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Filed On : 13/04/2022  
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Decided On : 06/03/2026  
Duration : Years Months Days  
3 10 23

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL –  
MAIN, AT ::::: SURENDRANAGAR.**

**M A C Petition No. 39/2022**

**Exh.56**

<b><u>Applicant:</u></b>	
	Ashokbhai Gagjibhai Jaga, Age about – 25 years, Occu. – labour work, Res.At-Narali, Tal.Dhrangadhra, Dist.Surendranagar.

**VERSUS**

<b><u>Opponents :</u></b> <b>Tavera vehicle No.GJ-06-EQ-3046 ;</b>	
<b>1.</b>	Owner ; Madhuben Bharatsinh Bariya, Res.At ; B-52, Samarpan Society, Alipura, Post. Bodeli, Tal.Sankheda, Dist.Vadodara.
<b>2.</b>	Insurance Co. The New India Insurance Co. Ltd., Mega Mall, Opp. Milan Talkies, Surendranagar.

**Appearance:**

Mr.C.H.Bhatt, L.A. for applicant.  
Opponent No.1 served but absent.  
Mr.B.K.Shah,L.A.,For the Opponent No.2

**Claim For Compensation of Rs.3,00,000/- U/s.166 of  
The Motor Vehicle Act,1988.**

**:: JUDGMENT ::**

1. The applicant has preferred the present Claim Petition u/s.166 of Motor Vehicle Act for claiming compensation of Rs.3,00,000/- in respect of the injuries sustained by him in a motor vehicular accident which occurred on 11/09/2022 along with costs and interest at the rate of 18% p.a. from the date of the claim petition till realization.

2. The brief facts giving rise to the present claim petition are as under ;

That on 11/09/2022 at about 5.30 p.m. the applicant and one Shambhubhai Dashrathbhai Jaga were traveling as a pillion rider on motorcycle No.GJ-13-AF-0058 being driven by Munnabhai Dhirubhai Jaga and at that time, when they reached near Kuda cross roads on Ahmedabad-Halvad National Highway within the limits of Dhrangadhra Taluka Police Station, the driver of Tavera vehicle No. GJ-06-EQ-3046 came driving the said vehicle in a rash and negligent manner with excessive speed and dashed the Tavera vehicle with the motorcycle on which the applicant was traveling as a pillion rider. It is the case of the applicant that the accident took place on account of the rash and negligent driving on the part of the Tavera vehicle driver and on account of the injuries sustained by him, the applicant has suffered future economic loss as well as actual loss of income and has also suffered pain, shock and suffering and has spent a huge amount on medical treatment, special diet, transportation and attendant charges and, therefore, on all eligible heads, the applicant has claimed Rs.3,00,000/- by way of compensation

from the opponents.

3. The opponents were duly served with the notices, but the opponent No.1 has remained absent and on behalf of the opponent No.2 learned advocate Mr.B.K.Shah has appeared. The opponent No.2 has filed the written statement at Exh.31 denying all the contents of the claim petition including the negligence on the part of the Tavera vehicle driver and age, income, compensation claimed and injuries sustained by the applicant. It is also contended that the accident occurred due to rash and negligent driving on the part of the motorcyclist and the Tavera vehicle driver was not holding a valid and effective driving licence to drive the said vehicle at the time of the accident and hence, the opponent No.2 is not liable to pay any amount of compensation to the applicant and ultimately the opponent No.2 has prayed for dismissal of the claim petition against the said opponent.

4. On behalf of the parties, the following oral as well as documentary evidences are produced ;

**Oral Evidence Produced by the Applicant :**

<b>Exh.No.</b>	<b>Particulars of Document</b>
Exh.36	Affidavit of the applicant

**Documentary Evidence Produced by the Applicant :**

<b>Exh.No.</b>	<b>Particulars of Document</b>
Exh.39	Copy of FIR
Exh.40	Copy of panchnama of the place of accident
Exh.41	Copy of injury certificate issued by C.U.Shah Medical College and Hospital,

	Surendranagar.
Exh.42	Copy of insurance policy of the offending vehicle
Exh.43	Copy of R.C.Book of the offending vehicle
Exh.44	Copy of Aadhar Card of the applicant
Exh.45	Copy of school leaving certificate of the applicant
Exh.46	Discharge card
Exh.47	Disability certificate
Exh.48	List of medical expenses with bills/receipts.

5. In view of the pleadings of the parties, the following issues have been framed at Exh.12 for determination of this petition ;

**ISSUES :-**

1. Whether it is proved that the claimant sustained injuries on account of the rashness or negligence in driving on the part of the drivers of the vehicles involved in the accident ?
2. What amount, if any, the claimant is entitled to by way of compensation and from which of the opponent?
3. What order ?

6. My findings on the above issues are as under :-

**FINDINGS :-**

1. In the affirmative ; 75% negligence on the part of the driver of Tavera vehicle No. GJ-06-EQ-3046 and 25% negligence on the part of the driver of motorcycle No.GJ-13-AF-0058.
2. In the affirmative and as per final order.
3. As per final order.

**:: REASONS ::**

**Issue No. 1 :**

7. I have heard learned advocate Mr.C.H.Bhatt for the applicant, learned advocate Mr.B.K.Shah for the opponent No.2. The opponent No.1 has remained absent and there was no submission on behalf of the opponent No.1 at the time of hearing.

8. Learned advocate Mr.C.H.Bhatt for the applicant has submitted that at the time of the accident, the applicant was traveling as a pillion rider on motorcycle No.GJ-13-AF-0058 and the accident occurred between the said motorcycle and Tavera vehicle No. GJ-06-EQ-3046, which was being driven by the driver of the said Tavera vehicle in a rash and negligent manner and hence, the applicant cannot be faulted with and has proved that the accident took place on account of the rash and negligent driving on the part of the Tavera vehicle driver and in the said accident, he has sustained grievous injuries. Per contra, learned advocate Mr.B.K.Shah for the opponent No.2 has submitted that admittedly, both the vehicles came from the opposite directions and there was a head on collision between the vehicles involved in the accident. That the accident occurred during day time and in the middle of the road and there were two pillion riders traveling on the motorcycle at the time of the accident. In a nutshell, as per submission of learned advocate Mr.B.K.Shah, the motorcyclist was driving his vehicle rashly and negligently and therefore he may be held more liable for the accident.

9. In this matter, as per the claim petition at Exh.1 and deposition of the applicant at Exh.36, on 11/09/2022 at about

5.30 p.m. the applicant and one Shambhubhai Dashrathbhai Jaga were traveling as a pillion rider on motorcycle No.GJ-13-AF-0058 being driven by Munnabhai Dhirubhai Jaga and at that time, when they reached near Kuda cross roads on Ahmedabad-Halvad National Highway within the limits of Dhrangadhra Taluka Police Station, the driver of Tavera vehicle No. GJ-06-EQ-3046 came driving the said vehicle in a rash and negligent manner with excessive speed and dashed the Tavera vehicle with the motorcycle on which the applicant was traveling as a pillion rider. That the accident took place on account of the rash and negligent driving on the part of the driver of the Tavera vehicle.

9.1 The applicant was cross-examined by the learned advocate for opponent No.2, wherein he admitted that there were three persons on the motorcycle and that he was seated at the rear. However, he denied that the accident occurred in the middle of the road and that the car driver was driving slowly and carefully, and further denied that the accident occurred due to any negligence on the part of the motorcyclist.

10. In support of the claim petition and deposition, the applicant has produced the copies of the FIR at Exh.39, panchanama of the place of the accident at Exh.40 and injury certificate at Exh.41 and on perusal of the FIR at Exh.39, it transpires that the said complaint has been filed against the car driver due to his rash and negligent driver.

11. Upon hearing the learned advocates for the

respective parties and upon careful consideration of the pleadings, oral evidence, and documentary evidence on record, it is evident that the accident in question occurred on 11/09/2022 at about 5:30 p.m. near Kuda Cross Roads on Ahmedabad–Halvad National Highway within the jurisdiction of Dhrangadhra Taluka Police Station. It is pertinent to note that though the applicant has alleged that the accident occurred due to sheer rash and negligent driving on the part of the car driver, during cross-examination, the applicant has admitted that two persons including the applicant were travelling as a pillion riders on the motorcycle at the time of the accident and that he was seated at the rear. Carrying more than the permissible number of persons on a two-wheeler is a clear violation of traffic rules and reflects lack of due care and caution on the part of the motorcyclist. Such overloading affects the stability and control of the vehicle and substantially increases the risk of accident.

12. It has further come on record that the accident was a head-on collision between both vehicles and occurred during daylight hours on a State Highway, where visibility was clear and both drivers were expected to exercise due caution, maintain proper control, and keep to their respective sides of the road. The very nature of the frontal collision indicates that the motorcyclist also failed to take necessary precautions to avoid the impact.

13. Though the applicant has denied that the accident occurred in the middle of the road and has attempted to place entire blame upon the driver of the Tavera vehicle, the admitted fact of two persons riding on the motorcycle as pillion riders and

the manner in which the accident occurred clearly establish that the motorcyclist had also contributed to the occurrence of the accident. At the same time, the FIR, oral evidence, and surrounding circumstances sufficiently prove that the driver of the Tavera vehicle was driving rashly and negligently and bears the major responsibility for causing the accident.

14. Hence, considering all these aspects, this Tribunal is of the considered view that the accident occurred due to negligence of both the vehicle drivers, wherein seventy-five percent negligence is attributable to the driver of Tavera vehicle No. GJ-06-EQ-3046 and twenty-five percent negligence is attributable to the driver of motorcycle No.GJ-13-AF-0058. Hence, the driver of Tavera vehicle No. GJ-06-EQ-3046 is held 75% and the driver of motorcycle No.GJ-13-AF-0058 is held 25% liable for the accident and in the said accident, the applicant has sustained grievous injury as per the medical certificate. Hence I answer issue No.1 in the affirmative to the aforesaid extent.

### **ISSUE No.2.**

15. Learned advocate of the applicant Mr.C.H.Bhatt has submitted that considering the income of the applicant more than Rs.6000/-, injuries sustained by him and medical evidence on record, at least Rs.3,00,000/- may be awarded to the applicant under this petition. Per contra, as per submission of learned advocate Mr.B.K.Shah for the opponent No.2 considering notional income of the applicant and injuries sustained by him, much amount may not be awarded to the applicant.

**[a] AGE :**

16. In the claim petition and deposition at Exh.36, the applicant has stated that at the time of the accident he was 25 years and in support his say, the applicant has produced a copy of his Aadhar Card vide Exh.44, wherein the date of birth of the applicant is mentioned 01/01/1996. In this matter the accident has taken place on 11/09/2022, and hence, the applicant was 27 years old at the time of the accident and hence, the age of the applicant is considered 27 years at the time of the accident.

**[b] DISABILITY ;**

17. The applicant has produced her disability certificate issued by Dr.Parimal M.Doshi, M.S.Ortho. vide Exh.47 wherein, the doctor has opined that the applicant has sustained permanent partial disability 29.5% of both lower limbs due to fracture injury sustained by the applicant, but the applicant has not examined the doctor, who has issued the disability certificate. Hence, in view of the above facts and injuries sustained by the applicant, here in this case, we can safely consider the functional disability of the applicant as  $\frac{1}{2}$  of the disability assessed by the doctor vide certificate at Exh.47. Hence, the functional disability of the applicant is considered 15% for just compensation.

**[c] INCOME ;**

18. In this matter, the applicant has deposed on oath at Exh.36, wherein, in his examination-in-chief, he has stated that at the time of the accident he was earning Rs.6,000/- per month by doing labour work. In his cross-examination, he has admitted that

he was receiving daily wages of Rs.150/-, however, he has categorically denied the suggestion that he had falsely stated his monthly income as Rs.6,000/- at the time of the accident. It is pertinent to note that the income alleged by the applicant, i.e., Rs.6,000/- per month as on the date of the accident dated 11/09/2022, is lower than the minimum wages of Rs.9,133.80 payable to an unskilled labourer prevailing at the relevant time. Hence, the income of the applicant can safely be considered at Rs.6,000/- per month at the time of the accident. Since the applicant was 27 years old at the time of the accident and falls within the age group below 40 years, as per the settled principles, future prospects at the rate of 40%, amounting to Rs.2,400/- per month, are required to be added. Accordingly, the total prospective monthly income of the applicant comes to Rs.8,400/-

**[d] MULTIPLIER ;**

19. So far as the multiplier is concerned, as held herein above, the applicant was 27 years old at the time of the accident and falls within the age group of 26 to 30 and therefore, as per the decision rendered by Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation reported in 2009 ACJ 1298**, the applicant is entitled for the multiplier of 17.

**[e] CALCULATION OF COMPENSATION UNDER THE HEAD OF LOSS OF FUTURE INCOME ;**

20. As stated above, monthly income of the applicant is considered at Rs.8,400/- and considering the functional disability of 15%, and applying the multiplier of 17, the future loss of income would come at Rs.2,57,040.40 [ Rs.8,400/- x 15% x 12

months x 17 multiplier ] and Rs.2,57,040/- is awarded to the applicant under the head of future loss of income.

**PAIN, SHOCK, SUFFERING AND SPECIAL DIET, TRANSPORTATION AND ATTENDENT CHARGES ;**

21. In this matter, the applicant has deposed on oath at Exh.36 that he has sustained serious injuries and permanent partial disablement. That on account of the injuries sustained by him, he was treated at C.U.Shah Medical College and Hospital, Surendranagar as indoor patient. That he also took follow up treatment for a long time and has also spent a huge amount for special diet , transportation and attendant charges and on account of the injuries sustained by him, he has suffered pain, shock and suffering and has also suffered permanent partial disablement.

22. In support of his deposition, the applicant has produced the discharge card issued by C.U.Shah Medical College and Hospital, Surendranagar at Exh.46 for the injuries sustained and treatment taken by him in the said hospital from 11/09/2022 to 20/09/2021 vide Exh.46. The applicant has also produced the disability certificate in respect of fracture injuries sustained by him at Exh.47 and hence, considering the injuries sustained by the applicant and the period of treatment of the applicant in the aforesaid hospital, the applicant is awarded Rs.10,000/- towards pain, shock & suffering and Rs.8,000/- towards attendant charges and special and transportation charges.

**ACTUAL LOSS OF INCOME :**

23. The applicant has claimed an amount under the head

of actual loss of income and has produced the disability certificate at Exh.47 and from the said evidence it appears that the claimant has sustained fracture injury and he has also taken treatment as an indoor patient in the aforesaid hospital. Considering the said facts, it becomes clear that claimant must not have worked for about two months and therefore, he is entitled for Rs.12,000/- towards actual loss of income. (Rs.6,000/- x 2 months).

#### **MEDICAL EXPENDITURE :**

24. The applicant has stated in the deposition that he has spent a huge amount for his medical treatment and has produced any medical bills/receipts worth Rs.3,635/- vide Exh.48. Hence, in view of the said medical bills produced by the applicant, injuries sustained by the applicant, medical evidence on record and treatment taken by the applicant, it would be just and proper to award Rs.3,700/- to the applicant under the head of medical expenses. In view of above the applicant is entitled for following amount as compensation :

Future loss of income	Rs. 2,57,040/-
Pain , Shock and Suffering	Rs. 10,000/-
Special Diet , Attendant and Transportation charges	Rs. 8,000/-
Actual loss of income	Rs. 12,000/-
Medical expenses	Rs. 3,700/-
<b>Total Compensation</b>	<b>Rs 2,90,740/-</b>
<b>Less : 25% negligence on the part of the driver of motorcycle , who has not been joined as a party in the claim petition</b>	<b>- Rs.72,685/-</b>
<b>Awardable Amt. of</b>	<b>Rs.2,18,055/-</b>

Compensation	i.e. Rs.2,18,100/-
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**LIABILITY ISSUE:**

25. As held in issue No.1, the driver of Tavera vehicle No. GJ-06-EQ-3046 was liable for the happening of the accident to the aforesaid extent and the opponent Nos.1 and 2 were the owner and insurer respectively of the said vehicle at the time of the accident as per the registration and insurance particulars, the opponent Nos.1 to 2 are held liable jointly and severally to pay the amount of compensation to the applicant.

26. That the applicant has asked for interest at the rate of 18% p.a, but in view of the decision of the Hon'ble High Court of Gujarat in **R/First Appeal No.2460/2021** with **R/First Appeal No.2461/2021** in the case of **New India Assurance Co. Ltd. v. Rajivkumar Omprakash Sultaniya**, the applicant in this case would be entitled to get the interest at the rate of 9% p.a., from the date of claim petition till realization in both the petitions, hence, I answer Issue no.2 accordingly.

**ISSUE No.3 ;**

27. In view of above discussions, in respect of the issue No.3 , I pass the following order :-

**-:: ORDER ::-**

The present claim petition is hereby partly allowed.

The claimant is entitled to recover an amount of Rs.2,18,100/- (Rupees two lakhs eighteen thousand one hundred

only) with the proportionate cost and with interest at the rate of 9% per annum, from the date of the claim petitions till realization from the opponent Nos.1 to 2 jointly and severally..

The opponent Nos.1 to 2 are hereby directed to deposit the aforesaid amount of award after deducting the amount of interim compensation, if any paid u/s.140 of M.V. Act, directly by RTGS or NEFT to the following Bank Account of this Tribunal within 30 days from the date of this order ;

Account Name	Motor Accidents Claims Tribunal, Surendranagar.
Account No.	40714211695
Name of Bank	State Bank of India
Name of Branch	Vadipara, Surendranagar.
IFSC Code	SBIN0060101
MICR Code	363002002

The opponents shall instruct their Bank to remit the payment with the following information ;

MACP No.	
Claims Tribunal Name, Place	
Date of Award	
Compensation Amount	
Income Tax Deducted at Source	
Bank Transaction Reference No./ Unique Transaction Reference (UTR) No.	
Name of Bank	
Name of Insurance Co.	

On such deposits being made, the opponents shall submit a letter to the Office of the Claims Tribunal enclosing a copy of the bank advice in the prescribed format as above.

The opponents making such deposit, shall also send a copy of the aforesaid payment advice to the Claims Tribunal

concerned and serve a copy of the same on the applicant or his advocate as the case may be.

Deficit Court Fees stamp, if any, be recovered from the awarded amount.

After above deductions, out of the remaining amount, 60% amount be kept in Fixed Deposit Receipt in the name of the applicant in any nationalized bank of his choice, for a period of five years and remaining 40% amount be paid by NEFT or RTGS directly in the bank account of the applicant after due verification.

The concerned Bank is directed not to grant any loan, advances or withdrawal against the said FDR without obtaining prior permission of this Tribunal. However, the applicant will be at liberty to withdraw the periodical interest accrued on the said FDR.

Opponents to bear their own cost and to pay the cost to the applicant.

Award be drawn accordingly.

Pronounced in the open court to-day on this **6<sup>th</sup>** **day of**  
**March, 2026.**

Date : **06/03/2026**  
Place: Surendranagar.

**(KAILASNATH R. UPADHYAY)**  
Chairman, MACT (Main),  
Surendranagar.  
(GJ00333)