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Duration : Years Months Days
1 8 3

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

M A C Petition No.60/2024

Exh.37

<u>Applicant:</u>	
	Veljibhai Bharubhai Chorasiya (Parmar), Age about –65 years, Occu. ; Agricultural labor , Res. At ; <i>Lalji Maharaj Ni Jagya</i> , Rajsitapur, Tal.Dhrangadhra, Dist.Surendranagar.

VERSUS

<u>Opponents :</u> Car No.GJ-13-N-4462 ;	
1.	Driver cum owner ; Jaypalsinh Mahipatsinh Solanki, Age about- 24 years, Res.At ; Behind Ramji Mandir, Vadla, Tal.Wadhwan, Dist.Surendranagar.

Appearance:

Mr.N.D.Dadresa,L.A. For applicant.

Mr.J.B.Belim,L.A. For opponent No.1

**Claim For Compensation of Rs. 2,50,000/- U/s.164(1) of
The Motor Vehicles Act,1988.**

:: JUDGEMENT ::

1. The claimant has filed the present claim petition under Sec. 164(1) of the M.V. Act, 1988 Act for the recovery of compensation of Rs.2,50,000/- for the injuries caused to him in the alleged vehicular accident which was occurred on 20/01/2024, along with the costs and interest @ 12% p.a., from the date of claim petition till realization.

2. The brief facts giving rise to the claim petition are that on 20/01/2024 at about 5:00 p.m. after purchasing tea from a tea stall situated opposite the dispensary of Dr. Bharatsinh Parmar and the High School on Dhrangadhra–Surendranagar Road at Rajsitapur, the applicant was proceeding towards his house as a pedestrian. At that time, Opponent No.1 came driving Car bearing Registration No. GJ-13-N-4462 in a rash and negligent manner and dashed the said car against the applicant. As a result thereof, the accident occurred and the applicant sustained grievous injuries. That the accident took place on account of the negligence on the part of the Car driver i.e. opponent No.1, but the said issue is not relevant as the claim petition is filed u/s.164(1) of the M.V.Act. That due to serious injuries sustained by him, he has suffered future loss of income, pain, shock and suffering and has also spent a huge amount on medical treatment, medicines, special diet, transportation and attendant charges. Hence, the applicant has filed the claim petition filed u/s.164(1) of the M.V.Act and claimed Rs.2,50,000/- under all eligible heads by way of compensation from the opponent No.1.

3. Notice was duly served upon the opponent No.1 and on behalf of the opponent No.1, learned advocate Mr.J.B.Belim has appeared. The opponent No.1 Car driver has filed the written statement at Exh.11 denying all the material allegations made in the petition including any negligence on his part, age, income and injuries sustained by the applicant in the alleged accident and compensation claimed by the applicant. The opponent No.1 has specifically contended that the accident occurred due to sheer negligence on the part of the applicant and hence, the opponent No.1 is not liable for payment of any compensation to the applicant and ultimately the opponent No.1 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 have been produced on record ;

Oral Evidence Produced by the Applicant :

Exh.No.	Particulars of Document
Exh.24	Affidavit of the applicant

Documentary Evidence Produced by the Applicant :

Exh.No.	Particulars of Document
Exh.27	Copy of telephone incoming register
Exh.28	Copy of FIR
Exh.29	Copy of panchnama of the place of accident
Exh.30	Copy of Charge sheet
Exh.31	Copy of R.C.Book of the car
Exhs.32,33	Copies of medical certificates

Exh.34	Copies of Aadhar Card of the applicant
Mark-23/1	Discharge card
Mark-23/2	Disability certificate

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

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 driver of the vehicle involved in the accident ?

2. What amount if any, the claimant is entitled to by way of compensation and from which of the opponents ?

3. What order ?

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

FINDINGS :-

1. In the affirmative as the applicant has filed the present claim petition u/s.164(1) of the M V Act.

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.N.D.Dadresa for the applicant. The opponent No.1 and his learned advocate have remained absent and there was no submission on the part of the

opponent No.1 at the time of hearing.

8. Learned advocate Mr.N.D.Dadresa for the applicant has submitted that in the claim petition and affidavit, the applicant has categorically stated the involvement of the offending vehicle and the rash and negligent driving of the driver of the offending vehicle involved the accident and injuries sustained by him. Learned advocate Mr.N.D.Dadresa has submitted that the applicant has filed the petition u/s.164(1) of the Act and has proved the involvement of the offending vehicle and grievous injury sustained by him in the accident and hence, the opponent No.1 is liable to pay compensation to the applicant.

9. So far the present claim petition is concerned, since the applicant has filed the present claim petition for compensation u/s.164(1) of M.V.Act, Sec.164(2) of M.V.Act is reproduced as under ;

“164(2) - In any claim for compensation under subsection (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.”

9.1 In view of the above provision, in the present case, so far as the involvement of the offending vehicle in the accident and injuries sustained by the applicant in the accident in question are concerned, it transpires that as per the claim petition and deposition of the applicant at Exh.24, on 20/01/2024 at about 5:00 p.m. after purchasing tea from a tea stall situated opposite

the dispensary of Dr. Bharatsinh Parmar and the High School on Dhrangadhra–Surendranagar Road at Rajsitapur, the applicant was proceeding towards his house as a pedestrian. At that time, Opponent No.1 came driving Car bearing Registration No. GJ-13-N-4462 in a rash and negligent manner and dashed the said car against the applicant. As a result thereof, the accident occurred and the applicant sustained grievous injuries. That the accident took place on account of the negligence on the part of the Car driver i.e. opponent No.1, but the said issue is not relevant as the claim petition is filed u/s.164(1) of the M.V.Act. Moreover, in support of the claim petition and deposition of the applicant, the applicant has produced the copies of FIR at Exh.28, panchnama of the place of accident Exh.29, charge-sheet at Exh.30, injury certificates at Exhs.32,33, R.C.Book of the Car Exh.31 and disability certificate at Mark-23/2.

9.2 It is pertinent to note that though Opponent No.1 has appeared through his learned advocate, neither Opponent No.1 nor his advocate remained present to cross-examine the applicant, nor did they lead any oral or documentary evidence in support of their defence. In view of their continued absence, the right of Opponent No.1 to cross-examine the applicant and to lead evidence came to be closed vide orders passed below Exhs.25 and 36 respectively.

9.3 Moreover, as provided under Section 164(2) of the Motor Vehicles Act, in a claim petition filed under Section 164(1) of the Act, the claimant is not required to plead or establish that the grievous hurt in respect of which the claim has been made

was due to any wrongful act, neglect or default of the owner of the vehicle concerned or of any other person. Thus, proof of negligence is not a condition precedent for grant of compensation under the said provision, and the claim is required to be adjudicated on the basis of the statutory “No Fault Liability” principle.

9.4 Hence, in view of the aforesaid oral as well as documentary evidence adduced by the applicant, considering the provisions of Sections 164(1) and 164(2) of the Motor Vehicles Act, the applicant has proved the involvement of the offending vehicle and injuries sustained by him in the vehicular accident in question and hence, I answer issue No.1 in the affirmative.

ISSUE No.2 ;

10. Learned advocate of the applicant Mr.N.D.Dadresa has requested to award total compensation of Rs.2,50,000/- prayed for by the applicant.

11. Since, the applicant has filed the present claim petition for compensation u/s.164(1) of M.V.Act, the said Section is reproduced 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 authorised 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.”

12. In the present claimed petition filed by the applicant for the injuries sustained by him in the accident occurred on 20/01/2024, it transpires that the applicant has produced the discharge card at Mark-23/1, disability certificate issued by Dr.Y.D.Solanki at Mark-23/2, and MLC at Exh.33, wherein, the doctor has opined that the applicant has sustained permanent partial disability 24.5% of right shoulder due to fracture of M/3 of humerus right side.

13. Hence, considering the aforesaid grievous injuries sustained by the applicant and medical evidence on record and provision of Sec.164(1) of M.V.Act, in the present case on hand, the applicant is entitled for compensation of Rs.2,50,000/- under all heads. Hence, in the present case on hand, the applicant is awarded compensation of Rs.2,50,000/- under all heads.

Liability Issue ;

14. As held in issue No.1, in the present petition filed u/s. 164(1) of the M.V.Act, the applicant has proved the involvement of Car No.GJ-13-N-4462 in the accident and that in the accident in question he sustained grievous injuries and hence, the opponent No.1 who is the driver cum owner of the vehicle is liable to pay the amount of compensation to the applicant.

15. The applicant has asked for interest at the rate of 12% 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, hence, I answer Issue no.2 accordingly.

ISSUE No.3 :

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

-:: ORDER ::-

The present claim petition is hereby allowed against the opponent No.1

The claimant is entitled to recover an amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) with the proportionate cost and with interest at the rate of 9% per annum, from the date of the claim petition till realization from the opponent No.1.

The opponent No.1 is hereby directed to deposit the aforesaid amount of award 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 opponent shall instruct his 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 opponent 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 opponent 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.

Opponent to bear his own cost and to pay the cost to the applicant.

Award be drawn accordingly.

Pronounced in the open Tribunal on this **06th** **day of**
March, 2026.

Date : **06/03/2026**

Place: Surendranagar.

(KAILASNATH R. UPADHYAY)

Chairman, MACT (Main),

Surendranagar.

(GJ00333)