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<i>Registered on</i>	27/01/2005
<i>Earlier Decided on</i>	03/12/2011
<i>Remand Back</i>	13/09/2012
<i>Decided On</i>	11/03/2026
<i>Duration</i>	21 01 12
	Year Months Days

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN),**  
**AT : PATAN**

**MACP No.43/2005**  
**Ex : 71**

Legal heirs of deceased Punaji Kuvaraji

- (1) ~~Dariyaben Punaji Thakor (Wife of the deceased)~~  
Age: 58 Years, Occupation: Labour Work  
**(Deleted as per order below Ex.55)**
- (1/1) Mangiben D/O Punaji W/O Jivaji Thakor  
Age: 60 Years  
R/o.: Kakoshi, Ta-Siddhpur, Dist-Patan.
- (2) Narmdaben @ Nandaben D/O Punaji W/O Viraji Thakor  
Age: 32, Occupation: Housewife
- (3) ~~Maganji Punaji Thakor (Son of the deceased)~~  
Age: 28 Years, Occupation: -  
**(Deleted as per order below Ex.23)**
- (4) ~~Virehandji Punaji Thakor (Son of the deceased)~~  
Age: 25 Years, Occupation:-  
**(Deleted as per order below Ex.55)**

V/s.

**OPPONENTS :**

- (1) (Driver of the Vehicle No.GJ-8-T-8363)  
Chhaganji Diluji Thakor (Solanki)  
Age: Adult, Occupation: Driving  
R/o.: Kamboi, Ta-Kaknrej, Dist-Banaskantha.

- (2) (Owner of the Vehicle No.GJ-8-T-8363)  
Chhaganji Diluji Thakor (Solanki)  
Age: Adult, Occupation: Driving  
R/o.: Kamboi, Ta-Kaknrej, Dist-Banaskantha.
- (3) (Insurer of the Vehicle No.GJ-8-T-8363)  
Oriental Insurance Co.Ltd.  
Address: Highway Road, Mahesana.

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CLAIM PETITION U/s. 163-A OF THE MOTOR VEHICLE ACT FOR THE  
COMPENSATION OF ₹2,47,100/-

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For the Applicants : Ld. Adv. Mr. P.J.Rathod  
For the Opponent No.1 & 2 : Ld. Adv. Mr. K.V.Sharma  
For the Opponent No.3 : Ld. Adv. Mr. A.M.Achhava

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**-:: J U D G M E N T ::-**

1. Initially, applicants had preferred present claim petition vide under Section 163-A of the M.V. Act for the compensation for ₹2,47,100/- along with interest and the claim petition was decided by my learned predecessor vide judgment and award dated 03/12/2011 and granted the claim petition in favour of the claimants. Against the said judgment and award, the opponent/ insurance company had preferred an appeal before Hon'ble Gujarat High Court vide First Appeal No.1134/2012 which was decided by the Hon'ble Gujarat High Court vide its Judgment dated 13/09/2012, wherein the Hon'ble High Court has quashed and set aside impugned order of the Tribunal and further ordered to remand back the claim petition to the Tribunal for its fresh consideration. Hence, the present claim petition is restored with same number vide M.A.C.P. No.43/2005 for final disposal.
2. **The brief facts of the petition are as under:-**  
**Occurrence of Accident** : It is the case of the applicants that, on 02/11/2004,

deceased Punaji Kuvaraji was going to Kamoi to Undara village in the Jeep No.GJ-8-T-8363 (hereinafter referred as 'Jeep') as occupant. The driver of the jeep was driving the jeep in rash and negligent manner endangering to human life and having reached at the place of accident, he lost control over the jeep and as a result the jeep overturned and the deceased sustained grievous injuries and died during the treatment in the hospital.

(2.1) **Negligence** :- The claimants claimed that the accident in question had occurred due to rash and negligent driving of driver of the errant jeep.

(2.2) **Details of compensation claimed** :- It is the case of the applicants that at the time of accident the deceased was about 60 years old, healthy and strong. It is the case of the applicants that deceased was earning Rs.3300/- per month by doing labour work. It is further stated by the applicants that they are entitled to get compensation towards pain, shock, suffering, transportation and funeral expenses and loss of love, affection and estate. Hence, filed present claim petition.

3. **Written Statements by the Opponents** :- The opponents have not filed any reply in view of the present claim petition.

4. The applicants have produced following oral / documentary evidence.

**Oral Evidence** :-

Particulars	Ex.
Deposition of applicant – Narmadaben @ Nandaben D/O Punaji W/O Viraji Thakor	56

**Documentary Evidence** :-

Particulars	Ex.
Copy of Death Certificate of Dariyaben Punaji Thakor	52
Copy of Death Certificate of Virchandji Punaji Thakor	53

Copy of Death Certificate of Maganji Punaji Thakor	54
Copy of the Complaint	57
Copy of Panchnama of place of offence	58
Copy of Inquest Panchnama of the deceased	59
Copy of Medical Certificate of the deceased of Shihori Civil Hospital	60
Copy of P.M. Report of the deceased	61
Copy of Driving License of the driver of the jeep	62
Copy of R.C. Book of the jeep	63
Copy of Insurance Policy of the jeep	64
Copy of decree of MACT, Patan	65
Copy of order of the Hon'ble Gujarat High Court	66
Closing purshish	67

5. Opponents have not produced any oral or documentary evidence and opponent no.3 submitted closing purshish vide Ex.68.
6. Claimants have produced written arguments vide Ex.69 and reiterated the facts contained in the claim petition.
7. Opponent no.3 have produced written arguments vide Ex.70, wherein submitted that the jeep involved in the accident was a commercial vehicle and as per R.C. Book, the seating capacity of the jeep was only two persons and at the time of accident there were 11 persons were travelling in the jeep and hence there was breach of terms and conditions of the policy and hence insurance company is not liable to pay compensation.

**-:: REASONS ::-**

8. The present claim petition is filed U/s. 163-A of M.V. Act on structured formula. In such circumstances, it is not necessary for this Tribunal to determine the issue of negligence of the driver of the vehicle, but has to

only see the involvement of the vehicle and injury/death of the victim due to accident. So far the provision of section 163-A of the M.V. Act is concerned, the same is based upon the principle of NO FAULT LIABILITY. The only requirement for the fulfillment of the provision of Section 163-A is the proof of involvement of the offending vehicle. Moreover, the claimants have to prove age and income of the deceased. Once the involvement, age and income are proved by the claimants, the Tribunal will have to decide the quantum of compensation as per the structured formula stated in the Second Schedule of Sec.163-A of the M.V. Act. Sub-sec.2 of Sec.163-A is very specific, which says that, "in any claim for compensation under Sec.163-A the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person. This suggests that while deciding an application U/s. 163-A of the M.V. Act, the Tribunal does not require to decide the negligence of any person.

**(INVOLVEMENT OF THE VEHICLE)**

9. The complaint of the incident was filed by the driver of the offending jeep involved in the accident, wherein he has stated that, he was driving the jeep at the time of accident and his jeep was in full speed and he couldn't control the jeep on the turning and hence he applied brakes with full force and as a result the jeep overturned. Thus the driver of the jeep has himself filed the complaint and has admitted that his jeep was involved in the accident and deceased was travelling in his jeep. Perusing the panchnama of place of offence, it is mentioned that the said offending jeep was lying on the spot after the accident which was having same registration number as stated in

the claim petition. Thus in view of above discussions, it is proved that the said offending jeep was involved in the accident as stated by the applicants in the claim petition as well as in affidavit.

**(QUANTUM OF COMPENSATION)**

**AGE:**

10. Looking to the P.M. Report of the deceased on record, his age was 70 years at the time of accident.

**INCOME :**

11. Claimants have claimed annual income of the deceased to be Rs.40,000/- per annum through labour work. The present claim petition has been filed U/s. 163-A of the M.V. Act. However, the deceased was 70 years old and was doing labour work at the time of accident and so if the income of the deceased is assessed Rs.27,000/- per annum, it would be just and proper.
12. In the present case, quantum of compensation is to be determined in terms of the II Schedule appended below Sec. 163-A of the M.V. Act. As per the II-Schedule appended to Section 163-A, the multiplier of 5 would be applicable for victims above 65 years of age. In the present case, deceased was 70 years old at the time of accident and therefore multiplier of 5 would apply. Thus the amount of compensation would arrive at Rs.1,35,000/- after multiplying the income of Rs.27,000/- p.a. into multiplier of 5.
13. Moreover, 1/3<sup>rd</sup> amount is required to be deducted as personal expenditure of the deceased as per the II-Schedule appended to Section 163-A. 1/3<sup>rd</sup> amount of Rs.1,35,000/- comes to Rs.45,000/-. So, the net amount that would come in the share of the dependents would be Rs.90,000/- (Rs.1,35,000 – Rs.45,000).

14. Moreover, the claimants would further be entitled to Rs.10,000/- for funeral expenses and Rs.5000/- for loss of estate in the form of conventional amount as per II-Schedule appended to Section 163-A.
15. The above figures are shown in the following tabular form to calculate the final amount of compensation.

Sr.No.	Particulars	Amount
1	Compensation for future dependency loss	Rs.90,000/-
2	Conventional amount	Rs.15,000/-
<b>Total compensation</b>		<b>Rs.1,05,000/-</b>

16. Further this Tribunal awards 7.5% p.a. interest on the awarded amount from the date of petition till realization with cost of proceedings considering the decision of Hon'ble Supreme Court of Indian in the case of *Tamilnadu State Transport Corporation V/s. Rajpriya, 2005 (6) S.Co. Cases, 236*.

**LIABILITY :-**

17. After the present claim petition was earlier decided by my learned predecessor vide judgment & award dated 03/12/2011 and granted the claim petition in favour of the claimants, the insurance company was aggrieved and dissatisfied with the order of the said order and hence they filed an appeal before Hon'ble Gujarat High Court vide First Appeal No.1134/2012 which was decided by the Hon'ble Gujarat High Court vide its judgment dated 13/09/2012, wherein the Hon'ble High Court has quashed and set aside the impugned order of the Tribunal and further ordered to remand back the claim petition to this Tribunal for its fresh consideration. I have perused the order of the appeal, wherein the main contention of the insurance company was that the jeep involved in the accident was a

commercial vehicle and as per R.C. Book, the seating capacity of the jeep was only two persons and at the time of accident there were 11 persons were travelling in the jeep and hence there was breach of terms and conditions of the policy and hence insurance company is not liable to pay compensation. I have perused the R.C. Book of the jeep on record and perusing the same it suggests that the seating capacity of the jeep was two persons. It was a commercial goods vehicle. The insurance company has contended that the deceased was travelling as a gratuitous passenger in the jeep which was a commercial vehicle. But looking to the record, the insurance company has not produced any cogent evidence to show that the deceased was a gratuitous passenger in the jeep. If the deceased was travelling as a gratuitous passenger in the jeep, the said fact should be proved by putting cogent evidence. Moreover, the complaint of the jeep was given by the driver of the jeep, wherein he has stated that there were 11 persons were travelling in his jeep at the time of accident, but the said fact has not been brought on record with any cogent evidence. There is nothing on record that, anyone else except the present deceased, has come forward to give their statement that they were travelling in the jeep at the time of accident with the deceased. Moreover, it is also not on record that any other person who was injured or died in the said accident who were travelling in the jeep at the time of accident have filed any claim petition before this or any other Tribunal. Thus the fact that 11 persons were travelling in the jeep at the time of accident is not established. Looking to the R.C. Book of the jeep, the seating capacity was two persons and hence deceased was entitled for the compensation. So the defence raised by the insurance company of the jeep is not tenable since it has failed to prove its defence by putting cogent evidence. In such circumstances, in my view the insurance company

cannot be absolved from its liability of paying compensation. In view of above said discussions, I pass the following final order.

**: ORDER :**

1. The Claim Petition is **Partly Allowed**. The applicants are entitled to recover an amount of **Rs.1,05,000/- (Rs. One Lac Five Thousand Only)** with the proportionate cost and interest at the rate of **7.5%** per annum, from the date of the claim petition till realization from the **opponent nos.1 to 3** who are jointly and severally liable to pay the compensation.
2. Opponents are hereby directed to deposit the aforesaid amount before this Tribunal within one month from the date of this order. Further, in view of the directions of the **Hon'ble Supreme Court of India in Writ Petition (Civil) No.534/2020, titled Bajaj Allianz General Insurance Co. Ltd. v/s Union of India and the directions of the Hon'ble High Court**, Opponents are directed to deposit the aforesaid amounts by way of Direct Bank Transfer through NEFT or RTGS only to the below mentioned Current Bank Account of this Claims Tribunal as directed in Circular No.08/2022 dated 01/02/2022. The particulars of the Current Bank Account is as under:-

<b>Name of Bank</b>	<b>Bank of Baroda, Market Yard Branch, Patan</b>
<b>Account Name</b>	<b>Motor Accident Claims Tribunal (Main), Patan</b>
<b>Current Account No.</b>	<b>08410100036624,</b>
<b>IFSC Code</b>	<b>BARB0MARPAT (fifth character is zero)</b>
<b>Branch Code</b>	<b>384012082</b>

Further, after deposit of the awarded amount, opponents are instructed to ensure that deposit of the awarded amount, by way of direct bank transfer to the above said Current Bank Account in compliance of the Award

passed by the Tribunal is accomplished by furnishing the following information in the format prescribed herein below along with bank payment advice to the Registry/Nazir Branch of this Court, for maintaining the account MACP Deposits by this Court. A copy of the same be also served to the claimants or their counsel as the case may be.

1	MACP Number	
2	On the File of (Claims Tribunal Name)	
3	Date of Award	
4	Compensation Amount	
5	Income Tax Deduction at Source	
6	Bank Transaction Reference No./ Unique Transaction Reference (UTR) No.	

3. The amounts of interim compensation, if any awarded and paid, be deducted and adjusted in the above said amounts.
4. The deficit amount of court fees shall be recovered first. after deducting the Court-Fees-Stamp, if any, the **whole remaining amount be equally divided and disbursed in favour of the applicant nos.1/1 & 2.**
5. The disbursal of compensation amount shall be made directly to the credit of the bank account of the applicants, as the case may be by NEFT or RTGS. The applicants are directed to furnish their following information in the format prescribed herein below to the Registry/ Nazir Branch of this Court, for direct credit of the compensation amount to their account.

Aadhaar Card No.	
PAN Card No.	
Bank Name & Branch	
Bank Address	
Name and address of Account holder (claimant)	

Bank Account No.	
IFSC Code	
First page of passbook with photograph of the claimant duly attested by Bank be attached	

6. The opponents are directed to follow the guidelines of the Hon'ble Gujarat High Court in the judgment reported in 2007 ACJ 1897, in the case of ***Smt. Hansagauri Prafulchandra Ladhani & Others v. The Oriental Insurance Co. Ltd. & Others***, while calculating and deciding T.D.S.
7. In case of Tax deduction at source, Form 16-A of the Income Tax Act be provided to the claimant/victim on whose behalf the deduction has been made so as to enable him/her seek refund of tax deducted, if any.
8. Registry/ opponents shall ensure compliance of Hon'ble Supreme Court's directions in ***Writ Petition (Civil) No.534/2020, titled Bajaj Allianz General Insurance Co. Ltd. v/s Union of India***.
9. Award be drawn accordingly.

Signed & Pronounced in open Court today.

Date : 11/03/2026

Place: Patan

(Prashantkumar H. Sheth)

M.A.C.T(MAIN), PATAN

U.I.Code No.GJ00524