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DECIDED ON :- 30.03.2026.

DURATION :- Y. M. DS.
09-05-13

**BEFORE THE MOTOR ACCIDENT
CLAIMS TRIBUNAL (AUXILIARY-III),
MAHESANA AT VISNAGAR.**

M.A.C.P. NO. :- 138 / 2016.

EXH. NO. :- 69

CLAIMANT :-

THAKOR SANDIPJI JAGAJI,
Aged about 19 years, Occ.:- Study,
Residing at village Umta, Indira Nagar,
Denap Road,
Ta. Visnagar,

V/S.

OPPONENTS :-

[1] DRIVER OF RIXA NO.GJ-18-AX-2267 :-

SOLANKI GANPATBHAI BHIKHABHAI,
Aged about adult, Occ. :- Driving,
Residing at village Saij,
Ta. Kalol, Dist. Gandhinagar.

[2] OWNER OF RIXA NO.GJ-18-AX-2267 :-

SOLANKI SITABEN BHIKHABHAI,
Aged about adult, Occ. :- House-Hold,
Residing at village Saij,
Ta. Kalol, Dist. Gandhinagar.

[3] INSURANCE COMPANY OF RIXA NO.GJ-18-AX-2267 :-

[4] OWNER OF ATUL CHHAKDO (RIXA) NO.GJ-02-XX-2614 :-

PATEL BHARATBHAI MAFATLAL,
Aged about adult, Occ. :- Business,
Residing at village Jaska,
Ta. Vadnagar, Dist. Mahesana.

[5] INSURANCE COMPANY OF ATUL CHHAKDO (RIXA) NO.GJ-02-XX-2614 :-

ICICI LOMBARD GENERAL INSURANCE CO. LTD.,
Land-mark Building, 3rd Floor,
Racecourse Road, Alkapuri,
Vadodara-390007.

CLAIM U/S.166 OF M. V. ACT FOR SUM OF RS.2,00,000/-.

Shri J.B.Patel, learned advocate for the claimant.
Shri S.R.Sharma, learned advocate for the opponent Nos.1 & 2.
Shri J.M.Barot, learned advocate for the opponent No.4.
Shri S.G.Shah, learned advocate for the opponent No.5.

:-: JUDGMENT :-:

[1] The claimant has filed present claim petition u/s.166 of Motor Vehicles Act seeking compensation to the tune of Rs.2,00,000/- on account of accidental injuries sustained in vehicular accident which has taken place on 02.05.2016.

Initially, since the claimant was minor, the claim petition was preferred through his father however, during the

pendency of claim petition, as the minor became major, necessary application vide Exh.49 was moved and the same came to be allowed and accordingly necessary amendment is carried out.

- [2] In furtherance of claim petition filed by the claimant, notice came to be issued upon the opponents. The opponent Nos.1 and 2 appeared through learned advocate Mr.S.R.Sharma and filed reply vide Exh.51 and inter alia stated that accident took place because of rash and negligent driving on the part of Rixa No.GJ-02-XX-2614 and denied age and injuries of the claimant and, therefore, challenged the entitlement of claimant for the amount claimed in the petition from him and submitted that the claim be dismissed. The opponent No.4 appeared through learned advocate Mr.J.M.Barot and filed reply vide Exh.24 and inter alia alleged that accident occurred due to sole responsibility of driver of Rixa No.GJ-02-AX-2267. It is further submitted that offending vehicle insured with opponent No.5 – Insurance Co. and if any liability occurs then opponent No.5 is liable to pay the amount of compensation. They have denied age and injuries of the claimant and submitted that the claim be dismissed. The opponent No.5 – Insurance Co. appeared through learned advocate Mr.S.G.Shah and filed reply below Exh.28 and inter alia submitted that there was no allegation against the driver of loading Rixa No.GJ-02-XX-2614 and police had filed charge-sheet against the driver of Rixa No.GJ-18-AX-2267. They have denied age and injuries of the claimant and prayed to dismiss the claim petition of claimant.

- [3] The brief facts in nut shell leading to filing of the present claim petition are as under :

That on 02.05.2016 at about 01:00 noon hours, claimant and driver of Atul Chhakdo (Rixa) No.GJ-02-XX-2614 were going to deliver mineral water, at that time, driver of C.N.G.Rixa No.GJ-18-AX-2267 drove recklessly and at high speed, endangering human life and lost control of the steering and both Rixas collided head-on. As a result of which, minor suffered various injuries on the part of his body and due to which, he was immediately brought to Nootan Hospital for treatment and on account thereof, the minor claimant sustained injuries and hence, the claim petition seeking compensation. The FIR with regard to the accident came to be lodged before the Visnagar Police Station being I - C.R.No.56/2016.

- [4] The claimant stepped into witness-box and filed his examination-in-chief in form of affidavit on oath at Exh.21 and has produced the following documentary evidence on the record of claim petition :

Sr. Nos.	Particulars of Document	Exh. Nos.
1.	Copy of complaint.	32
2.	Copy of panchnama of place of occurrence of accident.	33
3.	Transfer Form of minor claimant.	34
4.	Medicolegal certificate of minor claimant.	35
5.	Certificate of fitness of vehicle No.GJ-02-XX-2614.	36
6.	Driving license of Narendraji B.	37

	Thakor.	
7.	R.C.Book of vehicle No.GJ-02-XX-2614.	38
8.	Driving license of opponent No.1 – Solanki Ganpatbhai Bhikhabhai.	39
9.	R.C.Book of Rixa No.GJ-18-AX-2967.	40
10.	Charge-sheet came to be filed against opponent No.1.	41
11.	Medical bills of minor claimant.	42
12.	Progress report of minor claimant.	48

- [5] The opponent No.1 stepped into witness-box and filed his examination-in-chief in form of affidavit on oath at Exh.58. The opponent No.5 - Insurance Co. has neither examined any witness nor has produced any documentary evidence on the record of claim petition.
- [6] Learned advocate Mr.J.B.Patel for claimant and learned advocate Mr.S.G.Shah for opponent No.5 – Insurance Co. have submitted their written arguments vide Exh.66 and 52 respectively.
- [7] Perused the written arguments vide Exh.66 and 52 submitted by learned advocate for claimant as well as opponent No.5 – Insurance Co. I have also considered the oral as well as documentary evidence so adduced and produced on the record of claim petition.
- [8] The following issues have been framed at Exh.20 in the claim petition.

-:: ISSUES ::-

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

[9] My findings on above issues are as under:

- (1) In the affirmative.
- (2) As per final order.
- (3) As per final order.

-:: REASONS ::-

ISSUE NO.1 :-

[10] It is well settled principle by catena of judicial pronouncement that 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 case of **Anita Sharma v/s. The New India Assurance Co. Ltd. & Anr.-2021-0-AIR (SC) 302.**

The claimant has stepped into the witness box vide Exh.21 and has reiterated the averments and contentions narrated in the claim petition with regard to the occurrence of accident. So far as issue of negligence is concerned, the

claimant has produced copy of complaint at Exh.32, wherein it has been stated how the accident occurred.

Learned advocate for the opponent Nos.1 to 4 did not remain present on many dates of adjournment given to him hence, right to cross-examine the claimant is closed.

The opponent No.1 – Ganpatbhai Bhikhabhai Solanki has stepped into the witness box vide Exh.58 and has reiterated the averments and contentions narrated in his reply. He has submitted that driver of Atul Chhakdo (Rixa) No.GJ-02-XX-2614 which was carrying water jugs, overtook the vehicle in front of him and dashed with his Rixa from the front.

Learned advocate for the claimant did not remain present on date of adjournment hence, right to cross-examine the claimant is closed on dtd.06.05.2025.

The claimant has also produced Transfer Form and Medicolegal certificate vide Exhs.34 and 35, which shows that claimant sustained injuries in a vehicular accident. The statement dtd.05.05.2016 of minor claimant – Thakor Sandipji Jagaji before Visnagar police station is produced on record vide Exh.30 wherein it is specifically stated that driver of offending Rixa went away from the place of occurrence and same history is also corroborated from the contents of panchnama of place of occurrence vide Exh.32. Moreover, the police after due investigation, filed charge-sheet against the driver – Rixa No.GJ-18-AX-2267. The driver of the vehicle – Rixa No.GJ-18-AX-2267 was duty bound to take care and caution to avoid the accident. Thus,

considering the documentary evidence produced on record, it appears that at the time of alleged accident the driver of the vehicle - Rixa No.GJ-18-AX-2267 was driving in a rash and negligent manner. Perusing the complaint, panchnama of place of occurrence and injury certificates, charge-sheet and deposition of claimant vide Exh.21 and statement of injured minor claimant vide Exh.30, it clearly shows that claimant sustained grievous injuries in a vehicular accident, which was occurred upon sole negligence in driving on the part of the driver of the Rixa No.GJ-18-AX-2267 hence, opponent Nos.4 and 5 are required to be exonerated from the liability to pay the compensation. Therefore, I answer issue No.1 in affirmative accordingly.

ISSUE NO.2 :-

[11] Now, the question arises about the quantum of compensation. The claimant has contended that minor claimant was aged 15 years at the time of accident. The claimant has reiterated the very aspect on oath also. The claimant has produced progress report of claimant vide Exh.48. In the said report, the date of birth of claimant is shown as 18.10.2003 and since the accident occurred on 02.05.2016, it can be said that claimant was aged 26 years at the time of accident and therefore, this Tribunal deems it fit to consider the age of deceased in the age group of 13 years. The claimant being minor obviously would not be a earning member of the family. From the perusal of medicolegal certificate of claimant, it becomes clear that the said claimant sustained simple injuries in vehicular accident and

not suffered any permanent partial disablement. The claimant has produced the medical bills of claimant worth Rs.16,891/- vide Exh.42 hence, the claimant is entitled to get Rs.16,891/- under the head of medical expenses. Due to the aforesaid injuries, he had to suffer with mental pain, shock and suffering and rich diet, transportation charges etc. Under these circumstances, if an amount of Rs.10,000/- is awarded as lump sum compensation on all counts to the applicant, the ends of justice will meet. Hence, in all the claimant is entitled to get Rs.26,891/- i.e. rounded of **Rs.26,890/-** as compensation under different heads.

LIABILITY :-

[12] The opponent Nos.1 and 2 being driver and owner offending vehicle - Rixa No.GJ-18-AX-2267 are jointly and/or severally held liable to pay the amount of compensation to the claimants with running interest @ 9% p.a., from the date of the claim petition till realization. Hence, the point No.2 accordingly stands answered and I pass the following final order qua the point No.3.

ORDER

1. The claim petition is hereby partly allowed.
2. The claimant is entitled to recover a sum of **Rs.26,890/- (Rupees Twenty Six Thousand Eight Hundred Ninety Only)** as compensation with proportionate cost and interest at the rate of 9% p.a. from the date of the claim petition till realization from the opponent Nos.1 and 2 who are jointly or severally liable to pay the amount of compensation. The

opponent Nos.4 and 5 are exonerated from the liability to pay the compensation.

3. The opponent Nos.1 and 2 are directed to deposit the aforesaid amount with cost and interest within thirty days from the date of this judgment and award.
4. Interim compensation, if any, awarded and paid, be deducted or adjusted from the aforesaid awarded amount. The deficit court fees, if any, be deducted from the awarded amount.
5. The opponent Nos.1 and 2 are directed to deposit the amount of compensation through RTGS / NEFT and informed the Tribunal forthwith, the particulars of Bank account for RTGS / NEFT payment are as follows :-

1	Cheque to be written in the name of	ADDITIONAL DISTRICT JUDGE, VISNAGAR(MACP)
2	e-mail ID	macp.visnagar@gmail.com
3	Name of Bank	STATE BANK OF INDIA (Collage Road, Shreeji Market, Near Bus Stand), Visnagar.
4	Account Number.	40758136544 (Current Account)
5	IFSC CODE Number	SBIN0060246
6	Branch Code.	60246
7	MICR	384002122

6. On the amount being deposited with the Tribunal, It is further directed that entire awarded amount be paid to the claimant by A/c. Payee Cheque.

7. The opponent Nos.1 and 2 to bear their own costs and also the costs of the claimant.
8. Award be drawn accordingly.

Pronounced in open Tribunal, today on this 30th day of the March, 2026 at Visnagar.

[PRAVINBHAI JOITABHAI CHAUDHARY]
MOTOR ACCIDENT CLAIMS
TRIBUNAL (AUXI.-III),
MAHESANA AT VISNAGAR.
(UIC NO.GJ00661)