Gajanan Upadhyay
Age 3 years, through his guardian Sandhya Wd/o. Gajanan
Bholanath Upadhyay.

4. Sushila Bholanath Siddhnath Upadhyay
Aged about 73 years,
Occupation: Retired.
All residing at: Babhni Thapanvan, Patehara Khurd,
Mirzapur, Mahiran, Uttar Pradesh.
At present at: 7, Spenta Gardenia, Vavol,
Section-16, Gandhinagar.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.2.50 Crores.

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APPLICANTS OF M.A.C.P NO.121 OF 2023:

Heirs of deceased Vinodkumar Rajpalsinh Chauhan

1. Manishadevi Wd/o. Vinodkumar Rajpalsinh Chauhan
Aged about 33 years, Occupation: Housework.

2. Minor Daksh Vinodkumar Chauhan, through his guardian
Manishadevi Vinodkumar Rajpalsinh Chauhan,
Age : 11 years, Occupation: Study.

3. Minor Anmol Vinodkumar Chauhan, through his guardian
Manishadevi Vinodkumar Rajpalsinh Chauhan,
Age : 10 years, Occupation: Study.

4. Sarojdevi Wd/o. Rajpalsinh Amarsinh Chauhan
Aged about 65 years, Occupation: Retired.

Original resident of: Jiluwala Johad, Bhivani, Haryana.
At present at: 10, Spenta Gardenia, Vavol, Sector-16,
Gandhinagar.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.2.50 Crores.

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<u>APPLICANT OF M.A.C.P NO.153 OF 2023</u>:

Madhukumar Birsingh
Aged about 38 years, Occupation: Service,
R/o. 17, The Spenta Gardenia, Vavol-Kalol Road,
Gandhinagar.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.5.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.154 OF 2023</u>:

Omnarayan Pratapsingh
Aged about 41 years, Occupation: Service,
R/o. 8, The Spenta Gardenia, Vavol-Kalol Road,
Gandhinagar.
Original resident of: Gully No.15, Shantinagar,
Dadri Gate, Kont Road, Bhivani.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.5.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.155 OF 2023</u>:

Hanumansinh Balvirsinh Bais
Aged about 38 years, Occupation: Service,
R/o. 40, Police Thana Road, Jagiwada,
Pali, Marwad, Rajasthan.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.25.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.156 OF 2023</u>:

Mukeshbhai Kanjibhai Desai
Aged about 39 years, Occupation: Transport,
R/o. Mahesana, 1, Rajeshwari Society,
Opp. Chavelinagar, B/h. Aerodrome, Mahesana.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.10.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.161 OF 2023</u>:

Ummed Singh Mohan Singh Inda
Aged about 39 years, Occupation: Service,
R/o. A-60, Prahladpark Co.Op. Hsg. Soc. Ltd.,
B/h. Chandkheda Railway Station, Ahmedabad.
Original resident of: Teachers Colony, Gully No.7,
House No.326, Opp. Chopasani, Jodhpur, Rajasthan.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.5.00 Lakh.

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VERSUS

COMMON OPPONENTS OF [MACP NOS.120/2023, 121/2023, 153/23, 154/23, 155/23 & 161 OF 2023]:-

1. Driver of Dumper No.GJ-03-BT-1008
   Keshubhai Bhanubhai Kajiya
   Adult, Occupation: Driving,
   R/o. Kesarpar, Post: Dodiya, Tal. Sayla,
   Dist. Surendranagar.

2. Owner of Dumper No.GJ-03-BT-1008
   Kalubhai Ramsangbhai Khambhla
   Adult, Occupation: Transport,
   R/o. Rajkot, Sagarnagar, S.T. No.2,
   Nr. Market Yard, Rajkot.

3. Insurance Co. of Dumper No.GJ-03-BT-1008
   TATA AIG General Insurance Co. Ltd.,
   2nd Floor, Rajendra Estate, Opp. Gayatri Temple,
   Highway, Mahesana.

4. Driver/Owner of Innova Car No.GJ-18-BJ-9019
   Mukeshbhai Kanjibhai Desai
   Adult, Occupation: Business,
   R/o. 1, Rajeshwari Society, Opp. Chavelinagar,
   B/h. Aerodrome, Mahesana.

5. Insurance Co. of Innova Car. No.GJ-18-BJ-9019
   ICICI Lombard General Insurance Co. Ltd.,
   Above Indian Bank, Radhanpur Road, Mahesana.

OPPONENTS OF MACP NO.156 OF 2023

1. Driver of Dumper No.GJ-03-BT-1008
   Keshubhai Bhanubhai Kajiya
   Adult, Occupation: Driving,
   R/o. Kesarpar, Post: Dodiya, Tal. Sayla,
   Dist. Surendranagar.

2. Owner of Dumper No.GJ-03-BT-1008
Kalubhai Ramsangbhai Khambhla
Adult, Occupation: Transport,
R/o. Rajkot, Sagarnagar, S.T. No.2,
Nr. Market Yard, Rajkot.

3. Insurance Co. of Dumper No.GJ-03-BT-1008
TATA AIG General Insurance Co. Ltd.,
2nd Floor, Rajendra Estate, Opp. Gayatri Temple,
Highway, Mahesana.

APPEARANCE IN MACP NOS.120/2023, 121/2023, 153/23, 154/23, 155/23 & 161 OF 2023:-

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Mr. P.P. Raval, Ld. Advocate for the applicants.
Mr. S.I. Shah, Ld. Advocate for opponent No.3.
Mr. N.R. Bhavsar, Ld. Advocate for opponent No.5.
Opponent Nos.1, 2 & 4 not appeared.

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APPEARANCE IN MACP NO.156/2023:-

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Mr. P.P. Raval, Ld. Advocate for the applicant.
Mr. S.I. Shah, Ld. Advocate for opponent No.3.
Opponent Nos.1 & 2 not appeared.

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C O M M O N J U D G M E N T

1. As common question of law and facts arise in this group of petitions and as such arising out of self same accident, all the claim petitions are decided and disposed of by way of this common judgment. As, all the claim petitions are ordered to be consolidated, the evidence are led in main

MACP No.120 of 2023, which are considered for deciding all the claim petitions.

2. The brief facts leading to the present claim petitions are that; 02/04/2023 at about 4:30 hours at Indore-Ahmedabad Highway Road, when the victims were returned from Ujjain to Vavol in Innova Car No.GJ-18-BJ-9019, at that time near Pithai, Opp. Petrol Pump, Ahmedabad road, the driver of Dumper No.GJ-03-BT-1008 came from Pithai Toll Tax in a wrong side of the road, without light and endangering human life and dashed with their Innova Car, as a result thereof, Gajanan Upadhyay and Vinodkumar Chauhan were sustained fatal injuries and died on the spot, whereas others were sustained grievous injuries in the accident. As such, accident was occurred upon sole negligence on the part of the driver of the Dumper involved in the accident, the applicants have preferred present claim petitions under Section 166 of M.V. Act to get compensation from the opponents under various heads.

3. The opponent Nos.1, 2 & 4 though duly served, neither personally nor through their learned Advocate appeared before the Tribunal. The opponent No.5 – ICICI Lombard General Insurance Co. Ltd., though appeared through its learned Advocate, has not filed its Written Statements in this group petitions.

4. The opponent No.3- TATA AIG General Insurance Co. Ltd. appeared through its learned Advocate and filed their Written Statements in all the claim petitions denying the facts of the claim petition. It has been submitted that the driver of Dumper No.GJ-03-BT-1008 was not holding valid and effective driving license at the time of accident and was not qualified for holding or obtaining such driving license and has not satisfied the requirements of Rule 3 of the Central Motor Vehicles Rules, 1989. Moreover, in the present case, accident was occurred on 02/04/2023 which was occurred after the amendment of Motor Vehicles Act, 2019 which came into force on 01/04/2022 and Section 149 (4) of M.V. Act, 1988 is no longer in the statute and the defenses available to insurance company have been enlarged by deletion of clause 149(2) (b) of M.V. Act, 1988, therefore respondent insurance company under Section 150 of M.V. Act, 2019 avails the statutory defense on the ground of No driving license/ Invalid DL/ Permit or provisions of old M.V. Act Section 149 (2) at the time of accident is a clear violation of terms and conditions of Policy and thus insurance company is not liable to indemnify the owner qua the accident. It has been further submitted that alleged accident was occurred upon sole negligence on the part of the driver of Innova Car, and therefore, present opponent is not liable to indemnify the

applicants alleged accident. Thus, it is prayed to dismiss the claim petitions with cost.

5. The opponent No.5 – ICICI Lombard General Insurance Co. Ltd., has filed its Written Statement in all the claim petitions and submitted that accident was occurred solely on account of the rash and negligent driving on the part of driver of the third-party trailer bearing No.GJ-03-BT-1008. The Investigating agency, upon thorough inquiry, has categorically held that the trailer driver responsible for the said accident and has accordingly filed chargesheet against him, thereby clearly establishing his fault and negligence. It has been further submitted that the driver of the Innova Car was driving the vehicle diligently, cautiously and in strict compliance with all traffic rules and regulations, and at a reasonable speed. There was no act of rashness or negligence on his part contributing to the occurrence of the accident. Thus, no negligence can be attributed to the Innova car or its driver. Thus, it is prayed to dismiss the claim petitions with cost.

6. In support of the present claim petitions, the applicants have produced the following oral as well as documentary evidence.

Sr. No.	Particulars	Exh.
1	Examination In Chief on Affidavit of applicant of MACP No.120 of 2023.	21

2	Examination In Chief on affidavit of applicant of MACP No.121 of 2023.	22
3	Examination In Chief on affidavit of applicant of MACP No.153 of 2023.	23
4	Examination In Chief on affidavit of applicant of MACP No.154 of 2023.	24
5	Examination In Chief on affidavit of applicant of MACP No.155 of 2023.	25
6	Examination In Chief on affidavit of applicant of MACP No.156 of 2023.	26
7	Examination In Chief on affidavit of applicant of MACP No.161 of 2023.	27
MACP NO.120 OF 2023		
1	Copy of FIR.	34
2	Copy of Spot Panchnama.	35
3	Copy of Inquest Panchnama.	36
4	Copy of P.M. Note.	37
5	Copy of Death Certificate.	38
6	Copy of Pay Slips.	80 & 81
7	Copy of Identity Card.	39
8	Copy of PAN Card.	40
9	Copy of Income Tax Return for the Assessment Year 2022-23.	82
10	Copy of RC Book of vehicle Dumper.	41
11	Copy of Permit of vehicle Dumper.	42
12	Copy of Insurance Policy of Dumper.	43
13	Copy of Driving License of opponent No.4.	44
14	Copy of RC Book of Innova Car.	45
15	Copy of Insurance Policy of Innova Car.	46

16	Copy of Chargesheet.	47
MACP NO.121 OF 2023		
1	Copy of P.M. Note.	48
2	Copy of Identity Card.	49
3	Copy of Pay Slip.	82
4	Copy of PAN Card.	50
5	Copy of Income Tax return acknowledgement.	84
6	Death Certificate.	78
MACP NO.153 OF 2023		
1	Copy of Injury Certificate.	51
2	Copy of Emergency Certificate.	52
3	Copy of Discharge Advice.	53
4	Copy of Identity Card.	85
5	Disability Certificate.	75
6	Copy of Pay Slip.	94
MACP NO.154 OF 2023		
1	Copy of Emergency Certificate.	55
2	Copy of Discharge Advice.	56
3	Copy of Fitness Certificate.	57
4	Copy of Identity Card.	58 & 59
5	Copy of Pay Slip.	86
MACP NO.155 OF 2023		
1	Copy of Injury Certificate.	60
2	Copy of Discharge Summary.	61
3	Disability Certificate.	62
4	Copy of Identity Card.	63
5	Copy of Pay Slip.	87

6	Copy of PAN Card.	64
7	Copy of Leave report.	74
8	Photographs of applicant.	77
MACP NO.156 OF 2023		
1	Copy of Treatment Certificate.	65
3	Disability Certificate.	66
4	Copy of PAN Card.	67
5	Copy of Income Tax Return Acknowledgement.	88 to 90
6	Photographs of Car.	76
MACP NO.161 OF 2023		
1	Copy of Treatment Certificate.	69
2	Copy of Discharge Summary.	70
3	Copy of MRI Reports.	71 & 72
4	Copy of Pay Slip.	91
5	Copy of Sick Certificate.	73 & 93

7. Considering the oral arguments canvassed by learned Advocates for respective parties and also considering the oral as well as documentary evidence produced on record, this Tribunal has framed the following issues for determination of the claim petitions:-

ISSUES

(MACP No.120 OF 2023 & MACP No.121 of 2023)

(1) Whether claimants prove that the deceased sustained injuries and died on account of such injuries due to

rashness/negligent driving on the part of the drivers of the vehicles involved in the accident?

(2) What amount, if any, claimants are entitled to, by way compensation and from which of the opponent?

(3) What order and award?

My findings to the above issues are as under:-

Issue No.1	:	In affirmative.
Issue No.2.	:	As per final order.
Issue No.3	:	As per final order.

ISSUES

(MACP No. 153 of 2023, MACP No.154 of 2023, MACP No.155 of 2023, MACP No.156 of 2023 and MACP No.161 of 2023)

1) Whether claimant proves that the injured sustained injuries on account of rashness and negligence on the part of the driver of the vehicle involved in the accident?

2) What amount, if the claimant is entitled to, by way compensation and from which of the opponent?

3) What order and award?

8. My findings to above issues in the above claim petitions are as under:-

Issue No.1	:	In affirmative.
Issue No.2	:	As per final order.
Issue No.3	:	As per final order.

REASONS

9. **Issue No.1:-**

Negligence:-

In this group of petitions, the applicants have produced copy of FIR vide Exh.34, which was filed by the applicant of MACP No.154 of 2023- Omnarayan Parmar against the driver of Dumper truck involved in the accident, wherein it is specifically submitted that the driver of Dumper came in a wrong side of the road and an excessive speed and dashed with their Innova Car. The applicants have also produced copy of Spot Panchnama vide Exh.35 from which it appears that both the vehicles Dumper Truck and Innova Car were lying at the place of accident and front portion of both the vehicles were severely damaged in the accident. In the accident, the font portion of the car severely damaged. The Police, after due investigation, filed charge-sheet against the driver of Dumper- opponent No.1, which is produced on record vide Exh.47. Moreover, perusing the Inquest Panchnama, P.M. Note, injury certificates and other medical papers produced on record, it clearly reveals that the victims sustained grievous injuries and died in a vehicular accident, which was occurred on the date, time and place as mentioned in the claim petition.

10. Negligence means failure to exercise the required degree of care and caution expected from a prudent driver. It is a settled principle of law that burden of proving negligence is on the claimants who assert it. The claimants have to produce reasonable evidence that the accident took place due to negligence on the part of the driver / owner of the vehicle involved in the accident. Thereafter, burden shifts upon the other side to explain the circumstances under which the accident occurred. In these proceedings under the Motor Vehicles Act, strict proof of negligence is not necessary. Negligence can be established even on the basis of preponderance of probability. It is true that some times direct evidence for proof of negligence is not available and therefore, the principle of *res ipsa loquitur* i.e. 'things speak for themselves' is also required to be kept in mind at the time of deciding negligence. This settled principle of law has been very lucidly and exhaustively discussed by the Hon'ble High Court of Gujarat in the case of ***Gujarat State Road Transport Corporation Vs. Kamlaben Valjibhai Vora***, reported in **2001 (3) G.L.R. 2528**.

11. Here, in the present case, the driver of the vehicle Dumper Truck has not been examined by the opponents. Further, applicants have produced various documents like copy of FIR, Charge-sheet, Inquest Panchnama and P.M. Note to prove the negligence of offending vehicle Dumper Truck and from such material available on record, it appears that

the applicants have sufficiently proved the negligence of the driver of offending Dumper Truck and accordingly, this tribunal is of the view that the driver of offending vehicle Dumper – Truck is required to be held solely negligent in causing the accident. Therefore, applying the principle of *res ipsa loquitur*, and in absence of rebuttal evidence, the reasonable inference would arise that the driver of the offending vehicle- Dumper Truck was negligent while driving the vehicle. Therefore, I answer issue No.1 in the affirmative accordingly.

12. **Issue No.2:- Quantum of Compensation:-**

That so far as question of compensation is concerned, all the claim petitions are dealt with individually.

M.A.C.P. NO.120 OF 2023:-

13. **Age & Multiplier:-** So far as age of the deceased Gajanan is concerned, the applicants have produced copy of PAN Card of the deceased vide Exh.40, wherein the Date of Birth of deceased has been mentioned as 02/11/1982 and accident was occurred on 02/04/2023, which shows that deceased was aged 40 years at the relevant time of accident. Thus, considering age of deceased as 40 years, 5 months at the time of accident. Considering the landmark judgment of *"Shashikala"* this tribunal is considering the age of the deceased as 40 years for computing the compensation. Hence, claimants are entitled to get

multiplier of **'15'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

14. **Income:-**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.81, wherein the gross salary of deceased has been mentioned as Rs.1,09,262/- out of which an amount of Rs.14,273/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.94,789/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

15. The claimants have produced copy of Identity Card produced vide Exh.39 and Pay Slip produced vide Exh.81 from which it clearly transpires that deceased was working as C.T.I. in Western Railway of Ahmedabad Division and had a permanent job and therefore, deceased can be said as salaried person and aged 40 years, Therefore, 30% amount i.e. Rs.28,437/- is required to be included in the monthly income and the net dependency loss would comes to Rs.1,23,226/- (Rs.94,789/- + Rs.28,437/-) per month. In the present case, the deceased was married and claimants are dependent family members of the deceased, in all 4

dependent family members of the deceased and as per judgment of Hon'ble Supreme Court in the case of Pranay Sethi, 1/4 amount is required to be deducted as personal expenses of the deceased. Thus, after deducting 1/4 amount of Rs.30,806/- (1/4 of Rs.1,23,226/-), the net dependency loss would comes to Rs.92,420/-, which can be considered as monthly loss of dependency. As discussed above, after applying multiplier of 15, the amount would come to **Rs.1,66,35,600/-** (Rs.92,420/- X 12 months X 15 multiplier), which can be awarded as loss of dependency to the claimants.

16. Further, as per decision of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram*****,** reported in 2018 **ACJ 2782 (SC)**, and in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi*****,** reported in **2017 ACJ 2700**, each claimants are entitled to get Rs.48,400/- under the head of filial consortium i.e. **Rs.1,93,600/-**, **Rs.18,150/-** under the head of loss of estate and **Rs.18,150/-** towards funeral expenses. As a result the amount of compensation would come as under, which is just and reasonable and I award the same.

1	For loss of dependency	Rs.1,66,35,600.00
2	Loss of consortium	Rs.1,93,600.00
3	Loss of estate	Rs.18,150.00

4	For funeral expenses	Rs.18,150.00
5	Total...	**Rs.1,68,65,500.00**

Thus, applicants are entitled to get compensation of **Rs.1,68,65,500/- (Rupees One Crore Sixty Eight Lakh Sixty Five Thousand Five Hundred only)** under all heads.

<u>M.A.C.P. NO.121 OF 2023:-</u>

17. **<u>Age & Multiplier:-</u>** So far as age of the deceased Vinodkumar is concerned, the applicants have produced copy of PAN Card of the deceased vide Exh.50, wherein the Date of Birth of deceased has been mentioned as 20/01/1984 and accident was occurred on 02/04/2023, which shows that deceased was aged 39 years at the relevant time of accident. Thus, considering age of deceased as 39 years at the time of accident, claimants are entitled to get multiplier of **'15'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

18. **<u>Income:-</u>**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.82, wherein the gross salary of deceased has been mentioned as Rs.96,280/- out of which an amount of Rs.11,669/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.84,411/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

19. The claimants have produced copy of Identity Card of deceased produced vide Exh.49 and Pay Slip produced vide Exh.82 from which it clearly transpires that deceased was working as Dy.C.T.I. in Western Railway of Ahmedabad Division and had a permanent job and therefore, deceased can be said as salaried person and aged 39 years. Therefore, 50% amount i.e. Rs.42,205/- is required to be included in the monthly income and the net dependency loss would comes to Rs.1,26,616/- (Rs.84,411/- + Rs.42,205/-) per month. In the present case, the deceased was married and claimants are dependent family members of the deceased, in all 4 dependent family members of the deceased and as per judgment of Hon'ble Supreme Court in the case of Pranay Sethi, 1/4 amount is required to be deducted as personal expenses of the deceased. Thus, after deducting 1/4 amount of Rs.31,654/- (1/4 of Rs.1,26,616/-), the net dependency loss would comes to Rs.94,962/-, which can be considered as monthly loss of dependency. As discussed above, after applying multiplier of 15, the amount would come to

Rs.1,70,93,160/- (Rs.94,962/- X 12 months X 15 multiplier), which can be awarded as loss of dependency to the claimants.

20. Further, as per decision of Hon'ble Apex Court in case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram*****,** reported in 2018 **ACJ 2782 (SC)**, and in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi*****,** reported in **2017 ACJ 2700**, each claimants are entitled to get Rs.48,400/- under the head of filial consortium i.e. **Rs.1,93,600/-**, **Rs.18,150/-** under the head of loss of estate and **Rs.18,150/-** towards funeral expenses. As a result the amount of compensation would come as under, which is just and reasonable and I award the same.

1	For loss of dependency	Rs.1,70,93,160.00
2	Loss of consortium	Rs.1,93,600.00
3	Loss of estate	Rs.18,150.00
4	For funeral expenses	Rs.18,150.00
5	Total...	**Rs.1,73,23,060.00**

Thus, applicants are entitled to get compensation of **Rs.1,73,23,060/- (Rupees One Crore Seventy Three Lakh Twenty Three Thousand Sixty only)** under all heads.

21. **M.A.C.P. NO.153 OF 2023.**

<u>Age & Multiplier:-</u> So far as age of the applicant is concerned, the applicant has produced copy of his PAN Card along with the claim petition, wherein the date of birth of applicant has been mentioned as 02/01/1985 and accident was occurred on 02/04/2023, which shows that deceased was aged 38 years at the relevant time of accident. The applicant has also produced copy of his Identity Card vide Exh.54, which shows that applicant is working as Dy.CTI in the Western Railway, Ahmedabad Division. Thus, considering age of deceased as 38 years at the time of accident and considering the fact that applicant is government employee, the applicant is entitled to get multiplier of **'05'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

22. **<u>Income:-</u>**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.94, wherein the gross salary of deceased has been mentioned as Rs.98,782/- out of which an amount of Rs.14,323/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.84,259/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

23. The applicant has produced his Disability Certificate at Exh.75, wherein the Doctor has assessed permanent disability of Ltd. foot is 12%, but as per the endorsement made thereon with consent of other side to the effect that the disability may be considered as 4% of the body as a whole, and hence, disability is considered as **4%** of the body as a whole.

24. As discussed above, considering the age of the applicant as 38 years, monthly income of Rs.84,259/-, permanent disability 4% and multiplier of 5, the applicant is entitled towards future loss of income of Rs.84,259/- X 4% X 12 months X 05 multiplier = **Rs.2,02,200/-**].

25. Looking to the injuries and period of recovery and looking to the Fitness Certificate produced vide Exh.85, it reveals that applicant was remained on leave for the period from 02/04/2023 to 27/04/2023 for 26 days, and therefore, the applicant is entitled to get compensation under the head of actual loss for 26 days, which comes to **Rs.85,611/-**, which is awarded to the applicant under the head of actual loss of income.

26. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion, applicant is entitled **Rs.10,000/-** towards pain, shock and suffering.

27. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled

Rs.10,000/- towards special diet charge and attendant charges.

28. Therefore, the applicant is entitled for various amount of compensation as follows:-

Amount	**Head**
Rs.2,02,200/-	Towards future loss of income.
Rs.85,611/-	Towards actual loss of income
Rs.10,000/-	Towards pain, shock and suffering
Rs.10,000/-	Towards S.A.T. charges.
Rs.3,07,811/-	Total compensation under all heads.

29. Thus, applicant is entitled to get compensation of **Rs.3,07,811/- (Rupees Three Lakh Seven Thousand Eight Hundred Eleven only)** under all heads.

30. **<u>M.A.C.P. NO.154 OF 2023.</u>**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of his PAN Card along with the claim petition, wherein the date of birth of applicant has been mentioned as 17/04/1982 and accident was occurred on 02/04/2023, which shows that deceased was aged 41 years at the relevant time of accident. The applicant has also produced copy of his Identity Card vide Exh.58, which shows that applicant is working as Dy.CTI/ADI in the Western Railway, Ahmedabad Division. Thus, considering age of deceased as 41 years at the time of accident and considering the fact that applicant is government employee, the applicant is entitled to get multiplier of **'05'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

31. **<u>Income:-</u>**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.86, wherein the gross salary of deceased has been mentioned as Rs.97,154/- out of which an amount of Rs.12,441/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.84,513/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

32. The applicant has not produced his Disability Certificate. However, perusing Emergency Certificate produced at Exh.55, OP Discharge Advice produced vide Exh.56 and Fit Certificate produced at Exh.57, it appears that applicant was on leave for the period from 02/04/2023 to 27/04/2023 and as such, the applicant has not produced his Disability Certificate, the applicant is not entitled to get future loss of income. Looking to the injuries and period of recovery, the applicant is entitled to get compensation under the head of actual loss for 26 days, which comes to

Rs.70,372/-, which is awarded to the applicant under the head of actual loss of income.

33. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion, applicant is entitled **Rs.5,000/-** towards pain, shock and suffering.

34. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled **Rs.5,000/-** towards special diet charge and attendant charges.

35. Therefore, the applicant is entitled for various amount of compensation as follows:-

Amount	Head
Rs.70,372/-	Towards actual loss of income
Rs.5,000/-	Towards pain, shock and suffering
Rs.5,000/-	Towards S.A.T. charges.
Rs.80,372/-	Total compensation under all heads.

36. Thus, applicant is entitled to get compensation of **Rs.80,372/- (Rupees Eighty Thousand Three Hundred Seventy Two only)** under all heads.

37. **<u>M.A.C.P. NO.155 OF 2023.</u>**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of his PAN Card vide Exh.64, wherein the date of birth of applicant has been mentioned as 01/01/1985 and accident was occurred on 02/04/2023, which shows that deceased was aged 38 years at the relevant time of accident. The applicant has also produced copy of his Identity Card vide Exh.63, which shows that applicant is working as Dy.CTI/ADI/SL in the Western Railway, Ahmedabad Division. Thus, considering age of deceased as 38 years at the time of accident and considering the fact that applicant is government employee, the applicant is entitled to get multiplier of **'05'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

38. **Income:-**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.87, wherein the gross salary of deceased has been mentioned as Rs.88,805/- out of which an amount of Rs.13,058/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.75,547/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

39. The applicant has produced his Disability Certificate at Exh.62, wherein the Doctor has assessed permanent disability of Lt. Upper lib is 24% and cervical spine is

12% and combined disability whole body as per Kessler is 23.8%, but as per the endorsement made thereon with consent of other side to the effect that the disability may be considered as 21% of the body as a whole, and hence, disability is considered as **21%** of the body as a whole.

40. As discussed above, considering the age of the applicant as 38 years, monthly income of Rs.75,547/-, permanent disability 21% and multiplier of 5, the applicant is entitled towards future loss of income of Rs.75,547/- X 21% X 12 months X 05 multiplier = **Rs.9,51,900/-**].

41. Looking to the injuries and period of recovery and looking to the letter produced vide Exh.74, it reveals that applicant was remained on leave for the period from 02/04/2023 to 14/08/2023 and 15/08/2023 to 04/09/2023 in ally for 154 days, and therefore, the applicant is entitled to get compensation under the head of actual loss for 154 days, which comes to **Rs.3,87,808/-**, which is awarded to the applicant under the head of actual loss of income.

42. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion, applicant is entitled **Rs.12,000/-** towards pain, shock and suffering.

43. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled **Rs.20,000/-** towards special diet charge and attendant charges.

44. Therefore, the applicant is entitled for various amount of compensation as follows:-

Amount	Head
Rs.9,51,900/-	Towards future loss of income.
Rs.3,87,808/-	Towards actual loss of income
Rs.12,000/-	Towards pain, shock and suffering
Rs.20,000/-	Towards S.A.T. charges.
Rs.13,71,708/-	Total compensation under all heads.

45. Thus, applicant is entitled to get compensation of **Rs.13,71,708/- (Rupees Thirteen Lakh Seventy One Thousand Seven Hundred Eight only)** under all heads.

46. **M.A.C.P. NO.156 OF 2023.**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of his PAN Card vide Exh.67, wherein the date of birth of applicant has been mentioned as 05/06/1984 and accident was occurred on 02/04/2023, which shows that deceased was aged 39 years at the relevant time of accident. Thus, considering age of deceased as 39 years at the time of accident, the applicant is entitled to get multiplier of **'15'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

47. **Income:-**

So far as source of income of the applicant is concerned, the applicant has produced his Income Tax Returns for the Assessment Year 2020-21 of Rs.11,25,979/-, 2021-22 of Rs.14,32,626/- and 2-22-23 of Rs.15,57,072/- vide Exh.88 to 90 respectively. Perusing the Income Tax Returns of the applicant, the average yearly income of the applicant is considered as **Rs.11,66,847/-** at the relevant time of accident.

48. The applicant has produced his Disability Certificate at Exh.66, wherein the Doctor has assessed permanent disability of Lt. Shoulder is 12%, but as per the endorsement made thereon with consent of other side to the effect that the disability may be considered as 5% of the body as a whole, and hence, disability is considered as **5%** of the body as a whole.

49. As discussed above, considering the age of the applicant as 38 years, yearly income of Rs.11,66,847/-, permanent disability 5% and multiplier of 15, the applicant is entitled towards future loss of income of Rs.11,66,847/- X 5% X 15 multiplier = **Rs.8,75,130/-**].

50. Looking to the injuries and period of recovery, the applicant is entitled to get compensation under the head of actual loss of **Rs.50,000/-**, which is awarded to the applicant under the head of actual loss of income.

51. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion,

applicant is entitled **Rs.5,000/-** towards pain, shock and suffering.

52. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled **Rs.5,000/-** towards special diet charge and attendant charges.

53. Therefore, the applicant is entitled for various amount of compensation as follows:-

Amount	Head
Rs.8,75,130/-	Towards future loss of income.
Rs.50,000/-	Towards actual loss of income
Rs.5,000/-	Towards pain, shock and suffering
Rs.5,000/-	Towards S.A.T. charges.
Rs.9,35,130/-	Total compensation under all heads.

54. Thus, applicant is entitled to get compensation of **Rs.9,35,130/- (Rupees Nine Lakh Thirty Five Thousand One Hundred Thirty only)** under all heads.

55. **M.A.C.P. NO.161 OF 2023.**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of his PAN Card along with the claim petition, wherein the date of birth of applicant has been mentioned as 08/12/1984 and accident was occurred on 02/04/2023, which shows that deceased was aged 38 years at the relevant time of accident. The applicant has also produced copy of his Salary Slip vide Exh.91, which shows that applicant is working as Dy.CTI in the Western Railway, Ahmedabad Division. Thus, considering age of deceased as 38 years at the time of accident and considering the fact that applicant is government employee, the applicant is entitled to get multiplier of **'05'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

56. **Income:-**

So far as source of income of the deceased is concerned, the applicants have produced copy of Pay Slip for the month of January, 2023 vide Exh.91, wherein the gross salary of deceased has been mentioned as Rs.95,317/- out of which an amount of Rs.11,368/- towards Income Tax and Rs.200/- towards Prof. Tax deducted from the gross salary of the deceased. Thus, after deducting tax amount from the gross salary of the deceased, net salary comes to **Rs.83,749/-** which is required to be considered as monthly income of the deceased at the relevant time of accident.

57. The applicant has not produced his Disability Certificate. However, perusing the Medical Certificate produced vide Exh.68, Discharge Summary produced vide Exh.69, Medical Reports produced vide Exh.70 & 71 and Sick Certificate Exh.72, it appears that applicant was on leave for 15 days and as such, the applicant has not produced his

Disability Certificate, the applicant is not entitled to get future loss of income. Looking to the injuries and period of recovery, the applicant is entitled to get compensation under the head of actual loss for 15 days, which comes to **Rs.41,874/-**, which is awarded to the applicant under the head of actual loss of income.

58. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion, applicant is entitled **Rs.5,000/-** towards pain, shock and suffering.

59. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled **Rs.5,000/-** towards special diet charge and attendant charges.

60. Therefore, the applicant is entitled for various amount of compensation as follows:-

Amount	**Head**
Rs.41,874/-	Towards actual loss of income
Rs.5,000/-	Towards pain, shock and suffering
Rs.5,000/-	Towards S.A.T. charges.
Rs.51,874/-	Total compensation under all heads.

61. Thus, applicant is entitled to get compensation of **Rs.51,874/- (Rupees Fifty One Thousand Eight Hundred Seventy Four only)** under all heads.

62. **<u>Interest:</u>~**

In the present claim petition, the applicants have claimed interest with cost of petition. However, in view of the reported judgment of the Hon'ble Apex Court in the case of ***Savitha Vs. Cholamandalam MS General Insurance Co. Ltd., & Ors., reported in 2020 ACJ 2157***, wherein the Hon'ble Apex Court has held that, the claimant is entitled to get interest at the rate of 6% per annum, but but looking to the peculiar circumstances, the claimant would be entitled to get interest at the rate of 7% on the amount of compensation from the date of filing of the claim petitions till its realization. Hence, I award interest at the rate of 7**%** p.a. on the amount of compensation accordingly.

63. **Liability:**

So far as the liability is concerned, it discussed above in issue No.1 that the driver of offending vehicle i.e. opponent No.1 namely Keshubhai Bhanubhai Kajiya is held that he was the sole negligent in causing the accident. It is admitted fact that opponent No.1 is the driver, opponent No.2 is the owner and opponent No.3 is the insurance company of the Dumper No. GJ-03-BT-1008. The opponent No.3 i.e. insurance company has examined the R.T.O. officer namely Manishbhai Rajeshbhai Parmar vide Exh.106. On perusal of Exh.106, it becomes very clear that opponent No.1 Keshubhai Bhanubhai Kajiya did not having valid and effective driving license on the date of accident. On further perusal of Exh.106, it reveals that opponent No.1 as holding the driving license from 10.10.2025 to 05.11.2039 and the accident in question was occurred on date 01.04.2023 which is crystal clear that the driver of the offending vehicle was not having valid and effective driving license on the date of accident. Therefore it is clear that terms and condition of the policy was violated and therefore **“Pay and Recover”** principle applied in the present case. Once it is on record and prove that driver of the offending vehicle was not holding the valid and effective driving license to drive the heavy vehicle like Dumper and Truck, the insurance company is not liable to pay compensation to the applicant. Though it is on record that there is breach of terms and condition of the policy by the insurer, the applicants of all the claim petitions shall not be suffer due to such type of technicality. Hence this tribunal holds the opponent No.1,2, and 3 are liable to pay compensation to the applicants of each claim petition jointly or severally. Therefore the opponent No.3 has to pay the compensation first to the claimants of each claim petition and then recover it from the opponent No.1 and 2 due to breach of policy condition by executing an appropriate legal remedies available in the law.

It is also pertinent to note that once, it is decided and determined that opponent No.1 is causing the negligent in causing the accident and opponent No.1, 2 and 3 are liable to pay compensation, the opponent No.4 and opponent No.5 who have no role in causing the accident are hereby exonerated by the liability in all claim petitions.

64. In view of the aforesaid discussion and considering the reasons thereof the Issue Nos.1 & 2 are replied accordingly and for Issue No.3, the following order is passed:

ORDER

(M.A.C.P. NO.120 OF 2023)

- Present claim petition is hereby partly allowed.
- The applicants are entitled to get compensation of **Rs.1,68,65,500/- (Rupees One Crore Sixty Eight Lakh Sixty Five Thousand Five Hundred only)** from the opponents jointly and severally. The disbursement of amount in between the claimants shall be in the ratio of 55:15:15:15% respectively at the time of payment.
- The applicants are hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.
- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition

(C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.

- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.
- The entire amount coming to share of minor applicant Nos.2 & 3 be invested in any Nationalized Bank in Fixed Deposit for a period of five years or till they attain the age of majority whichever is later. The claimant No.1- guardian mother will be entitled to get interest payable periodically from the said investment. However, they will not be entitled to withdraw any amount before maturity or raise any loan from the said investment, without prior permission of this Tribunal.
- That, out of total awarded amount of compensation awarded to the applicant Nos.1 & 4, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post

Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the claimant/s by A/c. payee cheque, after due verification.

- Award be drawn accordingly.

(M.A.C.P. NO.121 OF 2023)

- Present claim petition is hereby partly allowed.
- The applicants are entitled to get compensation of **Rs.1,73,23,060/- (Rupees One Crore Seventy Three Lakh Twenty Three Thousand Sixty only)** from the opponents jointly and severally. The disbursement of amount in between the claimants shall be in the ratio of 55:15:15:15% respectively at the time of payment.
- The applicants are hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.

- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.
- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.
- The entire amount coming to share of minor applicant Nos.2 & 3 be invested in any Nationalized Bank in Fixed Deposit for a period of five years or till they attain the age of majority whichever is later. The claimant No.1- guardian mother will be entitled to get interest payable periodically from the said investment. However, they will not be entitled to withdraw any amount before maturity or raise any loan from the said investment, without prior permission of this Tribunal.
- That, out of total awarded amount of compensation awarded to the applicant Nos.1 & 4,

70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the claimant/s by A/c. payee cheque, after due verification.

- Award be drawn accordingly.

<u>MACP NO.153 OF 2023</u>

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.3,07,811/- (Rupees Three Lakh Seven Thousand Eight Hundred Eleven only)** from the opponents jointly and severally.
- The applicant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.
- The opponents are directed to deposit the awarded amount with cost and interest as per the directions

given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.

- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.
- That, out of total awarded amount of compensation awarded to the applicant, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the claimant/s by A/c. payee cheque, after due verification.
- Award be drawn accordingly.

MACP NO.154 OF 2023

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.80,372/- (Rupees Eighty Thousand Three Hundred Seventy Two only)** from the opponents jointly and severally.
- The applicant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.
- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.
- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.

- That, out of total awarded amount of compensation awarded to the applicant, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the claimant/s by A/c. payee cheque, after due verification.
- Award be drawn accordingly.

MACP NO.155 OF 2023

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.13,71,708/- (Rupees Thirteen Lakh Seventy One Thousand Seven Hundred Eight only)** from the opponents jointly and severally.
- The applicant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date

application till its realization, along with cost of litigation.

- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.
- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.
- That, out of total awarded amount of compensation awarded to the applicant, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the

claimant/s by A/c. payee cheque, after due verification.

- Award be drawn accordingly.

MACP NO.156 OF 2023

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.9,35,130/- (Rupees Nine Lakh Thirty Five Thousand One Hundred Thirty only)** from the opponents jointly and severally.
- The applicant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.
- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.

- That, out of total awarded amount of compensation awarded to the applicant, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on the said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of the Bank or Post Office, and the remaining 30% amount shall be paid to the claimant/s by A/c. payee cheque, after due verification.
- Award be drawn accordingly.

MACP NO.161 OF 2023

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.51,874/- (Rupees Fifty One Thousand Eight Hundred Seventy Four only)** from the opponents jointly and severally.
- The applicant is hereby entitled to recover the above compensation amount from the opponents with proportionate cost and with simple interest there on @ 7% per annum from the date application till its realization, along with cost of litigation.

- The opponents are directed to deposit the awarded amount with cost and interest as per the directions given by Hon'ble the Apex Court in Writ Petition (C) No.534 of 2020 in the case of *Bajaj Allianz General Insurance Company Ltd. V/s. Union of India and Ors*.
- The opponents are hereby ordered and directed, by this Tribunal, to deposit the said amount within one month from the date of this award.
- Interim amount, if any, paid to the claimant/s be adjusted at the time of final disbursement. The deficit court fees, if any, be deducted from the awarded amount.
- Out of total awarded amount of compensation awarded to applicant, 70% amount is to be kept in fixed deposit in any nationalized bank or in a post office for a period of five years with a direction to the Bank or Post Office not to grant any loan or advance on said F.D.R. without prior permission of this Tribunal. However, claimant/s shall be at liberty to withdraw the periodical interest on the said F.D.R. as per rules of Bank or Post Office, and remaining 30% amount shall be paid to claimant/s by A/c. payee cheque, after due verification.

- **<u>Pay and Recover</u>** :

  The opponent No.3 is hereby ordered and directed, by this Tribunal, to deposit the said amount awarded to claimant of MACP No.120 of 2023, MACP No.121 of 2023, MACP No.153 of 2023, MACP No.154 of 2023, MACP No.155 of 2023, MACP No.156 of 2023 and MACP No.161 of 2023 within one month from the date of this **award first** and then due to policy violation by the opponent No.1 the opponent No.3 are liberty to **recover** the all awarded amount from opponent No.1 and 2 by following appropriate legal remedies available.

  Opponent No.4 and 5 are exonerated from the liability to pay any compensation to applicants.

- Award be drawn accordingly.
- Copy of judgment be placed in MACP No.121 of 2023, MacP No.153 of 2023, MACP No.154 of 2023, MACP No.155 of 2023, MACP No.156 of 2023 and MACP No.161 of 2023.

Signed and pronounced in open Court on this 4th Day of August, 2026 at Mahesana.

Date : 04.08.2026
Place: Mahesana

[AMBRISH LALJIBHAI VYAS]
MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN) MAHESANA
UIC NO. GJ00508