GJMH010026032021

MACP NO.196 OF 2021 (MAIN)	
Presented on	24.08.2021
Registered on	24.08.2021
Decided on	07.05.2026
Duration	Year-Month-Day
	04-08-13

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN) AT MAHESANA

JUDGEMENT PASSED

IN

MOTOR ACCIDENT CLAIM PETITION NO.196 OF 2021 (MAIN)

WITH

MOTOR ACCIDENT CLAIM PETITION NO.194 OF 2021

&

MOTOR ACCIDENT CLAIM PETITION NO.195 OF 2021

APPLICANTS OF M.A.C.P NO.196 OF 2021:

Heirs of deceased **Arunkumar Jayantilal Nayi (Parekh)**

1. **Dakshaben Arunkumar Nayi (Parekh)**
   Aged about 44 years,
2. **Zeel Arunkumar Parekh (Nayi)**
   Aged about 19 years,

Occupation: Study.

3. **Jiya Arunkumar Parekh (Nayi)**
Age 19 years, Occupation: Study.

4. **Jayantilal Virchanddas Nayi (Parekh)**
Aged about 75 years,
Occupation: Retired.

5. **Narmadaben Jayantilal Nayi (Parekh)**
Aged about 71 years, Occupation: Retired.
All residing at: 9, Arvindnagar Society,
Vibhag-3, Kansa N.A. Vistar, Tal. Visnagar,
Dist. Mahesana.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.75.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.194 OF 2021</u>:

Dakshaben Arunkumar Nayi (Parekh)
Aged about 44 years,
Residing at: 9, Arvindnagar Society,
Vibhag-3, Kansa N.A. Vistar, Tal. Visnagar,
Dist. Mahesana.

CLAIM U/S. 166 OF M.V. ACT TO GET COMPENSATION OF RS.20.00 Lakh.

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<u>APPLICANT OF M.A.C.P NO.195 OF 2021</u>:

Zeel Arunkumar Parekh (Nayi)
Aged about 19 years,
Occupation: Study,
Residing at: 9, Arvindnagar Society,
Vibhag-3, Kansa N.A. Vistar, Tal. Visnagar,
Dist. Mahesana.

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

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VERSUS

<u>COMMON OPPONENTS IN ALL MACPs:-</u>

1. **Driver of Tanker No.RJ-9-GC-8782**
Bheekhe Khan Haji Sakhi Mohamad
At: Loradiya Phalodi, Jodhpur.

2. **Owner of Tanker No.RJ-9-GC-8782**
Agrawal Industrial Corporation Ltd
Dr. Ramchandra Agrawal,
G-1/80, New Industrial Area,
Opp. IOC Dep. Jodhpur.

3. **Insurance Co. of Tanker No.RJ-9-GC-8782**
New India Insurance Co. Ltd.,
Outside Gopinala, Mahesana.

APPEARANCE:-

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Mr. M.N. Nayak, Ld. Advocate for the applicants.
Opponent Nos.1 & 2 not appeared.
Mr. A.M. Achhava, Ld. Advocate for opponent No.3.

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<u>C O M M O N J U D G M E N T</u>

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.196 of 2021, which are considered for deciding all the claim petitions.

2. The brief facts leading to the present claim petitions are that; on 18/07/2021 at about 12 O'clock in the noon at Nandasan- Chhatral road, when the deceased along with others were travelling in a Car No.GJ-02-AC-9492, at that time, the driver of Tanker No.RJ-09-GC-8782, who was coming from Chhatral side in an excessive speed, endangering human life and in a wrong side of the road and firstly dashed with one tree and thereafter dashed with the Car and thereby impugned accident was occurred. As such, impugned accident was occurred upon sole negligence on the part of the driver of the Tanker 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 – Driver & Owner of vehicle Tanker No.RJ-09-GC-8782 respectively, though served with the process, neither personally nor through their learned Advocate, appeared before the Tribunal.

4. The opponent No.3- Insurance Co. of vehicle Tanker appeared and filed its Written Statements in all the claim petitions and denied the contents of the claim petitions. The opponent has denied the age and income of the applicants and applicants have been asked to prove the

same with cogent documentary evidence. It has been further submitted that accident was occurred due to sole negligence in driving on the part of driver of the Car involved in the accident. In alternative, it is submitted that there was grater contributory negligence on the part of car driver so to that extent opponent is not liable to pay compensation. Thus, it is prayed to dismiss the claim petitions with cost.

5. 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 No.1 of MACP No.196 of 2021 & applicant of MACP.194 of 2021.	24
2	Examination In Chief on affidavit of applicant of MACP No.195 of 2021.	25
	MACP NO.196 OF 2021	
3	Copy of FIR.	27
4	Copy of Spot Panchnama.	28
5	Copy of Inquest Panchnama.	29
6	Copy of P.M. Note of deceased Arunbhai.	30
7	Copy of Registration Certificate of firm.	31
8	Copy of Driving License of deceased.	32
9	Discharge Card.	33
10	Copy of Driving License of opponent No.1.	34
11	Copy of R.C. Book of Tanker.	35

12	Copy of Insurance Policy of Tanker.	36
13	Photographs.	37
14	Copy of Charge-sheet.	38
15	Copy of Income Tax Returns for the assessment year 2021-22.	39
16	Copy of Income Tax Returns for the assessment year 2020-21.	40
17	Copy of Income Tax Returns for the assessment year 2019-20.	41
18	Copy of School Leaving Certificate of Jiya Arunkumar Parekh.	42
MACP NO.194 OF 2021		
1	Copy of PAN Card of applicant.	43
2	Certificate- Discharge Summary.	44 & 46
3	Discharge Card.	45
4	Medical Reports.	47
5	Disability Certificate.	48
6	Transfer Form.	49
7	Copy of Income Tax Returns for the assessment year 2019-20.	50
8	Copy of Income Tax Returns for the assessment year 2020-21.	51
9	Copy of Income Tax Returns for the assessment year 2021-22.	52
10	Medical Bills.	
MACP NO.195 OF 2021		
1	Medical Treatment papers.	53
2	Certificate- Discharge Summary.	54
3	Disability Certificate.	55
4	Copy of documents showing academic	56 to

	educational qualification of applicant.	58
5	Medical Bills.	59 to 64
6	Copy of Passport of applicant.	65

6. Learned Advocate for the opponent No.3 has produced his Written Arguments along with various authorities, which are considered by this Tribunal.

7. After 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.196 OF 2021)

(1) Whether claimant/s proved that the deceased sustained injuries and died on account of rashness or negligent driving on the part of driver/s of the vehicles involved in the accident?

(2) What amount, if any, claimant/s is/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.194 OF 2021 & MACP NO.195 OF 2021)

1) Whether it is proved that the claimant sustained injuries on account of rashness or negligence driving on the part of driver of the vehicle involved in the accident?
2) What amount, if any, claimant is entitled to, by way compensation and from which of the opponent?
3) What order and award?

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

8. **Issue No.1:-**

Negligence:-

In this group of petitions, the applicants have produced copy of FIR vide Exh.27, which corroborates the facts stated in the claim petition. The applicants have produced copy of Spot Panchnama vide Exh.28 from which it appears that the vehicle Car involved in the accident was lying at the place of accident in a damaged condition. It has been contended in the Panchnama that, the driver of Tanker came in an excessive speed and jumped the divider of the road, went to the opposite side of the road and dashed with the Maruti WagonR car. The applicants have also produced photograhps of accident vide Exh.37, from which it appears that Tanker involved in the accident came in an excessive speed and dashed with the Car and thereafter turned turtle on the road. The font portion of the car severely damaged in the accident. The Police, after due investigation, filed charge-sheet against the driver of Tanker- opponent No.1, which is produced on record vide Exh.38. 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.

9. 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**.

10. Here, in the present case, the driver of the vehicle Tanker 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 Tanker and from such material available on record, it appears that the applicants have sufficiently proved the negligence of the driver of offending Tanker and accordingly, this tribunal is of the view that the driver of offending vehicle Tanker No.RJ-09-GC-8782 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- Truck was negligent while driving the

vehicle. Therefore, I answer issue No.1 in the affirmative accordingly.

11. 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.196 OF 2021

12. **Age & Multiplier:-** So far as age of the deceased Arunkumar is concerned, the applicants have produced copy of Driving License of the deceased vide Exh.32, wherein the Date of Birth of deceased has been mentioned as 31/05/1974 and accident was occurred on 18/07/2021, which shows that deceased Arunkumar was aged 47 years at the relevant time of accident. Thus, considering age of deceased as 47 years at the time of accident, claimants are entitled to get multiplier of **'13'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

13. Income:-

So far as source of income of the deceased is concerned, the applicants have produced copy of Income Tax Returns of the deceased vide Exh.39 to 41 for the Assessment Year 2021-22, 2020-21 and 2019-20 of Rs.4,20,767/-, Rs.5,42,013/- and Rs.4,29,213/- respectively (after deduction of tax). Now, considering the average income of the deceased, Rs.4,63,998/- is required to be considered as yearly income of the deceased at the relevant time of accident.

14. The claimants have not produced any document showing that the deceased had a permanent job and therefore, deceased can be said as self employed person and aged 47 years, Therefore, 25% amount i.e. Rs.1,15,999/- is required to be included in the yearly income and the net dependency loss would comes to Rs.5,79,997/- (Rs.4,63,998/- + Rs.1,15,999/-) p.a. In the present case, the deceased was married and dependent family members of the deceased, in all 5 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.1,44,999/- (1/4 of Rs.5,79,997/-), the net dependency loss would comes to Rs.4,34,998/-, which can be considered as yearly loss of dependency. As discussed above, after applying multiplier of 13, the amount would come to **Rs.56,54,974/-** (Rs.4,34,998/- X 13 multiplier), which can be awarded as loss of dependency to the claimants.

15. 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.2,42,000/-**, **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.56,54,974.00
2	Loss of consortium	Rs.2,42,000.00
3	Loss of estate	Rs.18,150.00
4	For funeral expenses	Rs.18,150.00
5	Total...	**Rs.59,33,274.00**

Thus, applicants are entitled to get compensation of **Rs.59,33,274/- (Rupees Fifty Nine Lakh Thirty Three Thousand Two Hundred Seventy Four only)** under all heads.

16. **M.A.C.P. NO.194 OF 2021.**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of her Income Tax returns vide Exh.50 to 52, wherein the date of birth of applicant has been mentioned as 22/11/1977 and accident was occurred on 18/07/2021, which shows that applicant was aged 44 years at the relevant time of accident. Thus, considering age of applicant as 44 years at the time of accident, the applicant is entitled to get multiplier of **'14'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

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

So far as source of income of the applicant is concerned, the applicant has produced copy of her Income Tax Returns vide Exh.50 to 52 for the Assessment Year 2019-20, 2020-21 and 2021-22 of Rs.3,29,717/-, Rs.3,28,603 and Rs.4,47,668/- respectively i.e. Rs.11,05,988/- (after deduction of tax). Now, considering the average income of the applicant, Rs.3,68,663/- is required to be considered as yearly income of the applicant at the relevant time of accident.

18. The applicant has produced her Disability Certificate at Exh.48, wherein the Doctor has assessed permanent disability @ 43%, but as per the endorsement made thereon with consent of other side to the effect that the disability may be considered as 35% of the body as a whole, and hence, disability is considered as **35%** of the body as a whole.

19. As discussed above, considering the age of the applicant as 44 years, yearly income of Rs.3,68,663/-, permanent disability 35% and multiplier of 14, the applicant is entitled towards future loss of income of **Rs.18,06,448/-**

[Rs.3,68,663 X 35% = Rs.1,29,032/- X 14 = Rs.18,06,448/-].

20. Looking to the injuries and period of recovery, the applicant is entitled to get compensation under the head of actual loss for 3 months, which comes to **Rs.92,165/-**, which is awarded to the applicant under the head of actual loss of income.

21. Looking to the nature of injuries, the applicant had suffered pain, shock and suffering, hence in my opinion, applicant is entitled **Rs.25,000/-** towards pain, shock and suffering.

22. Considering the disability and treatment as an indoor patient for some days, in my opinion, applicant is entitled **Rs.15,000/-** towards special diet charge and attendant charges.

23. The The applicant has also produced Medical Bills of **Rs.2,44,916/-**, which is awarded to the applicant under the head of Medical Expenses.

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

Amount	**Head**
Rs.18,06,448/-	Towards future loss of income.
Rs.92,165/-	Towards actual loss of income
Rs.25,000/-	Towards pain, shock and suffering
Rs.15,000/-	Towards S.A.T. charges.

Rs.2,44,916/-	Towards medical expenses.
Rs.21,83,529/-	Total compensation under all heads.

25. Thus, applicant is entitled to get compensation of **Rs.21,83,529/- (Rupees Twenty One Lakh Eighty Three Thousand Five Hundred Twenty Nine only)** under all heads.

26. **M.A.C.P. NO.195 OF 2021.**

Age & Multiplier:- So far as age of the applicant is concerned, the applicant has produced copy of his Passport vide Exh.65, wherein the date of birth of applicant has been mentioned as 16/11/2002 and accident was occurred on 18/07/2021, which shows that applicant was aged 19 years at the relevant time of accident. Thus, considering age of applicant as 19 years at the time of accident, the applicant is entitled to get multiplier of **'18'**, as held by the Hon'ble Apex Court in "*National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.*, reported in 2017 SC – 1050.

27. **Income:-**

So far as source of income of the applicant, the applicant has produced his Examination In Chief on affidavit at Exh.25 and submitted that he was aged 19 years and studying in 2nd year of computer engineering and also earning more than Rs.10,000/- per month at the relevant time of accident. Learned Advocate for opponent No.3 has cross-examined the applicant, wherein he has admitted that he has not produced any document showing that he was earning more than Rs.10,000/- per month at the relevant time of accident. Thus, applicant failed to prove his source of income. It is also cardinal principle of law that when there is no proof of income of victim of the motor accident, his/her monthly income can be assessed on the basis of minimum wage prevailing at the relevant time of accident. Since, the applicant failed to prove his monthly income, and therefore, considering the rate of minimum wage prevailing at the relevant time of accident, the income of **Rs.9,256/-** is required to be considered as monthly income of the applicant.

28. The applicant has produced Disability Certificate at Exh.55, wherein the Doctor has assessed permanent disability @ 25%, but as per the endorsement made thereon with consent of other side to the effect that the disability may be considered as 9% of the body as a whole, and hence, disability is considered as **9%** of the body as a whole. As discussed above, considering the age of the applicant as 19 years, monthly income of Rs.9,256/-, permanent disability 9% and multiplier of 18, the applicant is entitled towards future loss of income of **Rs.1,79,928/-** [Rs.9,256/- X 9% = Rs.833/- X 12 Months X 18 multiplier = Rs.1,79,928/-].

29. Looking to the injuries and period of recovery, the applicant is entitled to get compensation under the head of

actual loss for 1 month, which comes to **Rs.9,256/-**, which is awarded to the applicant under the head of actual loss of income.

30. 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.

31. 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.

32. The The applicant has also produced Medical Bills of **Rs.17,433/-**, which is awarded to the applicant under the head of Medical Expenses.

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

Amount	**Head**
Rs.1,79,928/-	Towards future loss of income.
Rs.9,256/-	Towards actual loss of income
Rs.10,000/-	Towards pain, shock and suffering
Rs.10,000/-	Towards S.A.T. charges.
Rs.17,433/-	Towards medical expenses.
Rs.2,26,617/-	Total compensation under all heads.

34. Thus, applicant is entitled to get compensation of **Rs.2,26,617/- (Rupees Two Lakh Twenty Six Thousand Six Hundred Seventeen only)** under all heads.

35. **Interest:**~

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.

36. **Liability:**

So far as the liability is concerned, as discussed above in Issue No.1 that driver of the offending vehicle- Tanker No.RJ-GC-8782 is held negligent in causing the accident. Admittedly, Opponent No.1 is the driver, opponent No.2 is the owner and opponent No.3 is an insurer of said vehicle- Tanker. The applicants have produced copy of Insurance Policy of Tanker vide Exh.36, which was in force for the period from 02/03/2021 to 01/03/2022 and the accident was occurred on 18/07/2021, which shows that the insurance policy of vehicle Tanker was in force at the relevant time of accident and the same was insured by the opponent No.2 with the opponent No.3. In view of the above facts and circumstances of the case, the opponent No.1 – as being driver, opponent No.2 as being an owner and opponent No.3 as being an insurer of Tanker No.RJ-09-GC-8782 all are held liable to pay compensation to the applicants jointly and severally.

37. 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:

<u>ORDER</u>

<u>(M.A.C.P. NO.196 OF 2021)</u>

- Present claim petition is hereby partly allowed.
- The applicants are entitled to get compensation of **Rs.59,33,274/- (Rupees Fifty Nine Lakh Thirty Three Thousand Two Hundred Seventy Four only)** from the opponents jointly and severally. The disbursement of amount in between the claimants shall be in the ratio of 40:15:15:15:15% 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.
- That, out of total awarded amount of compensation awarded to the applicants, 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.194 OF 2021)

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.21,83,529/- (Rupees Twenty One Lakh Eighty Three Thousand Five Hundred Twenty Nine 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. **The**

amount of medical expenses of Rs.2,44,916/- shall by paid by the opponents in cash.

- 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.

(M.A.C.P. NO.195 OF 2021)

- Present claim petition is hereby partly allowed.
- The applicant is entitled to get compensation of **Rs.2,26,617/- (Rupees Two Lakh Twenty Six**

Thousand Six Hundred Seventeen 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. **The amount of medical expenses of Rs.17,433/- shall by paid by the opponents in cash**.
- 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.
- Copy of judgment be placed in MACP No.194 of 2021 & MACP No.195 of 2021.

Signed and pronounced in open Court on this 7th day of May, 2026.

Date : 07.05.2026
Place: Mahesana

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