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Exhibit	:	

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL  
(AUXI), SURAT**

**M.A.C. Petition No. 191 / 2019**

**The legal representatives of  
deceased Akshaybhai**

- 1) **Sanjay Mukundabhai Dhakate,**  
Aged : 45 YEARS, Occupation : labour,  
Resi.at: Plot No.117, Ganeshnagar-2,  
Nilgiri, Limbayat, Surat.
- 2) **Durgaben Sanjaybhai Dhakate,**  
Aged: 40 years, Occupation: house work,  
Resi.at: as above.

**...APPLICANTS**

**VERSUS**

**Driver Owner and Insurance Company of  
Motorcycle No. GJ-05-NH-3465**

- 1) **Valmik Ravindrabhai Patil**  
Aged: adult Occupation: Driving,  
Resi.at: Plot No.108, Ganeshnagar 2  
Nilgiri, Limbayat, Surat.

- 2) **Sagar Arunbhai Patil,**  
Aged: adult, Occupation: business,  
Resi.at: Room No.91, Shreenath

... **OPPONENTS**

**Appearance:**

Mr. T.B. Patel N.P.Trivedi, Ld. Advocate for the applicants,  
Mr. S.B.Pawar, Ld. Advocate for Opponent No.1  
Mr. S.C.Maurya, Ld. Advocate for the opponent No.2.

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**CLAIM PETITION UNDER SECTION 166  
OF THE M. V. ACT**

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

1. The present claim petition has been filed under Section 166 of The Motor Vehicle Act in order to get compensation of ₹10,00,000/- with interest from the opponents; Driver and Owner of offending vehicle Motorcycle bearing registration No.**GJ-05-NH-3465**, on account of death of deceased caused due to motor vehicular accident, which occurred on 12.03.2018 at 13.45 p.m.at Maharana Pratap Bridge, Limbayat Godadara, Surat in the jurisdiction of Limbayat Police Station.
2. It is the case of the applicants, on the day of accident 12.03.2018 at 13.45 p.m. the deceased was pillion rider of the motorcycle bearing registration No.**GJ-05-NH-3465**, and the opponent No.1 was driving the said motorcycle and when they reached at the place of occurrence i.e. at

Maharana Pratap Bridge, Limbayat Godadara, Surat, at 13.45 hrs. the Opponent No.1 was driving his motorcycle in full speed, rashly and negligently so as to endanger human life and suddenly slipped the motorcycle and the deceased succumbed to injuries and the offence has been registered against the Opponent no.1 before Limbayat Police Station vide I C.R. No. 72/2018.

3. The necessary process came to be issued and duly served to the opponents. Though notice served, Opponent No.1 has not contested the petition by filing written reply. The Opponent No.2 has filed written statement at Exh.22, wherein denied the facts of the petition. It is further contended that the said accident was not occurred due to negligence on part of the opponent No.1, and ultimately urged to dismiss the claim petition against him.
4. The following issues were framed for determination of the claim petition at Exh.23.
  1. Whether the claimants prove the involvement of the vehicle in this accident, as alleged in the claim petition ?
  2. Whether the claimants prove that deceased sustained injuries because of rash and negligent driving of the driver of the vehicle involved in this accident, that resulted into the death?
  3. Whether the claimants are entitled to any amount of compensation? If yes, to what extent?
  4. Who are liable to pay aforesaid compensation ?

5. What order and award?
5. My findings on the above issues are as under :-
1. In the affirmative.
  2. In the affirmative.
  3. In the affirmative.
  4. As per final order.
  5. As per final order.
6. The applicants have adduced and produced following oral as well as documentary evidence.

No.	ORAL EVIDENCE	Exh.
1	Applicant Sanjaybhai Mukumdabhai Dhakte	27
<b>DOCUMENTARY EVIDENCE</b>		
1	Copy of F.I.R.	29
2	Copy of Panchnama of place of accident	30
3	Copy of Inquest panchnama	31
4	Copy of PM Report	32
5	Copy of chargesheet filed against the opponent no.1	33
6	Copy of Adhar card of deceased	34
7	Copy of RC Book	

6.1 The Learned Advocate for the applicants has filed his closing pursis at **Exh.-35**.

7. The opponent No.1&2 have not produced oral as well as documentary evidence.

8. I have heard the submission made by Learned Advocate for the claimants as well the opponents.

8.1 Ld.Adv. for the claimants has submitted that the deceased was 18 years old at the time of accident and was serving and earning Rs.10,000 per month. The charge-sheet has been filed against the opponent No.1 by the Investigating Officer. The deceased was only bread winner of his family and incurred expenses towards treatment and funeral expenses and urged to allow this petition.

8.2 Ld.Adv. for Opponent no.2 has submitted that the said accident was not occurred due to the negligence on part of the opponent No.1 and therefore, urged to dismiss the claim petition. He has further submitted that the claimants has to prove the contents of the petition by cogent and reliable evidence.

**:: REASONS ::**

**ISSUE NO.1&2 ON THE COUNT OF NEGLIGENCE:-**

9. The Issue no.1 is in respect to the negligence on part of the driver of the offending vehicle; **Motorcycle No.GJ-05-NH-3465**, and negligence means the necessary care and caution requires to be taken by the driver of a vehicle while driving the vehicle on road and it is expected from a prudent driver to do so. It is a settled principle of law that, the burden to prove negligence on the part of driver of offending vehicle is on claimants who assert it. The claimants have to produce effective, cogent and reasonable evidence that, the accident

took place due to negligence on the part of driver of the vehicle involved in the accident. In the claim petition for the accident under the Motor Vehicles Act strict proof of negligence is not necessary. Negligence can be established even on the basis of preponderance of probabilities. It is true that, sometimes direct evidence to prove the negligence is not available, and therefore, principle of *res ipsa loquiter* i.e. things speak for themselves is required to be kept in mind at the time of deciding negligence. This settled principle of law has been frequently and exhaustively discussed in various Judgments of the Hon'ble Superior Courts as well as Hon'ble High Courts.

10. In the backdrop of above discussions, let us now decide whether the driver was negligent in driving the offending vehicle Motorcycle bearing registration No.**GJ-05-NH-3465** on the date of accident as alleged by the claimants.
11. The claimant No.1 Sanjaybhai Mukundabhai Dhakate, father of the deceased has filed his affidavit at **Exh.39**. According to the claimant, the accident occurred on account of rash and negligent driving on part of driver of Motorcycle bearing registration No.**GJ-05-NH-3465**. The Ld.Adv. for the opponents remained absent.
12. To substantiate the claim and version regarding occurrence of the accident, the applicants have produced F.I.R. at **Exh.29**. The complaint filed by applicant No.1 father of the deceased

against the driver of the Motorcycle bearing registration No.**GJ-05-NH-3465**. Upon perusal of the FIR, it appears that on 12.03.2018, his son was going towards hospital for eye checkup at Parvat Patial with the opponent on Motorcycle bearing registration No.**GJ-05-NH-3465** and Motorcycle bearing registration No.**GJ-05-NH-3465**, while returning back, the opponent No.1 was driving his motorcycle with rash and negligent manner and slipped it and thus the deceased sustained serious injuries and succumbed to the injuries. Further, the IO has filed charge-sheet against the Opponent No.1 on conclusion of the investigation and the said chargesheet has been produced at Exh.33.

13. The panchnama of the scene of accident is produced at **Exh.30**. On perusal of the panchnama, it transpires that the panchnama was drawn on 13.3.2018 and the place of accident is Dindoli to Godadara and Godadara to Dindoli over bridge and BRTS road between the bridge. At the place of accident, the dry blood was noted. At the eastern side, there exist Jigneshnagar-1 after 40 ft' road, at the western side, there exist Jidgneshnagar-2, at the northern side, BRTS road exist, at the southern side, Godadara to Dindoli over bridge. The panchnama was drawn at 9.30 to 10.00 hrs.
14. Furthermore, the PM note is produced at Exh.32, wherein opined that the deceased was died due to hemorrhage shock Intrathecal due to due to rupture of heart. Considering the

evidence produced on record, the deceased succumbed to the injuries. The inquest panchnama is produced at **Exh.31**. Furthermore, the charge-sheet was filed by the IO against the Opponent No.1 which is produced at **Exh.33**.

15. The cumulative effect of all the above facts will lead this Tribunal to believe that, driver of the Motorcycle bearing registration No.GJ-05-NH-3465 was driving his motorcycle in rash and negligent manner and slipped at the place of accident, and IO has filed the chargesheet against the Opponent No.1 and therefore opponent no.1 is solely negligent for the said accident in question and which resulted into untimely death of the deceased. Hence, I decide issue No.1 & 2 in the affirmative accordingly.

**ISSUE NO.3&4 (Quantum) :-**

**FUTURE LOSS OF DEPENDENCY:**

16. It is the case of the claimants that, the deceased was aged 18 years at the time of occurrence of the accident and in support of the claimants have produced adhar card of the deceased at Exh.34, wherein birth year is mentioned as 2000, except that no document has been produced as regards the age of the deceased. However, the claimants have produced PM Note at Exh.32 wherein the age of the deceased mentioned as 18 years. Looking to the documentary evidence produced on record, it appears that the birth year of the deceased mentioned as 18 years

whereas the accident occurred on 12.06.2018, thus on the day of accident, it is reason to believe that the deceased was more than 18 years old at the time of accident and considering the overall evidence as regards the age of the deceased, it is held that the deceased was more than 18 years at the time of accident. Hence, the age of deceased falls within age group of 15 to 25 years. Therefore, as per the decision rendered by the Hon'ble Apex Court in the case of *Sarla Verma vs. Delhi Transport Corporation, 2009 ACJ page 1298*, multiplier approved in above judgment be considered. As per above decision multiplier for persons belonging to age group '15 years to 25 years' is "18" years.

17. It is the case of the claimants that, the deceased was earning ₹10,000/- per month by driving, however the claimants have not produced any evidence to prove the income of the deceased. Otherside, Ld.Adv. has not remained present before the Tribunal. However, considering the evidence produced on record as regards the income of the deceased, notional income of deceased should be assessed. The applicant No.1 has deposed that the deceased was doing service and earning Rs.10,000 per month. In support of the averments made by the claimants, he has not produced any cogent and reliable documentary evidence to prove his income, so that this Tribunal can ascertain the same. Hence, it can be said that the claimants have failed to prove the income of the deceased by

adducing cogent and reliable documentary evidence, and thus, this Tribunal will have to do a prudent guess work with respect to the monthly income of the deceased. Considering the fact and circumstances of the case and further considering the nature of work performed by the deceased, therefore, considering the age of the claimant, the relevant year of accident and the nature of work being performed by him at the time of accident, it would be just and proper to assess the income of the deceased at ₹8,387/- @ 8,400/- per month as per the rate of the minimum wages declared by the Government.

18. As stated above, the deceased was in the age group of **15 to 25 years** at the time of accident, and therefore, the applicants would be entitled for prospective income of deceased as per the ratio laid down by the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi & Ors. reported in 2017 ACJ 2700**, wherein the Hon'ble Supreme Court has observed that as to whether formula for increase of income for future prospects adopted for persons with permanent job in Sarla Verma's case 2009 ACJ 1298 SC, may also be applied to the persons who are self employed or were engaged on fixed wages? Hon'ble Supreme Court has held that as under;

(i) *While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should*

*be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

*(ii) In case the deceased was self-employed or on a fixed salary, **an addition of 40%** of the established income should be the warrant where the deceased was **below the age of 40 years**. An addition of 25% where the deceased was between the age of 40 to 50 years and **10% where the deceased was between the age of 50 to 60 years** should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

19. In the present case, the deceased was more than **18 years** and his actual income considered by this Tribunal at **₹8,400/- per month** and the applicants will also get 40% increase as prospective income. Hence, the prospective income of deceased would be [Actual Income ₹8,400 + 40% of Actual Income which comes to ₹8,500/- + 3360 per month = ₹11,760/- p.m.
20. As per decision of Hon'ble Supreme Court reported as *Sarla Verma vs. Delhi Transport Corporation, 2009 ACJ page 1298*, in the present case, the claim petition are filed by his dependents as legal representatives being parents. It is pertinent to note here that the the deceased was unmarried. Therefore, **1/2** amount is required to be deducted as personal expenses of the deceased. Thus, **1/2** amount of **₹11760/-** comes to **₹5,880/-**, which is required to be deducted from **₹11760/-** then the amount remains **₹5,880/- per month** and total loss of future income is

**₹70,560/- (₹5880/-x12) per annum.** In this case, **multiplier of 18** has been applied, hence, **₹12,70,080/-x18 = ₹12,70,080/-**, which the claimants are entitled to get as **future loss of income.**

21. In addition to the above, as per the ratio laid down by the Hon'ble Supreme Court in the case **National Insurance Co. Ltd. v. Pranay Sethi & Ors. (supra)**, applicants are also entitled to a sum under the conventional heads. In the said judgment, vide para 61(viii) of the operative part, it has been held by the Hon'ble Supreme Court that the amount under conventional heads namely loss of estate, loss of consortium and funeral expenses **should be enhanced at the rate of 10% in every three years.** Further, in the case of **Rasmita Biswal v. Divisional Manager, National Insurance Co. Ltd. Reported in 2021 (0) AIJEL SC 68101**, it has been held by the Hon'ble Supreme Court by referring to **Pranay Sethi (supra)** that the said Judgment of the Constitution Bench was pronounced in the year 2018 and therefore, the claimants are entitled to 20% enhancement. Accordingly, 20% amount is enhanced in every 3 years under the conventional heads.
22. Moreover, at this juncture, it is necessary to refer to the judgment in the case **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors. in Civil Appeal No.9581/2018 [Arising out of SLP (Civil)]**

**No.3192/2018]**, wherein it has been held as under:-

*"In legal parlance, consortium is a compendious term which encompasses spousal consortium and 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. Spousal consortium is generally defined as rights pertaining to the relationship of a husband wife which allows compensation to the surviving spouse for loss of company, society, cooperation, affection, and aid of the other in every conjugal relation. 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 a child. An accident leading to the death of a child cause great shock and agony to the parents and Rajesh & Ors. v. Rajbir Singh & Ors. (2013) 9 SCC 545 Black's Law Dictionary (5th Ed. 1979) family of the deceased. The greatest agony for a parent is to loss their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

*Consortium is a special prism reflecting changing norms about the status and worth of actual relationship. Modern jurisdictions world over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*

*The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has 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.*

*Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.*

*The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under Loss of Consortium as laid down in Pranay Sethi (supra)."*

23. Considering the ratio laid down by the Hon'ble Apex Court in the case of **Pranay Sethi** (supra), Magma General Insurance Co. Ltd. (supra) and **Rasmita Biswal** (supra) referred to herein-above, 20% amount under the conversational heads are required to be enhanced so also, the applicants are entitled to get the amount under the head of Filial Consortium, Loss of estate and funeral expenses. Therefore, therefore ₹48,000/- awarded to each the applicants being parents of the deceased, which come to ₹96,000/- (₹48,000 x 2) which should be awarded to the claimants under the head of **Filial Consortium/Spouse Consortium and Parental Consortium**. Moreover, the applicants are also awarded ₹18,000/- for **loss of estate**, and a sum of ₹18,000/- for **funeral expenses**. Hence, the claimants are entitled to the following amount:

**BREAK – UP OF COMPENSATION**

Description	Calculation	Amount in ₹
Future loss of Income	Actual Income + 40% of Actual Income (₹8,400/- + ₹3,360/- = ₹11,760/-) ₹11,760/2= ₹5,880/- ₹11,760 - ₹5,880 = ₹5,880/- ₹5,880/-x12 = ₹70560/- p.a. ₹70560 x18 multiplier = ₹12,70,080	12,70,800/-
Loss of Estate	-	18,000/-
Funeral expenses	-	18,000/-
Loss of Filial /	₹48,000 x 2 = ₹96,000	96,000/-

Spousal/Parental Consortium		
<b>TOTAL ₹</b>		<b>14,02,080/-</b>

23.1 This Tribunal is conversant with the legal principles of *Nagappa Vs. Gurudayal Singh & Ors.* [(2003)2 SCC 274] at para 7, wherein, with respect to the provisions of the M.V. Act The Hon'ble Apex Court has observed as under;

*“There is no restriction that compensation could be awarded only upto the amount claimed by the claimant. In an appropriate case, where from the evidence brought on record if the Tribunal/Court considers that the claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. The only embargo is – it should be “Just” compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence.”*

23.2 The applicants though have claimed compensation of ₹10,00,000/- are thus, entitled to total amount of ₹14,02,080/- under the aforesaid various heads and accordingly, the claimants being parents of the deceased, are awarded compensation of ₹14,02,080/-.

### **LIABILITY ISSUE**

24. In view of the above discussions, as this Tribunal has already considered that the said accident occurred due to the negligent driving on the part of the opponent no.1 of the Motorcycle bearing registration No.**GJ-05-NH-3465**. The claimant has not produced copy of valid and effective driving license of opponent No.1. The applicants have produced RC Book of vehicle involved in the accident at **Mark-5/5**, which reflects that the opponent No.2 is the

name of owner of the said vehicle and therefore, he is liable to pay the amount of compensation for the tortuous act of his driver and therefore, he is vicariously liable to pay compensation being the owner of the Motorcycle bearing registration No.GJ-05-NH-3465. Therefore, the Opponent No.1 & 2 are jointly and severally liable to pay the awarded amount to the claimants.

25. **INTEREST** : So far as the question of interest is concerned, recently the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd., V/s Meghji Naran Sorathiya & others., reported in 2009(2) G.L.R. 1640*, it was held that though the Tribunal awarded 15% rate of interest per annum, which is excessive and therefore, the Hon'ble Supreme Court has reduced up to 9% p.a. as rate of interest. The case was of the year 1991. The present case on hand is of the year 2018. Currently, the Banks are also giving 9% interest on fixed deposit receipts. Therefore, ends of justice would meet if the awarded compensation carries rate of interest 9%. In view of the above, the Tribunal has come to conclusion that the claimants are entitled for interest at the rate of 9% p.a.

**ISSUE NO.5 :-**

26. In view of this, I pass following final Order.

**:: ORDER ::**

1. The petition is hereby allowed with proportionate costs and interest against Opponent Nos. 1&2 being driver and owner of the vehicle Motorcycle bearing registration No.**GJ-05-NH-3465**.
2. Opponent No.1&2 are held liable to pay jointly and severally a sum of **₹14,02,080/-** (Rupees Fourteen lakhs Two Thousand and Eighty only) with 9% interest from the date of claim petition till realization.
3. Thus, Opponents No.1 & 2 are ordered to pay Jointly and Severely the said amount of compensation **₹14,02,080/-** (Rupees Fourteen lakhs Two Thousand and Eighty only) to claimants of this petition with interest at the rate of 9% per annum, from the date of the claim petition, till realization.
4. The Opponent No.1 and 2 are hereby directed to deposit the aforesaid amount before this Tribunal within 30 days from the date of this order.
5. The interim amount of compensation, if any, paid or deposited under the principle of “No Fault Liability”, will be adjusted from the aforesaid amount of compensation awarded in this final adjudication.
6. Amount of Court fees, if recoverable; be recovered in the first instance from the awarded amount of compensation and the same to be taxed as costs of the petition.
7. The amount of compensation shall be disbursed to the claimants equally.

8. On depositing the amount of compensation, 60% amount as per their share be Fixed Deposited in the name of claimants in any nationalized bank or in any Government security of their choice for a period of 5 (five) years, keeping the nomination clause, with a condition that no loan or advance or charge would be admissible on this amount without prior permission of this tribunal but they would be entitled to get periodical interest that may accrue to them on the said F.D.R. and remaining 40% amount be paid to claimants as per their shares by Account Payee Cheque, upon proper verification and identification.
9. The Hon'ble High Court of Gujarat in the most recent judgment delivered on 05/04/2022 by Hon'ble Mr.Justice J. B. Pardiwala and Hon'ble Ms.Justice Nisha M. Thakore in the case of **The Oriental Insurance Co. Ltd., V/s. Chief Commissioner of Income Tax (TDS) bearing Special Civil Application No.4800/2021** have concluded that, the interest awarded by the Motor Accident Claims Tribunal under Sec.171 of the Motor Vehicles Act,1988 is not taxable under the Income Tax Act,1961. The Division Bench has further observed that, the interest awarded in the motor accident claim cases from the date of the Claim Petition till the passing of award, or in the case of Appeal, till the judgment of the High Court in such appeal, would not be eligible to tax, not being an income and the Insurance Companies or the owners of the motor vehicles depositing the requisite amount in due compliance with the awards of the Motor Accident Claims

Tribunals shall deposit the full amount with the Tribunal and shall not deduct tax under Sec.194A of the Income Tax Act on the interest awarded by the Motor Accident Claims Tribunal. Thus, the opponent No.3 shall scrupulously follow these directions of the Hon'ble High Court of Gujarat.

10. The Opponent No.1 and 2 shall deposit the amount in **Account Name: "ADDITIONAL DISTRICT JUDGE-SURAT", Account No.40750729019** of State Bank of India, Nanpura Branch, Surat, **IFSC: SBIN0001388, MICR: 395002004** through **NEFT or RTGS** and on such deposits being made, the insurance company shall submit a letter to the Registry of District Court enclosing a copy of the said bank advice, in prescribed format as above, as per which the deposit was made to the bank account of the Claims Tribunal and the same shall be informed to the MACT Branch, District Court, Surat through Email Id: [mact-sut@gujarat.gov.in](mailto:mact-sut@gujarat.gov.in).
11. Opponents do bear their own costs whatsoever.
12. Award be drawn accordingly.

Signed and Pronounced in the open Tribunal on this 16<sup>th</sup> **March, 2026.**

Date : 16.03.2026  
Place: Surat

**[Rakesh Rajnikant Bhatt]**  
M.A.C. Tribunal (Auxi), &  
2<sup>nd</sup> Additional District Judge  
Surat - Code No. GJ00608