Petition Filed on	11/10/2022
Petition Registered on	11/10/2022
Petition Decided on	06/05/2026
Duration	Y / M /Days 3 / 6 / 25

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

M.A.C.P. No.159/2022
Ex.: 81

APPLICANTS:-
Legal heirs of deceased Munna Kumar S/o Ramesh Mahato

(1) Ramesh S/o Shrirm Mahato
(Father of the deceased)
Age: 42 Years, Occupation: Labor Work

(2) Vrijkumari Devi W/o Ramesh Mahato
(Mother of the deceased)
Age: 37 Years, Occupation: Housewife

(3) Gautamkumar S/o Ramesh Mahato
(Brother of the deceased)
Age: 21 Years, Occupation: Labor Work

V/s.

OPPONENTS:-

(1) Ranjitkumar Jethaji Thakor
R/o.: Sitapur, Ta-Mangal, Dist-Ahmedabad.
(Driver of Ecco Car No.GJ-38-BA-7309)

(2) Fatesinh Mobuji Zala
R/o.: 180, Swaminarayan Vas, Sitapur, Ta-Mangal, Dist-Ahmedabad.
(Owner of Ecco Car No.GJ-38-BA-7309)

(3) ICICI Lombard General Insurance Co.Ltd.
Add.: 1st Floor, Jivdaya, Society, above Allahabad Bank, Opp. Perfect Plaza, Radhanpur Road, Mahesana, Ta-Dist: Mahesana.
(Insurer of Ecco Car No.GJ-38-BA-7309)

(4) Ranubha Metaji Thakor
R/o.: Delpua, Khant, Nano Thakor Vas, Ta-Becharaji, Dist-Mahesana.
(Driver of Eicher Truck No.GJ-01-HT-1025)

(5) Vyoma Logitech Pvt. Ltd.
R/o.: Survey No.315/5, 503/C, Sahajanand Shoping Center, Sahibag Road, Ahmedabad, Ta-Dist: Ahmedabad.
(Owner of Eicher Truck No.GJ-01-HT-1025)

(6) Bajaj Allianz General Insurance Co.Ltd.
New Add.: Shop No.8, Yash Complex, Siddhpur Cross Road, Patan
(Old Add.: SF No.46-47, Shridevi Complex, Station Road, Patan).
(Insurer of Eicher Truck No.GJ-01-HT-1025)

APPEARANCE:-
Ld.Advocate Mr.P.J.Rathod for Applicants.
Ld.Advocate Mr.M.A.Chauhan for Opponent Nos.1 & 2.
Ld.Advocate Mr.P.S.Shah for Opponent No.3.
Ld.Advocate Mr.J.C.Thakor for Opponent No.4.
Ex-party – Opponent No.5.
Ld.Advocate Mr.H.N.Patel for Opponent No.6.

A Claim Petition For Compensation U/s.166 of M.V. Act.

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

1. Deceased Munna Kumar S/o Ramesh Mahato succumbed to injuries following the vehicular accident therefore his legal heirs have filed the present petition U/s. 166 of M.V. Act for getting compensation of Rs.35,00,000/-.

2. **The case of the claimants can be summarized as under** :

(2.1) It is submitted that, deceased Munna Kumar S/o Ramesh Mahato (hereinafter referred to as 'Deceased') was going to his work at Becharaji Suzuki Motors Gujarat Pvt. Ltd on his bicycle in the early morning with slow speed. The deceased reached near Sabarmati CNG pump, where the opponent no.1 suddenly stopped his Ecco Car No.GJ-38-BA-7309 (for short 'Car') without caring about other vehicles around there and opened driver side door and hence the deceased collided with the door of the car and fell down on the road and meantime, driver of the Eicher Truck having registration No.GJ-01-HT-1025 (for short 'Truck') came from the back side in rash and negligent manner and ran over the deceased over head which resulted in grievous head injuries to the deceased and deceased was taken to Zydus hospital at Sitpur where he was declared dead by the doctor. So it is claimed that the accident had occurred due to negligent driving of drivers of both vehicles.

(2.2) It is claimed that deceased was working in Maruti Suzuki Motors Gujarat Pvt. Ltd at Becharaji in the Weld-shop and his monthly salary was Rs.18,593/-. Deceased was very efficient and hard working and if had not died in the accident, he would have lived long and could earn more in future. It is claimed that due to early death of the deceased, applicants have become destitute and their later life has become gloomy and painful. The deceased spent all his income for applicants but due to death of the deceased, applicants would suffer future potential and dependency loss. Applicants have claimed compensation for expenses incurred for last rites and rituals of the deceased. So applicants have claimed above compensation from the opponents under all heads.

<u>REPLY OF THE OPPONENTS</u> :

3. After execution of process, the opponent nos.1 & 2 filed written statement vide Ex.17 and denied each and every averment of the claim petition. It is submitted that the claim of the applicants is false and fabricated and hence the present claim petition is not tenable in law and deserves to be dismissed. If any negligence is attributed on the part of the driver of the Ecco car, the opponent no.3 being insurer of the vehicle shall be liable to indemnify.

4. After execution of process, the opponent no.3 filed written statement vide Ex.78 and denied each and every averment of the

claim petition. It is submitted that the claim of the applicants is false and fabricated and hence the present claim petition is not tenable in law and deserves to be dismissed against the present opponent.

5. After execution of process, opponent no.6 filed written statement vide Ex.30 and denied each and every averment of the claim petition. It is submitted that the claim of the applicants is false and fabricated and hence the present claim petition is not tenable in law and deserves to be dismissed against the present opponent.

6. Tribunal framed issues at Ex.31 as under:-

-::I S S U E S::-

(1) Whether the applicants prove that deceased died in the accident which occurred due to rash, careless and negligent driving of the driver of the motor vehicle involved in the accident?

(2) What amount, if any, the applicants are entitled to get and from whom and at what rate of interest ?

(3) What order and award ?

7. My answers to above issues are as under:-

(1) In Affirmative

(2) As per final order

(3) As per final order

8. The applicants have produced following oral as well as documentary evidences:-

ORAL AND DOCUMENTARY EVIDENCES:

EX.	DETAILS
34	Affidavit of applicant – Ramesh S/O Shriram Mahato

46	Deposition of Deputy Manager of Suzuki Motor Gujarat Pvt. Ltd.
47	Copy of Service Contract and Pay Index of the deceased
48	Copy of Pay Slip of the deceased
50	Copy of FIR
51	Copy of Panchnama of place of offence
52	Copy of Inquest Panchnama of the deceased
53	Copy of P.M. Report of the deceased
54	Copy of Death Certificate of the deceased
55	Copy of Aadhaar Card of the deceased
56	Original Pay Slip of the deceased
57	Copy of R.C. Book of the Ecco Car
58	Copy of Driving License of driver of the Ecco Car
59	Copy of R.C. Book of the Eicher Truck
60	Copy of Insurance Policy of the Eicher Truck
61	Copy of Driving License of the driver of the Eicher Truck
62	Copy of ITI Mark-sheet of the deceased
63	Copy of Charge-sheet
66	Closing purshish

9. Opponents have produced following oral / documentary evidences.

ORAL AND DOCUMENTARY EVIDENCES:

EX.	DETAILS
OPPONENT NO.6	
69	Deposition of the driver of the truck
70	Copy of Driving License of driver of the truck
73	Copy of Insurance Policy of the truck
74	Closing purshish

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

11. The claimants have also produced written arguments vide Ex.76 and reiterated the facts contained in the claim petition and claimed

that they are legal heirs of the deceased and hence entitled for the compensation from the opponents.

12. The learned advocate for the opponent no.6 have produced written arguments vide Ex.79, wherein submitted that the driver of the truck was not holding valid driving license at the time of accident and on that ground also the insurance company is liable to be exonerated.

13. Learned advocate for opponent no.3 produced written arguments vide Ex.80 and submitted that as per the decisions of the Hon'ble Apex Court as well as High Courts, there is more responsibilities on the part of the driver of the heavy vehicles and in the present case the driver of the truck did not take care and accident was caused due to sole negligence of the driver of the truck.

-:: R E A S O N S ::-

ISSUE No.1 (NEGLIGENCE) :

14. Complaint of the incident was given by one Prabhakarkumar S/o Avdheshprasad Savadhi Maheto. The complainant was also working in the same company in which the deceased was working. The complainant has stated that he and other persons were travelling in the said Ecco car involved in the accident and driver of the Ecco car was driving in rash and negligent manner and suddenly applied brakes to stop the car for getting passengers and suddenly opened the driver side door of the car. As a result, the deceased who was coming on bicycle from back side collided with the door of the car and fell down on the road and the truck which was coming from back side ran over the deceased on the rear tyres of the truck and thereafter both drivers of the vehicles escaped from

the spot. The complainant was the eye witness to the accident. Perusing the panchnama of place of offence, it transpires that the road where the accident took place was a four lane highway road. Charge-sheet of the offence is on record which was filed against the driver of the Ecco car as well as the driver of the truck. From the facts of the accident, it transpires that the driver of the truck did not hit the deceased from the back side directly, but the deceased was run over by the truck under the rear tyres. The driver of the Ecco car suddenly stopped his car and opened the door without watching into the mirror that deceased was coming from the back side, which shows big negligence on the part of the driver of the Ecco car. It was a four lane highway road and as per traffic rules, when you stop the vehicle and open the door on the driver side, you have to be careful and verify that if any vehicle or pedestrian is coming from the back side or not. But the driver of the Ecco car didn't care about it and carelessly opened the door on the driver side and hence the deceased collided with the door of the car and fell down on the road and crushed over by the truck. This shows a huge negligence on the part of the driver of the Ecco car. However, the truck is also a very heavy vehicle and driver of the truck should also have been careful to avert the accident. So, considering overall facts and circumstances of the case, this Tribunal holds driver of the Ecco car 80%, whereas driver of the truck 20% negligent for the accident.

ISSUE No.2 (QUANTUM OF COMPENSATION):-

15. To arrive at just and reasonable compensation for which the applicants are entitled, this Tribunal has to assess the age, income, future prospects of the deceased and dependency of the applicants.

<u>AGE</u> :

16. Aadhaar Card of the deceased is on record, wherein his date of birth is 14/09/2000, whereas date of accident was 04/04/2022. So, the age of the deceased was ***21 years, 6 months and 21 days*** at the time of accident. Therefore, as per the guidelines given in the case of **Sarla Varma Vs. DTC, 2009 ACJ Page 1298 (SC),** as the deceased falls between the age group of 21-25, multiplier of **18** would apply to the multiplicand to arrive at just and reasonable dependency loss.

<u>INCOME</u> :

17. Deceased was working in Maruti Suzuki Motors Gujarat Pvt. Ltd at Becharaji in the Weld-shop at the time of accident. Deputy Manager of Suzuki Motor Gujarat Pvt. Ltd. has deposed before this Tribunal and submitted that the deceased was working in that as a labourer. Service Contract and Pay Index of the deceased is on record. Original Pay Slip of the deceased is also on record vide Ex.48, wherein total monthly salary of the deceased was Rs.20,100/-. So the oral evidence of the deceased is supported by the documentary evidence and claimants have established the income of the deceased. Considering the evidence on record, the monthly income of the deceased is assessed at Rs.20,100/- at the time of accident.

18. As guided in ***National Insurance Co.Ltd. V/s. Pranay Shethi, reported in 2017 ACJ 2700(SC),*** addition of 40% should be added into the existing income of the deceased at the time of his death to calculate the loss of future prospects considering the fact that the deceased's age at the time of accident was below 40 years. Deceased was bachelor at the time of accident. So, 1/2 amount of the deceased's income is required to be deducted for his personal expenditures as guided in ***National Insurance Co.Ltd. V/s. Pranay***

Shethi (supra).

19. The mathematical calculation would stand as under:-

Rs.20,100/- X 40% = Rs.8040/-. Thus, Rs.20,100 + Rs.8040 = Rs.28,140/-. Thus income of the deceased would reach to Rs.28,140/- per month. Thereafter, 1/2 amount i.e. Rs.14,070/- (Rs.28,140/2) is deducted from his actual monthly income as personal expenses of deceased. Thereafter the amount that would come in the share of the dependents would be Rs.14,070/- (Rs.28,140 – Rs.14,070). Calculating the amount of compensation for future dependency loss based upon above figures would reach to Rs.1,68,840/- (Rs.14,070 X 12 Months). Thus, Rs.1,68,840/- (Yearly Income) X 18 (Multiplier) = **Rs.30,39,120/-**.

20. In the case of ***National Insurance Co. Ltd. V/s. Pranay Shethi (Supra)***, the Hon'ble Apex Court has provided guidelines for grant of compensation under conventional heads and further held that such amount of compensation should be enhanced at the rate of 10% at every three years. Deceased was bachelor at the time of accident. In such circumstances, this Tribunal grants **Rs.36,000/-** towards the conventional heads i.e. loss of estate and funeral expenses to the applicants. Moreover, the Hon'ble Supreme Court held in the case of ***MAGMA GENERAL INSURANCE CO. LTD. V/s. NANU RAM ALIAS CHUHRU RAM & ORS, CIVIL APPEAL No.9581 OF 2018, 18th SEPTEMBER, 2018*** that, in case where the parents have lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial consortium. In this circumstances, the Tribunal grants ***Rs.40,000/-*** towards Filial Consortium to applicant nos.1 & 2 who are parents of the deceased as well as **Rs.40,000/-** to

the applicant nos.3 who is brother of the deceased.

21. In view of above, the claimants are entitled to the following amounts.

Particulars	Amount
Compensation for future dependency loss	Rs.30,39,120/-
Conventional amount i.e. Funeral Expenses & Loss to Estate & Filial Consortium	Rs.1,16,000/-
Total Compensation	**Rs.31,55,120/-**

22. Further this Tribunal awards 9% p.a. interest on the awarded amount from the date of petition till realization with cost of proceedings.

LIABILITY:-

23. Opponent nos.1, 2 & 3 are driver, owner and insurer of the Ecco car respectively. Driving License of the driver of the Ecco car is on record. Opponent no.2 is the owner of the Ecco car as per R.C. Book and looking to the insurance policy of the Ecco car, it is duly insured with opponent no.3. Looking to the insurance policy of the Ecco car, there is no breach of any terms & conditions or non-coverage of insurance as on date of accident and the claimants are entitled to receive compensation from the opponents.

24. Opponent nos.4, 5 & 6 are driver, owner & insurer of the truck respectively. Driving License of the driver of the truck is on record. Opponent no.5 is the owner of the truck as per R.C. Book and looking to the insurance policy of the truck, it is duly insured with opponent no.6. The learned advocate for the insurance company has contended that the driver of the truck was not holding valid driving license at the time of accident. It is submitted that the said truck is a Heavy Goods Commercial Vehicle with a GVW of 11,990 kg.

Under the M.V. Act, a specific endorsement/authorization for Transport Vehicle (HGV/TRANS) is mandatorily required to drive such a vehicle. The driver did not hold any valid and effective authorization to drive the class of vehicle involved in the accident at the time of accident. The learned advocate for the insurance company has examined the driver of the truck vide Ex.69. But looking to the chief as well as cross-examination of the driver of the truck, the learned advocate for the insurance company has not asked him anything regarding his driving license. The learned advocate for the insurance company has not been able to establish that the driver of the truck was not holding valid driving license at the time of accident as transpires looking to the chief and cross-examination of the driver of the truck. Moreover, the learned advocate for the insurance company has not examined the RTO Officer to prove if the driver of the truck was holding valid driving license at the time of accident to drive the said vehicle. The learned advocate for the insurance company has just raised the contention regarding the validity and authorization in respect of driving license of the driver of the truck in the written arguments but he has not produced any cogent evidence to prove this fact. In such circumstances, there is no substance in the argument of the learned advocate for the insurance company that the driver of the truck was not holding valid driving license at the time of accident. In such circumstances, the insurance company cannot be absolved from the liability to pay compensation. The insurance policy of the truck is on record and looking to the said insurance policy, it seems there is no breach of any terms & conditions or non-coverage of insurance as on date of accident.

25. 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 claimants is hereby **Partly *Allowed*** with costs and interest.
2. Applicants to recover **Rs.31,55,120/- (Rs. Thirty One Lac Fifty Five Thousand One Hundred Twenty Only)** from the opponent nos.1 to 6 **(opponent nos.1 to 3 shall pay 80%, whereas opponent nos.4 to 6 shall pay 20% of the total amount of compensation)** 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. The 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 : 06/05/2026
Place: Patan

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

(CRD)