

Received on	06/11/2024		
Registered on	06/11/2024		
Decided on	22/04/2026		
Duration	Years	Months	Days
	01	05	16

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

**MACP No.211/2024
Exh.38**

Applicants :-

Legal heirs of deceased Sachinji Pravinji Thakor,

1. Thakor Pravinji Nagji,
Age:39 yrs., Occupation:Labourer,
(Father of the deceased)
 2. Thakor Jashiben Pravinji,
Age:36 Yrs., Occupation:Labourer,
(Mother of the deceased)
 3. Thakor Manjulaben Pravinji,
Age:16 Yrs., Occupation:Study,
(Sister of the deceased)
 4. Thakor Roshniben Pravinji,
Age:10 Yrs., Occupation:Study,
(Sister of the deceased)
- Applicants no.3 & 4 through their guardian-Father i.e. applicant no.1.
All R/o Kanesra, Ta.Siddhpur, Dist.Patan.

V E R S U S

Opponent:-

Depot Manager, Mehsana S.T.Division, Modhera High way
Cross Road, Mehsana, Ta. & Dist.Mehsana.
(Owner of S.T.Bus No.GJ-18-ZT-1694)

**CLAIM PETITION U/S 166 OF THE MOTOR VEHICLE
ACT FOR COMPENSATION OF Rs.20,00,000/-**

Appearance:-

For the applicants	Ld.Adv.Mr.B.G.Thakor
For the opponent	Ld.Adv.Mr.M.S.Shaikh

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

1. Present claim petition is preferred under Section 166 of the Motor Vehicle Act, 1988 (hereinafter referred as 'M.V.Act'), for getting compensation of Rs.20,00,000/-.

2. Present claim petition emanates from the following facts :-.

On 16/9/2024 around 3:45 pm, deceased Sachinji parked rickshaw on the side of the road and went to the shop on the side of the road to buy some food. Meanwhile, a Government S.T.Bus was coming from Satbasana side and drove at a high speed on the wrong side, endangering human life. Deceased Sachinji got into the front Tyre of the bus and his head got crushed and also got severe bodily injuries and succumbed to injuries. Therefore, accident took place due to sole negligence on the part of driver of S.T.Bus No.GJ-18-ZT-1694.

3. The notice of the claim petition have been served upon the opponents.

3.1 Opponent-GSRTC appeared through his Id.Advocate and filed written statement vide Exh.8, wherein denied facts of the claim petition, age and income of the deceased also been denied.

4. Applicants have produced following oral as well as documentary evidences.

Oral Evidence:

Sr. No.	Description of Document	Exh.
1	Deposition of applicant no.1	15

Documentary Evidence:

Sr. No.	Description of Document	Exh.
1	True Copy of FIR	16
2	True Copy of Panchnama of offence place	17
3	True Copy of Inquest Panchnama	18
4	True Copy of P.M.Report	19
5	Copy of driving licence	20
6	Copy of adhar card of deceased	21
7	Closing Pursis	22

5. Opponent has produced following oral as well as documentary evidences.

Oral Evidence:

Sr. No.	Description of Document	Exh.
1	Witness Thakor Amruji Kalaji	29

Documentary Evidence:

Sr. No.	Description of Document	Exh.
1	Copy of Accident Analysis Report	31
2	Closing Pursis	30

6. Following issues have been framed vide Exh.9.

1. Whether it is proved that the applicant sustained injuries/died on account of rashness and negligence driving on the part of the driver of the involved vehicle in the accident?
2. What amount the claimants are entitled to, by way of

compensation and from which of the opponents?

3. What order and award ?

7. My findings to the above issues are as under :

1. In affirmative.
2. Partly in affirmative.
3. As per final order.

8. Ld.Advocate on behalf of applicant has filed written argument vide Exh.37, wherein re-iterated the facts of the claim petition and argued that accident took place due to sole negligence on the part of driver of S.T.Bus No.GJ-18-ZT-1694 and relied upon following judgments;

1. 1999(2) GCD 1463 Hon'ble Supreme Court.
2. 1981 ACJ 428 Hon'ble Haryana Chandigarh High Court.
3. 1981 ACJ 460 Hon'ble Bombay High Court.
4. 1977 ACJ 343 Hon'ble Supreme Court.
5. 1986 ACJ 1070 Hon'ble Gujarat High Court.

And requested to consider income of the deceased minor as per the judgment of Hon'ble Kerala High Court decided in MACP No.4172/2019.

:- REASONS :-

Issue No.1

9. 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 reasonable doubt. Above referred ratio is laid down by Hon'ble Apex Court in the cases of **i) Bimla Devi V/s H.R.T.C., reported in AIR 2009 SC 2819 and ii) Parmeshwari Devi v/s Amir Chand, reported in 2011(11) SCC 635.**

10. In support of the claim petition, applicants have produced certified copy of FIR at Exh.16, in which the complainant has stated that he and his son Ronakji and his nephew Sachinji alias Kaluji Praveenji Thakor and the rickshaw owner of his village Bharatji Sureshji had left their house to visit Ambaji by taking a rickshaw bearing registration no.GJ-24-W-4982. Since there was heavy traffic on the way due to the Abaji Bhadarvi Poonam Maha Mela, they all left Danta Bazaar to return to their house. During this time, they parked the rickshaw in front of the bus station of Bhemal village at around 3:45 am and his son Ronakji and his nephew Sachin alias Kaluji, both of them went to the shop on the opposite side of the road to buy snacks of food. He and rickshaw driver(owner)Bharatji both sat in the rickshaw and his son and the deceased Sachin alias Kaluji were returning from the shop towards rickshaw. Meanwhile, a Government ST bus was coming from Satlasana side. While crossing the road, taking the bus on the wrong side, his nephew Sachin hit and he got into the front Tyre of the bus. Bharatji and he ran and when they went, they saw that his nephew Sachin's head got under the tyre of the bus and his head was completely crushed. His nephew died on the spot.

10.1 Looking to the copy of place of panchnama vide Exh.17, it transpires that the accident took place at Bhemal Bus Stand towards highway road of Satlasana to Danta.

10.2 Applicant No.1 has filed his affidavit in form of chief examination vide Exh.15, wherein he re-iterated the facts of the

claim petition and Id.Advocate of opponent has cross examined the applicant no.1, wherein he has deposed that he has not seen the accident. He has deposed that he has not given complaint.

10.3 Considering the evidence, police papers, it is transpires that when the accident took place at that time Fair of Bhadarvi Poonam was ongoing at Ambaji and there were traffic. Therefore, it is the duty of driver of big vehicle like S.T.Bus, should drive his bus in moderate speed but he did not to do so, therefore, accident took place in which minor Sachin came under the tyre of S.T.Bus and lost his life. Driver of S.T.Bus no.GJ-18-ZT-1694 has filed affidavit in form of chief examination as a witness on behalf of opponent-GSRTC at Exh.29. Ld.Advocate on behalf of applicant has cross examined the witness, in which he has admitted that after the accident took place he left his bus and flee away from the spot. He has admitted that police complaint filed against him at Danta police station. He has admitted that a criminal case is going on at JMFC Court, Danta. Considering the aforesaid discussion, opponent could not proved that the driver of S.T.Bus No.GJ-18-ZT-1694 was not negligent for causing the accident. Hence, I am of the opinion that driver of S.T.Bus bearing registration No.GJ-18-ZT-1694 was solely negligent for causing the accident. In view of above referred discussion, I decide **issue No.1 in affirmative.**

Issue No.2 :

11. It is the case of the claimants that at the time of accident, the deceased was minor aged about 12 years, and was studying at

the time of accident. Applicants have produced copy of Adhar card at Exh.21, wherein birth date of deceased is mentioned as 28/10/2012 and accident occurred on 16/9/2024 and opponents have not given oral evidence to rebuttal this facts. Therefore, deceased minor Sachin was aged about 11 years 10 months and 19 days old. In the case of **2013 STPL(Web) 680 SC – Kishan Gopal & Anr. V/s. Lala & Ors.** wherein, the Hon'ble Supreme Court held that, "We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non-earning member prior to the date of accident was fixed at Rs.15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at Rs.30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of Sarla Verma V. Delhi Transport Corporation, the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC v. Susamma Thomas, which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000/- under conventional heads. In our view, for the aforesaid reasons the said

amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."

12. Here in present case, minor Sachin was aged about 11 years 10 months and 19 days old, thus, the age of deceased minor is assessed 11 years 10 months and 19 days old at the time of accident. Looking to the petition, wherein applicant No.1's age was mentioned as 39 years old at the time of filing of petition on 6/11/2024 and looking to the oral evidence of applicant No.1 i.e. father of the deceased at Exh.15, wherein his age is also mentioned as 39 years and looking to the petition and evidence, the age of applicant No.2 i.e. Mother of deceased is mentioned as 36 years on date of filing and to rebuttal this fact opponents have also not given oral evidence. Therefore, considering evidence, facts and circumstances of present case, I have assessed age of parents between 36 to 39 years and applying the legal principles laid down in the case of *Sarla Verma v. Delhi Transport Corporation*, the multiplier of 15 can be applied to the multiplicand. Thus, claimants are entitled to get Rs.30,000/- x 15 = **Rs.4,50,000/-**.

13. In case of **Pranay Sethi (supra) & Magma General Insurance Co. Ltd.**, Hon'ble Supreme Court interpreted "consortium" to be a compendious term, which encompasses spousal consortium, parental consortium, as well as filial consortium. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the

deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. Parental consortium is granted to the child upon the premature death of a parent, for loss of parental aid, protection, affection, society, discipline, guidance and training. Filial consortium is the right of the parents to compensation in the case of an accidental death of their minor child or unmarried son or daughter.

14. In present petition, deceased was Minor child and considering evidence of present case and ratio of the above judgment, the applicants No.1 & 2 are entitled for compensation under the head of filial consortium, whereas applicants no.3 & 4 are siblings i.e. sister of the deceased, therefore, they are not entitled for compensation. Only applicants No.1 & 2 are entitled to get Rs.40,000/-. Further, Hon'ble Apex Court in the case of **The National Insurance Co.Ltd. Vs. Pranav Shethi Pranay Sethi(Supra)**, held that "61(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. **The aforesaid amounts should be enhanced at the rate of 10% in every three years.**" Therefore, looking to the above direction regarding loss of consortium, it comes to **Rs.44,000/-** to applicants no.1 & 2 under the head of filial consortium and **Rs.16,500/-** under the head of loss of estate and **Rs.16,500/-** towards funeral expenses. In view of the above referred discussion, the applicants are entitled for following amount as compensation :-

Rs.	4,50,000/-	Future loss of dependency.
Rs.	44,000/-	Loss of Consortium
Rs.	16,500/-	Funeral expenses.
Rs.	16,500/-	Loss of Estate.
Rs.	5,27,000/-	Total Compensation

15. Liability:- As per discussion in Issue No.1, wherein driver of S.T.Bus bearing registration No.GJ-18-ZT-1694 was solely negligent for causing the accident. Opponent-Gujarat State Road Transport Corporation [in short "GSRTC"] is owner of the vehicle, therefore, opponent-GSRTC is held liable to pay compensation to the applicants with interest. Further, Id.Advocate of applicants has cited judgments of Hon'ble High Courts and Hon'ble Supreme Court, which I have revered by me.

16. As per the latest decisions of the Hon'ble Supreme Court in case of '**Municipal Corporation of Delhi v/s Association of Victims of Uphar Society**' [2012 ACJ 48(SC)], it would be just and proper to award an interest @ 9% per annum on the compensation awarded in favour of the claimant and therefore, the claimants are entitled to get interest at the rate of **9% p.a.** from the date of filing the present claim petition. In view of above discussion I decide **Issue No.2** is accordingly **partly in affirmative** and following is the order in the interest of justice for **Issue No.3**.

-:: ORDER ::-

1. The present claim petition is hereby **partly allowed**.
2. The **applicants no.1 & 2** are entitled to get

Rs.5,27,000/- [Rs.Five Lacs Twenty Seven Thousand Only] from the present opponent, who is held liable to pay awarded compensation amount to the present applicants no.1 & 2 with the proportionate cost and with simple interest at the rate of 9% per annum on the awarded amount, from the date of the claim petitions till realization.

3. Opponent is 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 after deducting the Court-Fees-Stamp, if any, the remaining amount be disbursed to the **applicants no.1 & 2 in equal Ratio respectively.**

7. Out of the amount coming to the share of the applicants no.1 & 2, 30% of the amount of compensation along with proportionate costs and interest be paid to the claimants through NEFT/RTGS in their respective bank accounts after due verification and remaining 70% of the amount of compensation along with proportionate costs and interest be invested in any nationalized Bank in the Fixed Deposit Scheme/plan for the

period of Five (5) years in the name of applicants no.1 & 2.

8. The above investment of the applicants shall carry the following terms and conditions :-

- a] Interest on the Fixed Deposit investment as and when becomes due shall be paid to the applicant.
- b] No loan, overdraft or advance known by any other name or nomenclature shall be made available on the said FDRs and the bank shall not allow any encumbrance on the said F.D.R.
- c] The Bank shall not permit the applicant to withdraw the said amount prior to its maturity or without prior permission of this Tribunal.
- d] The Bank shall intimate to this Tribunal the particulars of the investment viz., number of Fixed Deposit Receipt, name of holder and the date of maturity immediately after issuance of Fixed Deposit Receipt in this case.
- e] At the end of the aforesaid period, concerned Bank shall pay the amount of the fixed deposit receipts upon maturity to the applicant, for which the order of this Tribunal will not be required.

9. The disbursal of compensation amount shall be made directly to the credit of the bank account of the **applicants no.1 & 2**, 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	

10. 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.

11. 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.

12. 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.**

13. Award be drawn accordingly.

Signed & Pronounced in open Court today.

Date :22/04/2026
Place: Patan

[Mahammadirfan A. Shaikh]
JUDGE, M.A.C.T(3rd Auxi.), PATAN
U.I.Code No.GJ00892