GJAH010043592020

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EXH.

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUX) & 6TH ADDL. DISTRICT JUDGE, AT AHMEDABAD (RURAL)

M.A.C.P. No. 967 of 2020

Shalin Maheshkumar Modi
Aged about 26 years, Occu : Service
R/o D/4, Navdeep Apartment,
Nr. Uganda Park,Nr. A-one School,
Subhash Chok, Memnagar, Ahmedabad.

.............Claimant

V E R S U S

1. **Driver, Owner & Insurer of car No. GJ-01-HT-6189**
Dipeshbhai Rajubhai Nimje
R/o. E/ 21, Shiv Ganesh Residency,
B/h. Uday Autolink, Kathwada Ring road,
Kathwada, Tal. Dascroi, Dist. Ahmedabad.

2. **Lallubhai Valjibhai Desai**
R/o. Rajubhai Chali, Nr. Mishra Kirana Store,
Gurukripanagar, Kubernagar, Ahmedabad.

3. HDFC ERGO General Insurance Co. Ltd.

Add.: 206, 2nd Floor, Shoppers Plaza-4,

BSNL Telephone Exchange road,

Navrangpura, Ahmedabad.

…..........Opponent

APPEARANCE

Mr. M.S. Zala, Learned Advocate for the claimant.

Mr. K.C. Mehta Learned Advocate for the opponent No. 3

Claim petition for compensation of Rs. 10,00,000/-

under Section 166 of M. V. Act.

..

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

[1] The claimant has filed the present claim petition against the opponents, claiming compensation of **Rs.10,00,000/-** under Sec.166 of the M. V. Act, 1988 on account of injuries sustained by him resulting into permanent/partial disablement in a vehicular accident dated **04-02-2020.**

[2] The brief facts of the present case is that on 04-02-2020 the applicant went to Iscon cross road with his Activa and parked his vehicle and thereafter, at about 6:00 am. he was crossing the road with proper caution. At that time opponent No. 1, driver of the Car No. GJ-01-HT-6189 came with full speed and in a rash and negligent manner hit the applicant. As a result thereof the applicant sustained serious injuries on the different parts of the body resulting into permanent disability. It is further contended by the claimant that at the relevant time, he was earning Rs.12,000/- p.m. Therefore, this claim petition has been filed for getting compensation under the head of future loss of income, actual loss of income, medical treatment expenses, pain, shock and suffering, transportation charges and nutritious food etc. to the tune of **Rs.10,00,000/-** with interest and costs from the opponent.

[3] The summons was served upon the opponent and in response to the same, Opponent No.3 appeared and filed his written statement vide Exh. 19 wherein the age, income, nature of injuries etc., are denied. It is contended by the opponent that the accident took place due to sheer negligent driving of the claimant. It is contended that opponent is not responsible to pay compensation. It is contended that the claim petition should be dismissed.

[4] In support of his case, the applicant has produced the following oral as well as documentary evidence.

// ORAL EVIDENCE //

Sr. No.	Name of the witness	Exh. No.
1	**Deposition of Applicant- Shalin Maheshkumar Modi**	21

// DOCUMENTARY EVIDENCE //

Sr. No.	Particulars of Document	Exh. No.
1	Station diary entry	24
2	FIR	25
3	Discharge summary	26
4	Treatment Certificate	27
5	Copy of charge sheet	28
6	Closing pursis	30

[5] Opponents have not chosen to lead any kind of evidence in support of their defense.

[6] I have heard learned advocates for the respective parties. Ld. Advocate for the claimants has submitted that claimant has proved his case and therefore, his claim petition should be allowed.

Per contra, Ld. Advocate for the Insurance Company has submitted that income of the claimant has not been proved. It is further submitted that the alleged accident was not taken place due to negligent driving of the driver of the vehicle insured with it. It is further submitted that the claimant got injured due to his own negligent driving. Hence, it is submitted that claim petition should be dismissed.

[7] In view of the above facts, the this Tribunal has framed the following issues.

<u>ISSUES</u>

(1) Whether the petitioner proves that he/ she sustained injuries because of rash and negligent driving of the vehicle involved in the accident ?

(2) Whether the petitioner is entitled to get compensation ? If yes what amount ?

(3) In case, if the finding of issue No.2 is in the affirmative, who is liable to pay the compensation ?

(4) What order and award ?

[8] My findings on the above issues are as under:

(1) In the affirmative.
(2) As per discussion
(3) As per discussion.
(4) As per final order.

<u>[9]</u> The reasons for arriving at the aforesaid conclusions are as under,

<u>// R E A S O N S //</u>

<u>ISSUE NO.1, 2 & 3:</u>

[9.1] At this juncture, reference needs to be made toward the judgment of the Honourable Gujarat High Court in the case **Shaktabhai Ramabhai**

Patel v. Meghabhai Bhemabhai Patel 2023(0) JX (Guj) 1138 it was held in para 3.4 as under:

> " 3.4 In Mangla Ram Vs. Oriental Insurance Company Limited And ors. (supra), the Apex Court has explained the concept of negligence in connection with the claim compensation cases in the motor vehicular accident. The relevant observation is as under:
>
> > *"Negligence is only one of the species for compensation in respect of the accident arising out of the use of motor vehicles. There are other premises for such cause of action. Even if there is no negligence on the part of the driver or owner of the motor vehicle, but accident happens while the vehicle was in use. should not the owner be made liable for damages to the person who suffered on account of such accidents? This question depends upon how far the rule in Fletcher, (19680 LR 3 HL 330 can apply in motor accident cases. Like any other common law principle, which is acceptable to out jurisprudence, the rule in Rylands case can be followed at least until any other new principle which excels the former can be evolved, or until legislation provides differently. Hence, said rule is adopted in claims for compensation made in respect of motor accidents".*

[10] In view of the aforesaid dictum of law, while deciding cases arising out of motor vehicular accidents, the standard of proof to be borne in mind by the MAC Tribunal must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.

[11] (Negligency)

So far as the question of negligence is concerned, the claimant has filed affidavit of examination-in chief at **Exh. 21**, in which he has reiterated the facts of the petition. The claimant has been cross-examined by the Ld. Advocate for the opponent No.3 wherein he admitted that the accident was occurred at 6:00 am. in the morning. At the time of accident he was unconscious so he did not know about the vehicle. Further, he submitted that he has produced all treatment papers and at the time of accident his monthly income was Rs.12,000/-.

[11.1] The applicant has produced the copy of FIR vide Exh. 24 & 25. From the above documents, it appears that FIR was lodged by the father of claimant. Therefore, the fact of accident is proved. Having considered the allegations made in FIR it is transpired that the accident was taken place as narrated by the claimant in his claim petition. It is also proved that driver of the offending vehicle No. GJ-01-HT-6189 involved in the accident was the sole responsible for the alleged accident. FIR has been lodged against driver of the offending vehicle opponent No.1. After completion of the investigation charge sheet has been filed against opponent No.1. Under the circumstances the opponent No.1 is held responsible for the alleged accident and therefore, issue No.1 is answered accordingly.

[12] Disability :

The applicant has produced injury certificate. Both the parties have submitted consent pursis vide Exh. 29 and thereby both were agreed to assess the disability as 15% body as a whole. Hence, when there is consensus between the parties the Tribunal accepts the same.

[13] It is the duty of the Tribunal to award just, equitable and fair compensation to petitioner. The expression ‘compensation’ is comprehensive term which includes a claim for the damages. Hon’ble Apex Court in **"Sarla Verma and Others Vs. Delhi Transport Corporation and Another"** reported in **AIR 2009 (SC) 3014** has discussed as under:-

> *“……just compensation is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.”*

[14] Quantum :

[14.1] **<u>Income</u>** : The applicant has submitted that at the time of accident, he was earning Rs.12,000/- per month. It is borne out that the claimant has produced payslip for the month of January, 2020 wherein his monthly gross salary was mentioned as Rs. 11,898.32 and net salary was Rs.10,436.00. In this regard considering the material on record it is just and proper to consider **Rs. 11,000/-** as monthly income of the applicant for calculating loss of income.

[14.2] **<u>Age & Multiplier</u> :**

The applicant has stated in his claim petition that he was 26 years old at the time of alleged accident. The claimant has not produced any kind of evidence in regard of his age. But as per medical papers his age is mentioned as 26 years. Under the circumstances when the claimant has declared his age as 26 years in his claim petition the same is required to be accepted. As per the ratio laid down in the Hon'ble Apex Court's judgment of **"Sarla Verma and Others Vs. Delhi Transport Corporation and Another" AIR 2009 (SC) 3014"**, the **multiplier of 17** is suggested between the age group of 26 to 30 years and therefore, the applicant is entitled for **multiplier of 17** for the calculation of future loss of income.

[14.3] **<u>Future loss of income</u>** :

Considering the above decided income, age, multiplier and disability, the Future Loss of Income would be come to **Rs.3,36,600/-** [Rs.11,000/- (monthly income) X 15/100 (disability) = 1650 X 12 X 17 (Multiplier)]. So, under the head of future loss of income, applicant is entitled to get **Rs.3,36,600/-.**

[14.4] **<u>Actual loss of income</u>** :

According to the applicant, due to vehicular accident he sustained permanent disability and he could not work for the period as he was bed ridden for certain time. It is borne out from the record that he was admitted into Hospital for certain period as indoor patient. Hence, it can be safely inferred that he could not be in a position to work as a healthy man. Looking to the injury sustained by the applicant, he might have lost 3 months income. Therefore, looking to the nature of injuries sustained by the applicant and period of hospitalization and treatment, it can fairly be concluded that the applicant could not work for **3 months** and, therefore, he is entitled for **Rs. 33,000/- (11,000/- x 3 months) for actual loss of income.**

[14.5] **Medical Expenses** :

The applicant has failed to produce any kind of evidence in respect of any medical expenses has been paid by him. It is also pertinent to note that the claimant has failed to prove such facts and therefore he is not entitled to get any compensation under the head of medical expenses.

[14.6] **Special diet, Attendant Charges & Transportation** :

Though there is no supporting documentary evidence to show that the applicant has taken service of attendant, spent on transportation for treatment or has taken special diet to recover from the injuries sustained in the accident, yet looking to the disability certificate, injury certificate, period of hospitalization, this tribunal is of the view that the applicant must have incurred some expenses on the transportation, special diet & nourishment. Further, during the medical treatment of the claimant, a family member would have had to attend him to look after him. Hence, in view of above discussion, the claimant is also entitled to get compensation of **Rs.25,000/-** under the head of Special diet, Attendant Charges & Transportation, which is just and reasonable.

[15] **Pain, Shock and Suffering** :

The applicant has sustained serious injuries in the accident and due to that injuries, a permanent disability is also caused to him and due to that he definitely have undergone severe pain, shock and suffering for considerable period. Further, due to permanent disability, he is facing several difficulties in his routine and other work. The applicant would have to suffer these difficulties till his entire life span. Therefore, the applicant is entitled to get compensation of **Rs.25,000/-** under the head of non-pecuniary loss i.e, pain, shock and sufferings.

[16] At this juncture the ratio laid down by the Hon'ble Apex Court in the case of **National Insurance Co. Ltd. V/s Pranay Shethi 2017 (0) AIJEL SC 61069** it is held that the concept of just compensation and the same has to be determined on the foundation of fair, reasonableness and equitability on acceptable legal standard. The aim is to achieve acceptable degree of proximity to arithmetical precision. It is further held that money cannot substitute a life lost but an effort has to be made for grant of just compensation.

[17] Now, it is well settled principle of law that the just compensation should be awarded to the victim. Now, considering the above noted facts and foregoing reasons and keeping in mind the concept of the 'just compensation', this Tribunal has inclined to grant the following quantum :-

1	Future Loss of income	Rs. 3,36,600/-
2	Actual Loss of income	Rs. 33,000/-
3	Medical Expenses	--
4	Special diet, Attendant charges, and Transportation	Rs.25,000/-
5	Pain, Shock and Suffering.	Rs. 25,000/-
Total		**Rs.4,19,600/-**

[18] **<u>INTEREST ON AWARDED AMOUNT:</u>**

The applicant submitted that he should be awarded interest at the rate of 15% on the awarded amount. I have considered and perused the records. It shows that the accident took place in 2020 and the claim petition was filed thereafter. Thus, having regards to the facts and circumstances of the present case, in the light of the law laid down by the Hon'ble Supreme Court of India in the case of ***"M.C.D. - versus – Association of Victim of Uphaar Tragedy",*** reported in ***2012 ACJ 48 (SC)***, it would be just and proper to award the simple interest at the rate of 9% p.a.. Accordingly, the applicant is entitled to get simple interest at the rate of **9% p.a.** on the awarded amount of claim from the date of filing of claim petition till realization of awarded amount. Hence, issue no. 3 is answered accordingly.

[19]. LIABILITY :

The claimant has produced Insurance Policy which proves that the vehicle was insured with opponent No. 3 Insurance Company for the period of 31.08.2019 to 30.08.2020. The alleged accident was taken place on 04.02.2020. Hence, date of accident comes within the aforesaid period and therefore, being Insurer, opponent no. 3 has to indemnify opponent no. 2. Therefore, the Insurance company is responsible to pay the compensation to the claimant. Hence, Issue No. 1, 2 & 3 are answered accordingly.

[20] ISSUE NO. 4

In view of aforesaid discussion, applicant is entitled to get compensation as discussed herein above and therefore, I pass the following final order in the interest of justice :-

:ORDER:-

(1) The claim petition is hereby **partly allowed.**

(2) The Applicant is entitled to recover compensation of **Rs.4,19,600/- (Rupees Four Lakhs Nineteen Thousand Six Hundred only)** along with the simple interest at the rate of **9% per annum**, from the date of claim petition till it's realization, with proportionate cost, from the opponents, who are jointly and severely liable to pay the awarded compensation to the applicant**.**

(3) The Opponent No.3 is hereby directed to deposit in the Office of this Tribunal the above amount of award, after deducting the amount of interim compensation, if any, paid u/s. 140 of Motor Vehicle Act, within 30 days from the date of this order.

(4) Deficit Court Fee Stamp, if any, be recovered first from the awarded amount and interim amount if paid be adjusted.

(5) On realization of the amount, 70% amount shall be deposited in any Nationalized Bank for a period of 5 years in FDR in the name of applicant with a condition that the applicant shall not be entitled to borrow loan or create any encumbrance on the said deposit and the remaining 30% amount shall be paid to the applicant through RTGS / NEFT after due verification.

(6) **The applicant is directed to submit the following details within one week from today:-**

1. Name of the applicant with address.
2. Name of the Bank & Branch, Bank IFSC Code, Account Number of the applicant.
3. The first page of the bank pass-book, which will compulsorily contain the photograph of the applicant, duly attested by the Bank concerned, should be made available.
4. Wherever the applicants are impleaded as Respondents, before the claims tribunal, their account details, as above, will have to be furnished.

(7) The opponent shall follow the guidelines of Hon'ble Gujarat High Court given in R/Special Civil Application No. 4800 of 2021 in case of **The**

Oriental Insurance Co. Ltd., V/s. Chief Commissioner of Income Tax (TDS), decided on 05/04/2022, with regard to the Income Tax Liability.

(8). The amount shall be deposited through NEFT or RTGS in the Bank Account with below mentioned details :

Bank Account Name : “PRINCIPAL DIST JUDGE ABAD RURAL MACP"
Account No. : 00000040722625356.
IFSC Code : SBIN0000301.

(9). Award be drawn accordingly.

(10). If any application/s is/are pending for disposal is/are hereby disposed off in terms of the above observations.

(11) The opponent making such deposit, shall also send a copy of the payment advice in the aforesaid Clause to the Claims Tribunal concerned and serve a copy of the same on the applicant/s or their counsel as the case may be.

(12). File be consigned to record room after due compliance.

Signed and Pronounced in the open court today on this 17th day of August, 2026.

Digitally signed by
SANJAYKUMAR CHHAGANBHAI MAKVANA
on 17/08/2026 18:06:26 IST.

Ahmedabad
Date : 17-08-2026

[Sanjaykumar Chhaganbhai Makvana]
M.A.C. Tribunal (Aux) &
6th Additional District Judge
Ahmedabad (Rural)
UID Code GJ00920