Petition Filed on	20/08/2024
Petition Registered on	20/08/2024
Petition Decided on	22/04/2026
Duration	Y / M /Days 1 / 8 / 2

IN THE COURT OF HON'BLE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN), PATAN DISTRICT, AT – PATAN

M.A.C.P. No.161/2024
Ex.: 51

APPLICANT:-
Nayee Bhanuben Dashrathbhai
Age: 59 Years, Occupation: Housewife & Farming
R/o.: Nayee Vas, Kotavad, Ta-Saraswati, Dist: Patan.

V/s.

OPPONENTS:-
(1) Hiteshkumar Dashrathbhai Nayee
R/o.: Nayee Vas, Kotavad, Ta-Saraswati, Dist: Patan.
(Driver/Owner of Motorcycle No.GJ-24-AP-1808)

(2) I.C.I.C.I. Lombard General Insurance Co.Ltd.
Add.: First Floor, Jivdaya Society, Above Allahabad Bank, Opposite Perfect Plaza, Radhanpur Road, Mehsana – Gujarat – 384002.
(Insurer of Motorcycle No.GJ-24-AP-1808)

APPEARANCE:-
Ld.Advocate Mr.R.M.Solanki for Applicant.
Ld.Advocate Mr.V.M.Solanki for Opponent No.1.
Ld.Advocate Mr.H.N.Patel for Opponent No.2.

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

1. By way of this petition filed U/s. 164 of M.V. Act, the petitioner has claimed compensation of Rs.2,50,000/- from the opponents for the injuries sustained out of vehicular accident.

2. Necessary facts for determination of the present petition have been described as under:-

(2.1) On the day of accident, i.e. on 08/07/2024, the applicant was riding on the Motorcycle bearing registration No.GJ-24-AP-1808 (hereinafter referred as 'Bike/Motorcycle') proceeding towards Siddhpur. The said bike was being driven by the son of the applicant i.e. opponent no.1. At that time, on the way towards Kotavad-Sanodarada village, the opponent no.1 was driving the bike in full speed in rash and negligent manner and hence he lost control over the bike on a turning and hence the said accident occurred. Thus it is claimed that the said accident had occurred due to sole negligence on the part of opponent no.1.

(2.2) It is claimed that applicant was 59 years of age at the time of accident and earning Rs.20,000/- per month by doing farming work. The applicant sustained brain hemorrhage in the accident and thus the applicant suffered permanent disablement over brain and hence her efficiency has reduced and therefore she would suffer future income loss. The applicant totally remained bedridden for several months after the accident and so she suffered actual loss of income. It is also claimed that a huge amount was spent after medical treatment, nutritious diet, attendance and other charges of applicant. Applicant also felt grief, pain and shock as a result of injuries. So, present petition is preferred by applicant for getting above said compensation from the opponents under all heads.

3. After execution of process, opponent no.1 filed written statement vide Ex.12 and submitted that the vehicle of the opponent no.1 is insured with opponent no.2 and hence opponent no.2 is liable to

pay compensation to the claimant.

4. After execution of process, opponent no.2 filed written statement vide Ex.14 and denied each and every facts of the claim petition. It is submitted that the claim of the applicant is false and fabricated and hence the present claim petition is not tenable in law and deserves to be dismissed. It is submitted that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

5. From the pleadings of the parties, issues were framed at Ex.15, which are as under:-

-:: (I S S U E S) ::-

1. Whether the applicant proves that he/she sustained injuries on account of rashness and negligence on the part of driver of the involved vehicle in the accident ?
2. What amount the claimant is entitled to by way of compensation and from which of the opponents and at what rate of interest ?
3. What order and award?

6. My answers to above issues are as follows:-
   1. In affirmative
   2. As per final order
   3. As per final order

7. The applicant has produced oral as well as documentary evidences to prove his case, which are as under:-

ORAL AND DOCUMENTARY EVIDENCES OF THE APPLICANT:

EX.	DETAILS
21	Affidavit of the Applicant
23	Copy of FIR
24	Copy of Panchnama of place of offence
25	Copy of Aadhaar Card of the applicant
26	Copy of Extracts of Land Account No.279
27	Copy of Driving License of the opponent no.1
28	Copy of R.C. Book of the motorcycle
29	Copy of Injury Certificate of the applicant of Janata hospital, Patan
30	Original Disability Certificate of the applicant
31	Original Revenue Extracts of the Agricultural Land Account No.279 and Survey No.635, 623 at Kotavad village
32	Copy of Charge-sheet in C.C. No.779/2025
33	Original Medical Bills of the applicant
45	Original copy of Insurance Policy of the motorcycle

8. The opponents have produced oral as well as documentary evidences to prove their case, which are as under:-

ORAL AND DOCUMENTARY EVIDENCES OF THE APPLICANT:

EX.	DETAILS
OPPONENT NO.2	
38	Deposition of Legal Officer of I.C.I.C.I. Lombard General Insurance Co.Ltd.
37	Copy of Insurance Policy with T & C
44	Guidelines of IRDA
48	Closing purshish

9. I have heard the learned advocates for the respective parties.

10. Perused the written arguments submitted by the claimant at Ex.49 along with decisions of different High Courts adduced in support of his submissions which are as under :

Sr. No.	PARTICULARS
A	2023 ACJ PAGE 631 (SC) FULL BENCH RAM MURTI AND OTHERS
B	INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA NOTIFICATION HYDRABAD THE 20TH MARCH-2024
C	2019 ACJ PAGE 600 (GUJARAT HIGH COURT) Hemendrasinh Mansih Jadav V/s. Sanjaybhai Govindbhai Dabhi
D	FIRST APPEAL NO.1763/2025

11. Also perused the written arguments submitted by the opponent no.2 vide Ex.50 and claimed that the applicant was a pillion rider and she cannot be treated as third party and hence no premium for pillion rider was paid and hence insurance company is not liable to pay compensation to the pillion rider of the bike and hence insurance company may be absolved from the liability of compensation. The learned advocate for the insurance company has relied upon various decisions of Hon'ble Apex Court in support of his submissions as follows :

Sr. No.	PARTICULARS
1	2008 (4) Hon'ble Supreme 329 Supreme Court of India - Oriental Insurance Co.Ltd. V/s. Sudhakaran K.V. & Ors.
2	2006 (3) Supreme 332 Hon'ble Supreme Court of India – United India Insurance Co.Ltd. V/s. Tilak Singh & Ors.
3	National Insurance Co.Ltd. V/s. Bhogai Lal S/O Late Balla and Ors. On 6 March, 2025 of Hon'ble High Court of Allahabad, Lucknow Bench
4	Hon'ble Supreme Court of India – Mohana Krishnan S V/s. K. Balasubramaniyam & Ors. With SLP (C) No.10928/2020
5	Hon'ble Supreme Court of India – National Insurance Co.Ltd. V/s. Balakrishnan & Another in Civil Appeal No.8163/2012

-: <u>R E A S O N S</u> :-

<u>ISSUE No.1</u> :-

12. The present claim petition is filed U/s. 164 of M.V. Act on the basis of 'No Fault Liability' which prescribes compensation of Rs.5,00,000/- in death cases and Rs.2,50,000/- in grievous hurt cases without any need to prove the negligence of the driver of the vehicle. In such circumstances, it is not necessary for this Tribunal to determine the issue of negligence of the driver/s of the vehicle/s, but has to only see the involvement of the vehicle/s and injury/ death of the victim due to accident. The only requirement for the fulfillment of the provision of Section 164 is the proof of involvement of the offending vehicle. Section 164 of the M.V. Act reads as under:

164. Payment of compensation in case of death or grievous hurt, etc.:-
(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt 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 of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

13. This suggests that while deciding an application U/s. 164 of the M.V. Act, the Tribunal does not require to decide the negligence of any person. However in the present petition, the evidence has been recorded, the applicant has been cross-examined and therefore the matter will be decided accordingly.

<u>INVOLVEMENT OF THE VEHICLE</u> :

14. In the present case, there is only one vehicle involved, i.e. the said bike, which was being driven by the opponent no.1 at the time of accident. The complaint of the incident was lodged by the claimant herself reiterating the facts contained in the claim petition. As per the facts of the case, the opponent no.1 was driving the bike at the time of accident and the bike slipped on the road after he lost control over the bike. The registration number of the bike is stated in the FIR as in the claim petition. Moreover, the charge-sheet of the offence is also on record which was filed against the opponent no.1 since he was driving the said bike at the time of accident. R.C. Book of the bike is also on record which is registered in the name of the opponent no.1. Thus considering the relevant evidences on record, the involvement of the vehicles is established. Therefore, I answer issue no.1 in the affirmative.

<u>ISSUE No.2 (QUANTUM OF COMPENSATION)</u>

15. Since the present claim petition has been filed U/s. 164 of the M.V. Act, it is necessary to refer the relevant para of the said section which reads as under:

> ***Section 164 - Compensation on the basis of "No Fault Liability" – Section 164 prescribes "No Fault Liability" compensation of Rs.5,00,000/- in death cases and Rs.2,50,000/- in grievous hurt cases without any need to prove the negligence of the driver. Section 93 of 2019 Act has omitted the Second Schedule of 1998 Act which provided the Structured Formula for compensation on No-Fault basis under Section 163A. Upon accepting the compensation under Section 164, the Claimant cannot claim the compensation under Section 166 of the Motor Vehicle Act.***

16. Looking to the above referred section of the M.V. Act, the applicant is entitled for Rs.2,50,000/- compensation in case of grievous hurt. The present claim petition has been filed by the applicant for the injuries sustained in the accident. Looking to the

Injury Certificate of the applicant at Ex.29, the applicant had suffered brain-hemorrhage. Moreover looking to the Disability Certificate of the applicant at Ex.30, she had 23.5% permanent disability body as a whole resulting from head injury. Thus looking to the medical and disability certificate of the applicant, she had a grievous injury and she must have gone through much physical as well as mental pain. In such circumstances, the nature of injury of the applicant could be defined under grievous hurt. So this Tribunal is of the view that looking to the nature of injury, the applicant is entitled to compensation of Rs.2,50,000/-.

LIABILITY

17. The opponent-insurance company has objected the present claim petition and their Legal Officer deposed before this Tribunal and asserted to exonerate on the ground that, the insurance policy of the bike was act only policy and hence risk of pillion rider was not covered under the terms & conditions of the policy. On the date of accident, only the risk of third party was covered and since the applicant was riding as pillion at the time of accident on the bike, she cannot be called third party and hence not entitled for the compensation. The learned advocate for the insurance company has relied upon the various decisions of Hon'ble Apex Court as well as High Court in support of his submissions as discussed above.

18. The insurance policy of the bike is on record. On perusing the insurance policy of the bike, it transpires that the policy was valid from 09/11/2021 to 08/11/2026. The accident took place on 08/07/2024. This Tribunal is of the considered view that, when the insurance policy of the bike was issued on 09/11/2021 and valid till 08/11/2026, the insured was not required to pay any extra premium

for pillion rider of the bike and risk of the pillion rider is already covered. Moreover, considering the judgment of ***Hon'ble High Court of Gujarat in the case of HEMENDRASINH MANSINH JADAV v/s. SANJAYBHAI GOVINDBHAI DABHI***, which was decided on 03/10/2018, whereupon Hon'ble Gujarat High Court held that, the insurance company is certainly liable to compensate the occupant of the private vehicle irrespective of nature of policy because there is nothing like different type of policy in the statute and the liability of the insurance company is certainly statutory and, therefore, it cannot escape from such liability. Thus as per the said decision of the Hon'ble Gujarat High Court, the insurance company of the vehicle is liable to compensate the occupant or a pillion rider of a vehicle irrespective of the nature of the policy. Thus nature of the policy doesn't matter and when the insurance company has accepted the premium, it is liable to pay compensation. Moreover, looking to the insurance policy of the bike in the present case, nowhere it is mentioned that it was a Liability Only Policy as claimed by the insurance company. The insurance company has accepted the premium for five years from the insured at the time of issuing the policy and hence it is the duty of the insurance company to pay compensation to the pillion rider.

19. As far as point of liability is concerned, opponent no.1 is the registered owner of the bike as per R.C. Book and looking to the insurance policy of the said bike, it is duly insured with opponent no.2. Driving License of the opponent no.1 is on record. Looking to the insurance policy of the bike, there is no breach of any terms & conditions or non-coverage of insurance as on date of accident and the claimant is entitled to receive compensation. In wake of

above reasons, issue no.1 is answered affirmatively, whereas for issue nos.2 & 3, the following order is passed.

-: **O R D E R** :-

(1) The Claim Petition of the claimant is hereby ***Allowed*** with costs and interest against the opponents.

(2) The claimant do recover **Rs.2,50,000/- (Rs. Two Lac Fifty Thousand Only)** from the opponent nos.1 & 2 jointly & severally as compensation along with a simple interest to be calculated @ 9% p.a. from the date of filing of the claim petition till its realization.

(3) 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. Particulars of the Current Bank Account is as under:-

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

4. Further, after deposit of the awarded amount, opponent is 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.	

5. The amounts of interim compensation, if any awarded and paid, be deducted and adjusted in the above said amounts.
6. The deficit amount of court fees shall be recovered first. **Disbursement of the amount shall be made at the time of the deposition of the awarded amount by the opponents in the Tribunal.**
7. 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	

8. The opponent is 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.
9. 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.
10. 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**.
11. Award be drawn accordingly.

Signed & Pronounced in open Court today.

Date : 22/04/2026
Place: Patan

(Prashantkumar H. Sheth)
M.A.C.T. (MAIN), PATAN
U.I.Code No.GJ00524

(CRD)