


GJVD010063312019   सत्यमेव जयते	Received on : 20.07.2019							
	Registered on : 20.07.2019							
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Duration : 06	10	02						

**BEFORE THE HON'BLE MOTOR ACCIDENT
CLAIMS TRIBUNAL (AUXI.) & 4th ADDITIONAL
DISTRICT JUDGE, AT VADODARA.**

MOTOR ACCIDENT CLAIM PETITION NO.443 OF 2019

EXH.

CLAIMANTS:

AGE

OCCUPATION

Legal Heirs of Deceased Nadir Rashid Solapuri 32Y(D)

- | | | | |
|-----|---|--------|-----------|
| 1. | Solapuri Nasima w/o. Rashid Hussain
(Died on 25.10.2023) | 68Y(D) | Housework |
| 2. | Late Rashid Khurshid Hussain's Legal Heir
(Died on 16.03.2022)
Both R/o. A-301, Samangalam
Apartment, Near Sonpal Petrol Pump,
Pratapnagar Road, Vadodara. | 74Y(D) | Service |
| 2.1 | Maher Afroz d/o. Late Rashid Khurshid
Hussain Solapuri and w/o. Ali Murtuza
Sulemani (Joined as Legal Heir in view
of O.B.23 and O.B.71)
R/o. B-104, Sarvoday Complex, Opp.
Sonpal Petrol Pump, Pratapnagar,
Vadodara, Gujarat. | 45 | Labourer |

V E R S U S

OPPONENTS:

- | | | | |
|----|--|-------|--------|
| 1. | Vikrambhai Rambhai Dangar
R/o. Boricha Society, Dharamnagar,
Bagwati Para Street No.2, Rajkot,
Gujarat. | Adult | Owner |
| 2. | Javid Abdulbhai Khura
R/o. Noor Fali, Khoja Gate, Jamnagar. | Adult | Driver |

-
-
- | | | | |
|----|--|---|---------|
| 3. | Reliance General Insurance Co. Ltd.
Reg. Office. at 3rd Floor, Startrek
Building, Old Padra Road, Oppo. ABS
Tower, Vadodara, Gujarat. | - | Insurer |
|----|--|---|---------|
-

Appearance:

Mr. Z. J. Sulemani : Ld. Advocate for the Claimant.

Ex Parte : Ld. Advocate for Opponent Nos.1 & 2.

Mr. P. B. Desai : Ld. Advocate for Opponent No.3.

**Claim Petition under Section 166 of the MV Act to
Recover Compensation of Rs.60,86,000/-**

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

1. The present claim petition has been filed U/Sec.166 of the Motor Vehicles Act, 1988 for claiming compensation of an amount of Rs.60,86,000/- on account of death of deceased Nadir Rashid Solapuri in a motor vehicular accident which occurred on **09.06.2019** on Bagodra-Tarapur Highway Road, Near Patiya of Memar Village, Ta.Balva, Dist. Ahmedabad within the jurisdiction of Ahmedabad Rural Police Station.

Brief facts of an accident :

2. On 09.06.2019, at about 04:00PM, deceased Nadir Rashid Solapuri was going from Vadodara to Rajkot by driving his TATA Nexon Car bearing Registration No.GJ.06.JQ.5128 at average speed but on Bagodra-Tarapur Highway Road, Near Patiya of Memar Village, Ta.Balva, Dist. Ahmedabad on Truck bearing Registration No.GJ.12.AZ.8076 came from Bagodra

Highway, in wrong side with rash and negligent manner and dashed against car of deceased and as result to which, deceased sustained serious injuries and succumbed to death on the spot. Accident occurred around 07:30PM. Therefore, it is alleged that the present accident had occurred on account of rash and negligent driving on the part of the opponent No.-1 driver of offending Truck bearing Registration No.GJ.12.AZ.8076.

- 2.1 So far as the compensation is concerned, it is averred by the claimants that the deceased Nadir Rashid Solapuri was aged about 32 years and he was healthy. It is further pleaded that at the time of accident, the deceased was working as Executive Learning & Development at Calibehr Business Support Services Pvt. Ltd. Rajkot Branch. Moreover, Deceased was in SBI Cards Training Department at Rajkot Branch and was having permanent job in aforesaid company with earning of Rs.28,000/- per month. It is further averred that the claimants were dependent upon the income of the deceased but due to unfortunate death of the deceased, claimants have lost the bread earner in the family. Due to this accident, the claimant No.1 has lost company of her son, whereas claimant No.2.1 has lost the company of her brother. Moreover, the claimants have suffered great pain, shock and anguish on account of the death of deceased. The claimants have also claimed compensation for the expenses incurred towards the last rites of deceased. Therefore, the claimants have claimed Rs.60,86,000/- as compensation together with interest @12% per annum with proportionate costs.

2.2 The offence in respect of this accident came to be registered against the driver of offending Truck bearing Registration No.GJ.12.AZ.8076 vide CR.No.I-32/2019 with Ahmedabad Rural Police Station.

Written statement:

3. Notice was duly served upon the opponents. In response to the notice, opponent No.3 - Insurance Company of Truck bearing Registration No.GJ.12.AZ.8076 appeared before this Tribunal through his Ld. Advocate Mr. P. B. Desai and filed written statement at Exh.29 and stated in para-7 that accident was caused due to rash and negligence driving on account of deceased and therefore, insurance company is not liable to pay compensation.

3.1 Moreover, it appears from the record that opponent Nos.1 and 2 have failed to contest their claim and therefore, opponent No.3 - Insurance Company has preferred an application vide Exh.30 to contest the claim on behalf of them on the grounds which would have been available to them. It further appears from the record that said application was allowed on 07.08.2023 and insurance company was permitted to contest the claim on the ground which would have been available to opponent Nos.1 and 2.

Issues:

4. Considering the pleadings of the parties, this Tribunal has framed following issues vide Exh.19:

[1] Whether it is proved that the claimant sustained injuries and died on account of rashness and negligence in driving on the part of the driver/s of the vehicle/s involved in the accident ?

- [2] What amount, if any is/are the claimants entitled to by way of compensation and from which of the opponents?
- [3] What order?

5. My findings on the above issues are as under :

- [1] In the affirmative.
- [2] As per final order.
- [3] As per final order.

:: REASONS ::

6. The claimants, in order to prove their case have adduced following oral as well as documentary evidence:

<i>Sr.No.</i>	<i>Particulars</i>	<i>Exh.</i>
	<u>Oral evidence:</u>	
1]	Affidavit in form of chief-examination of the claimant No.2.1 - Solapuri Nasima wd/o. Rashid Husain mother of deceased.	24
	<u>Documentary evidence:</u>	
1]	Certified copy of the FIR regarding the accident.	49
2]	Certified copy of the panchnama of the occurrence of accident.	50
3]	Copy of the Inquest Panchnama of the deceased.	51
4]	Copy of P.M. Note	52
5]	Copy of Registration Certificate of alleged Truck bearing Registration No.GJ.12.AZ.8076.	53
6]	Driving License of Truck Driver	54
7]	Copy of Insurance Policy of alleged Truck bearing Registration No.GJ.12.AZ.8076.	55
8]	Birth Certificate of Deceased	56
9]	Copy of Registration Certificate of TATA Nexon Car bearing Registration No.GJ.06.JQ.5128.	57
10]	Copy of Driving License of Deceased.	58
11]	Appointment Letter of Calibehr Business Services Pvt. Ltd. to Deceased on dtd.12.02.2019.	43
12]	Pay Slip of Deceased for the Month of March	44

	2019.	
13]	Pay Slip of Deceased for the Month of April 2019.	45
14]	Pay Slip of Deceased for the Month of May 2019.	46
15]	Charge-sheet	Mark-26/15
16]	Cargo Motor's (Vadodara) Quotation on replacement parts of deceased's damaged car	Mark-26/16

7 Moreover, it appears from the record that initially, claim petition was filed by mother and father of deceased *namely*; Solapuri Nasima w/o. Rashid Hussain and Rashid Khurshid Hussain but later on, LA for applicants filed pursis vide Exh.22 declaring that applicant No.2, i.e. father of deceased passed away and therefore, his name be deleted and the same was allowed by my Ld. Predecessor.

8 Moreover, it further appears from record that LA for applicants preferred an application vide Exh.23 for joining sister of deceased - Maher Afroz d/o. Rashid Khurshid Hussain and w/o. Ali Murtuza Sulemani which was allowed by my Ld. Predecessor vide order dtd.17.03.2023. Moreover, it appears that Insurance Company has not filed any proceeding challenging the order dtd.17.03.2023.

9 Moreover, it further appears from the record that thereafter, applicant No.1 - mother of deceased - Solapuri Nasima wd/o. Rashid Hussain filed affidavit of examination-in-chief vide Exh.24, wherein in para-3, it has been specifically stated that Maher Afroz is sister of deceased and she is married and having two child and on the aspect too, insurance company has

not cross-examined applicant No.1 on the issue of dependency of sister of deceased.

- 10 Moreover, on perusal of record, it transpires that LA for applicants has filed pursis vide Exh.34 declaring that applicant no.1 - Rashida Solapuri was passed away on 25.10.2023 and thereafter, LA for applicant filed an application vide Exh.71 for deleting name of applicant No.1 - Rashida Solapuri (mother of deceased) which was allowed by this Court on 28.11.2025. Moreover, alongwith the said application, applicant also produced pedigree vide mark-72/2 and in view of the same, this Court allowed to consider Maher Afroz as legal heir of deceased.
11. The Ld. Advocate for claimants have filed closing pursis vide Exh.61 and Ld. Advocate for opponent No.3 has filed closing pursis vide Exh.69.

Issue No.1:

12. Heard Ld. Advocate Mr. Z. J. Sulemani for the claimants and Ld. Advocate Mr. P. B. Desai for the opponent No.3 - Insurance Company at length on the point of negligence and quantum of compensation and also perused written arguments produced by LA for Insurance Company and applicant vide Exhs.74 and 75 respectively.
- 12.1 The Ld. Advocate Mr. Z. J. Sulemani for the claimants has argued that on 09.06.2019, at about 04:00PM, deceased Nadir Rashid Solapuri was going from Vadodara to Rajkot by driving his TATA Nexon Car bearing Registration No.GJ.06.JQ.5128 at average speed but on Bagodra-

Tarapur Highway Road, Near Patiya of Memar Village, Ta.Balva, Dist. Ahmedabad on Truck bearing Registration No.GJ.12.AZ.8076 came from Bagodra Highway, in wrong side with rash and negligent manner and dashed against car of deceased and as result to which, deceased sustained serious injuries and succumbed to death on the spot. Accident occurred around 07:30PM. Therefore, it is alleged that the present accident had occurred on account of rash and negligent driving on the part of the opponent No.-1 driver of offending Truck bearing Registration No.GJ.12.AZ.8076.

- 12.2 Moreover, as per the ratio laid down by the Hon'ble Apex Court in the case of *Bimla Devi v. H.R.T.C., reported in AIR 2009 SC 2819* and *Parmeshwari Devi v. Amir Chand, reported in 2011 (11) SCC 635* that while deciding the point of negligence, it has to be borne 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 doubt. Looking to the evidence on record, it is revealed that when deceased Nadir Rashid Solapuri was going from Vadodara to Rajkot by driving his TATA Nexon Car bearing Registration No.GJ.06.JQ.5128 at average speed but on Bagodra-Tarapur Highway Road, Near Patiya of Memar Village, Ta.Balva, Dist. Ahmedabad on Truck bearing Registration No.GJ.12.AZ.8076 came from Bagodra Highway, in wrong side with rash and negligent manner and dashed against car of deceased and as result to which, deceased sustained serious injuries and succumbed to death on the spot.

The FIR regarding the accident was lodged against the opponent No.2. It further transpires from the record that the opponent Nos.1 and 2 have not filed written statement. Moreover, it appears from the record that claimant No.1 has filed his affidavit of examination-in-chief vide Exh.24 and thereafter, he was cross-examined by LA for opponent No.3, wherein nothing has come out which shakes that version of claimants.

12.3 Moreover, it appears from the record that after accident FIR was lodged against Driver of offending Truck which is produced vide Exh.49, Panchnama of Occurrence of Accident is also produced vide Exh.50 and the inquest panchnama and P.M. note are produced at Exh.51 & Exh.52 which sufficiently establish that the deceased met with accident on 09.06.2019 and died due to multiple injuries sustained in the vehicular accident. Considering all these aspects, this Tribunal holds that the opponent No.2-driver of offending Truck bearing Registration No.GJ.12.AZ.8076 was solely responsible for this accident which resulted into death of deceased. Hence, I answer issue No.1 accordingly.

13. Moreover, it appears from the record that initially, father and mother of deceased had filed claim petition and thereafter, upon death of father, i.e. applicant No.2, his name was deleted in view of order below Exh.22 passed by my Ld. Predecessor and thereafter, vide order dtd.17.03.2023, name of Maher Afroz Solapuri (sister of deceased) was brought on record as legal heir of deceased.

Now, if it is the case of opponent No.3 that married sister can not be considered legal heir and dependent of brother (deceased) then same would have been objected at the relevant point of time but opponent No.3 did not raise any objection against order dtd.17.03.2023.

Moreover, it further appears from record that even after death of applicant No.1-Mother of deceased, Rashida Solapuri (Sister of Deceased) was considered as legal heir of deceased in view of pedigree produced vide Exh.72/2, however, at that point of time too, opponent No.3 did not object and therefore, so far as aforesaid issue is concerned, it is required to note ratio laid down by **Hon'ble the High Court of Karnataka at Bangaluru** in the case of *The National Insurance Co. Ltd. vs. George Menezes and Ors.* in Misc. First Appeal Nos.3886 and 4216 of 2020 in MFA No.3886 of 2020, it is held that;

"14. In the case of National Insurance Company Ltd. vs. Birendar and others (2020) 11 SCC 356, the Hon'ble Apex Court held that even the married sons, daughters, brother and sisters can be considered as dependants.

15. The contention of the insurer that the married sisters are residing in their matrimonial homes and therefore, cannot be treated as dependants of the deceased is untenable. In our social context, it is not uncommon for daughters and sisters, even after marriage, to maintain a close relationship with their parental family. The earning member of the family often contributes towards their welfare and social needs. Therefore, their right to claim compensation

cannot be denied merely on the ground of their marital status."

14. In light of the aforesaid ratio laid down by Hon'ble the Apex Court which was referred by Hon'ble the Karnataka High Court at Bangalore, in the present case also, it is clear that merely because of the marital status of sister, compensation can not be denied to her. It is obvious that after death of mother and father of deceased, real brother will have to take care of surviving sister which is in present case died in the accident and therefore, submission made by LA for Insurance Company that married sister of deceased can not be considered as legal heir of deceased is without any substance and hence, rejected. Therefore, judgments cited by LA for Insurance Company do apply in the present case.
15. As decided above, the deceased sustained grievous injuries in the accident and he had succumbed to the injuries. Therefore, it is duty of this Tribunal to award just compensation to the legal heirs and representatives of the deceased based on the evidence brought on record.

Issue No.2 : Quantum of compensation.

16. So far as the income of deceased is concerned, the claimant No.1- mother of the deceased has stated in her affidavit at Exh.24 that her son deceased Nadir Rashid Solapuri was aged 32 years at the time of accident and he was healthy. So far income is concerned, it is stated that at the time of accident her son deceased Nadir Rashid Solapuri was working as Executive

Learning & Development at Calibehr Business Support Services Pvt. Ltd. Rajkot Branch. Moreover, Deceased was in SBI Cards Training Department at Rajkot Branch and was having permanent job in aforesaid company with earning of Rs.28,000/- per month.

Moreover, it further appears from the record that to establish the earnings of deceased, one Chavda Jayeshbhai Janakbhai was examined vide Exh.42, wherein he has stated that deceased was working in his Caliber Business Support Service Pvt. Co. and produced appointment letter vide Exh.43 and salary paid in March-2019, April-2019 and May-2019 is produced vide Exhs.44, 45 and 46. He has stated that deceased was receiving salary of Rs.28,000/- per month. Moreover, it further appears that he was cross-examined by LA for Insurance Company, however, nothing has come out from cross-examination which shakes version of applicants.

Moreover, to substantiate income of deceased, applicants have produced Appointment Letter of Calibehr Business Services Pvt. Ltd. to Deceased on dtd.12.02.2019 vide Exh.43 and Pay Slips of Deceased for the Month of March-April and May of the year 2019 vide Exhs.44, 45 and 46 respectively. Upon perusal of the said salary slips, it transpires that deceased was designated for the post of Executive Learning & Development in the department of SBI Card-Training which corroborate with the deposition of mother of deceased. Moreover, it further appears that salary slips are duly certified by the employer of deceased and therefore, to award just, proper and reasonable compensation, deceased income can be assessed as per salary slips produced by claimants.

Moreover, it transpires from the salary slip that deceased was drawing gross salary of Rs.27,227/- and upon deduction of professional tax, his net salary comes to be Rs.27,027/-. So, the income of deceased can be considered as Rs.27,027/-.

17. So far as age of deceased is concerned, the claimant has stated that the deceased Nadir Rashid Solapuri was aged 23 years old at the time of accident. For proving the age of deceased, the claimants have produced the copy of birth certificate vide Exh.56, wherein the date of birth of the deceased is shown as 30.07.1986. Moreover, in the P.M. Note produced vide Ex.52, the age of the deceased is mentioned as 30 years. Therefore, looking to the discrepancies in date of birth in all the documentary evidence produced on record, it would be just and proper to consider the age of deceased as 32 years at the time of accident. Since the deceased was aged 32 years at the time of accident, in the case of **Pranay Shethi (supra)**, since his age group falls below 40 Years, 40% of the income has to be added to the income of deceased towards future prospects. Thus, adding 40% of the established income (**Rs.3,24,324/- x 40% = Rs.1,29,730/-**) i.e. **Rs.1,29,730/-** to the amount, the **annual income of deceased comes to Rs.4,54,054/-**.
18. It appears from the record that initially claim petition has been filed by father and mother of deceased but thereafter, upon death of father, i.e. applicant No.2, his name was deleted in view of order below Exh.22 passed by my Ld. Predecessor and thereafter, vide order dtd.17.03.2023, name of Maher Afroz Solapuri (sister of deceased) was brought on record

as legal heir of deceased. Moreover, it further appears from record that even after death of applicant No.1-Mother of deceased, Rashida Solapuri was considered legal heir of deceased in view of pedigree produced vide Mark.72/2. In that circumstances, deceased is having 1 dependent and therefore, in view of the judgment rendered by Hon'ble the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others (supra) and Sarla Verma v. Delhi Transport Corporation, 2010 (1) GLR 17*, 1/3 deduction is required to be made by considering 1 family member of deceased.

Thus, after deducting **Rs.1,51,352/-** (i.e. 1/3rd of **Rs.454054/-**), the dependency loss would come to **Rs.3,02,702/-** per annum. As per the decision of the **Hon'ble Apex Court** in the case of **Sarla Verma (supra)**, since the deceased was 32 years old at the time of accident, the applicants are entitled to get 16 multiplier in the present case. Applying the multiplier, the resultant figure comes to **Rs.3,02,702/- x 16 = Rs.48,43,232/-**, for which, the applicants herein are entitled to receive as compensation towards **loss of dependency**.

19. So far as the question regarding compensation under the head of loss of consortium, loss of estate and funeral expenses is concerned, initially, father and mother of deceased filed present claim petition but upon their death, sister of deceased was brought on record and as per the pedigree produced vide Mark-72/2, she was considered as dependent and legal heir of deceased. Hence, in view of the law laid down by the Hon'ble

Apex Court in the case of *New India Insurance Company Vs. Smt. Somvati and Others* in Civil Appeal No. 3039/2020, (Arising Out of SLP(C) No. 23478 of 2019), judgment passed on dated 07/09/2020, the dependents of deceased would be entitled for amount of consortium. Therefore, sister of deceased is entitled to get Rs.40,000/- under filial consortium.

20. Furthermore, as per judgment of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, the applicants are also entitled to get **Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.**
21. Thus, the applicant, being sister of deceased, is entitled to the total amount of compensation computed as under:

Rs. 48,43,232/-	Towards loss of dependency
Rs. 15,000/-	Toward loss of estate
Rs. 40,000/-	Towards Filien Consortium
Rs. 15,000/-	Towards Funeral expenses
Rs.49,13,232/-	Total

Hence, this Tribunal hold that the applicant is entitled to get **Rs.49,13,232/-** as compensation under different heads.

Liability:

22. As decided above, the opponent No.2 - driver of offending Truck bearing Registration No.GJ.12.AZ.8076 is found sole responsible in causing this accident. The copy of the insurance policy is produced by the claimants vide Exh.55 which shows that the validity of the Insurance Policy of offending Truck bearing Registration No.GJ.12.AZ.8076 and it was insured with the opponent No.3 - Reliance General Insurance Co. Ltd. at the time of accident. Under these circumstances, the

opponent No.2 being driver and opponent No.1 being insurer of the Truck bearing Registration No.GJ.12.AZ.8076 are held jointly and severally liable to pay compensation to the claimants.

Interest:

23. The applicants have prayed for interest at the rate of 12% per annum. But, in view of the judgment delivered by the Hon'ble Supreme Court in case of **U.P.State Road Transport Corporation Vs. Kamlabala reported in 2005(4) Supreme Today page 477**, and considering the age of claim petition as well as efforts made by LA for the applicants for early proceeding of claim petition, this Court deems it proper to award **interest at the rate of 9% per annum** from the date of claim petition, till realization of award amount. Hence, **this Tribunal answered Issue no.2 accordingly.**

Issue No.3 :

24. As discussed and decided herein above, the applicant is entitled to get **Rs.49,13,232/- (Rupees Forty Nine Lakhs Thirteen Thousands Two Hundred and Thirty Two Only)** as compensation from the opponents as stated herein above the opponent Nos.1 to 3 are jointly and severally with **interest at the rate of 9% per annum** from the date of claim petition, till realization of the awarded amount. Hence, in answer to Issue No.3, following final order is passed.

:: ORDER ::

- Present claim petition is hereby allowed with proportionate costs and interest against the opponent Nos.1 to 3.
- Claimants are entitled to recover the amount of **Rs.49,13,232/- (Rupees Forty Nine Lakhs Thirteen Thousands Two Hun-**

dred and Thirty Two Only) by way of compensation from the opponents Nos.1 to 3 jointly & severally together with interest @ 9% p.a. from the date of the petition till realization along with proportionate cost of the petition.

- Opponent No.3 – Insurance Company is hereby directed to deposit the aforesaid amount of compensation within one month from date of this order.
- Liabilities of the opponents shall be joint & several.
- The amount of interim compensation, paid U/Sec.140 of M.V. Act, if any, shall be deducted from the awarded amount of compensation.
- The opponents shall follow the guidelines given in a case of *Hansagauri Pratulchandra Ladhani & others v. Oriental Insurance Company Ltd. & Ors. [2007 ACJ 1897 (DB) Guj.]* by the Hon'ble High Court of Gujarat, with regard to the deduction of Income Tax.
- On depositing the amount of compensation with this Tribunal, amount of Court Fee Stamp, if recoverable shall be deducted first from the awarded amount.
- Order regarding disbursement will be passed after depositing the amount by the opponents.
- Award to be drawn accordingly.

Pronounced in open Court today on 22nd day of May, 2026.

Sd/-

Date : 22.05.2026
Place : Vadodara

(Chirag M. Pawar)
M.A.C. (Aux.) Tribunal &
4th Additional District Judge,
Vadodara.
UID No.GJ01543

Jaykumar S. Solanki