GJVD230002162024		Received on	16/03/2024		
		Registered on	16/03/2024		
		Decided on	13/05/2026		
	सत्यमेव जयते	Duration	02 YY	01 MM	27 DD

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUXI. - 7) VADODARA AT - KARJAN.

M.A.C.P. No. 23 of 2024
Exh. 50

Claimants :-
Legal Heirs of late Sanjay Ramnarayan Palival

1.	Pushpa Ramnarayan Palival (Mother)	65	Household
2.	Harishchandra Ramnarayan Palival (Brother)	35	Labour

Both are Residing at:-
House No. 119A,
Nadigav Road,
Beside School, Tumera, Po. Kauch
Dist. Jallaun, U.P

Versus

Opponents :-
Driver-cum-Owner & Insurer of Tempo No. GJ-09-AU-5063

1. Maheshkumar Kalabhai Raval **(Driver-cum-owner)**
Residing at :
Jambudi, Raval Vas,
Nani Bhagol, Tal. Prantij
Dist. Sabarkantha,

2. Magma H.D.I. General Insurance Co. Ltd. **(Insurer)**
Office at:-
Unit No. 201/B, 2nd Floor,
Neptune Prime, O.P.road,
Bhaktinagar Society,
Bhakti Nagar,
Haripura, Vadodara

Subject Claim Petition U/s 166 of M.V. Act to get compensation of Rs. 25,00,000/-

Appearance:-

Ld. Advocate Mr. V.S. Shah for the Claimants
Ld. Advocate Mr. T.R.Patamvadiya for the opponent No.1
Ld. Advocate Mr. P.B.Desai for the opponent No.2

:: JUDGMENT ::

Introduction :-

1) This claim petition under Section 166 of the M.V.Act, has been filed by the legal heirs and representatives of the deceased Sanjay Ramnarayan Palival to get compensation to the tune of Rs. 25,00,000/- for the death of deceased, against the driver-cum-owner and an insurance company, whose vehicle involved in the accident occurred on 09/02/2024.

Brief facts of the claimants' case :-

2) It is the case of the claimant that on February 9, 2024, the deceased, Sanjay Ramnarayan Paliwal, was driving a truck bearing registration number GJ-15-XX-5424 from Ahmedabad to Vapi. At about 2:00 AM, when he reached near Karjan on National Highway No. 48, the deceased parked the truck on the third lane of the highway road, near the gate of Baman-Gam Horizon Industrial Park.While the deceased was stepping down from the vehicle, opponent No. 1 the driver of an Ashok Leyland Tempo bearing registration number GJ-09-AU-5063 driving at an excessive speed and in a rash and negligent manner, dashed into the back side of the truck and also collided with the deceased. Consequently, the deceased sustained fatal injuries to his head, face, and other vital parts of his body and succumbed to his death. An FIR was registered at the Karjan Police Station vide C.R. No. 11197025240165/2024 at the instance of the brother of the deceased.

3) It is the further case of the claimants that the deceased was about 37 years old at the time of the accident. He earned Rs. 20,000/- monthly by doing driving work and harvesting. Due to the sudden death of the deceased, the claimants have suffered huge financial loss and have been deprived of the love and affection of the deceased. In all, the claimants claim the stated amount of compensation along with 12% interest p.a.

Details of opponents' reply :-

4) The opponent No.1 appeared through advocate but failed to file written statement.

5) The opponent No.2- Insurance Company filed detailed reply at Exh.15 & 18. The Insurance Company denied its liability for compensation, as well as denied the involvement of the vehicle in the accident. It is also denied that vehicle involved in the accident is duly insured with it. It is also pleaded that driver of the vehicle was not having valid driving license. It is also pleaded that opponent No.1 was not qualified for holding or obtaining driving license and has not satisfied the requirement of the Rule No.-3 of the Central M.V. Rules, 1989 and therefore, there is a contravention of the provisions of the M.V. Act and rules framed there under and has committed the breach of terms and conditions of the policy. The accident was caused due to negligence on the part of the deceased himself. The Insurance Company also pleaded that compensation claimed by claimants are exaggerated. It is also pleaded by insurance company that material terms and conditions of the policy are breached, therefore, it is not responsible for making payment of compensation. The Insurance Company also pleaded that interest over the award should be 6%

p.a. In all, insurance company denied its liability as well as age and income of the deceased.

Details of issues and reply :-

6) The following issues are framed at Exh.17 for determination of this claim petition,

1. Whether the claimant/s prove that the deceased sustained serious injuries and succumbed to the death due to rash and negligent driving of the vehicle involved in the accident?
2. Whether the claimant/s are entitled to get compensation ? If yes, what amount and from whom ?
3. What order and award ?

7) My finding of the above issues are as under.

1. Partly in the affirmative.
2. Partly in the affirmative
3. As per final order.

8) **Details of claimants' evidences :-**

The claimants have produced following evidences,

Oral Evidence:

Sr.No.	Particular	Exhibit
01	Harishchandra Ramnarayan Paliwal	23
02	Closing Pursis of claimants' side	45

Documentary Evidence

Sr.No.	Particular	Exhibit
01	Charge sheet filed on FIR of accident	27
02	FIR of accident	28
03	Panchnama of the place of incident	29
04	Inquest panchnama of demise's dead body	30
05	P.M. Report of demise's dead body	31
06	Death Certificate of deceased death	32

07	Aadhar card of the deceased	33
08	Pan Card of the deceased	34
09	Marksheet of the deceased	35
10	Applicant No.1's Aadhar card	36
11	Applicant No.2's Aadhar card	37
12	Death certificate of deceased's father	39
13	Driving license of opponent No.1	40
14	R.C.Book of tempo No. GJ-09-AU-5063	41
15	Ins. Policy of tempo No. GJ-09-AU-5063	42
16	Driving license of the deceased	44
17	Closing pursis	45

9) <u>Details of evidences produced by Insurance company</u> :-

Insurance Company has not produced any independent evidence and submitted closing pursis at Exh.47.

<u>Arguments of claimant's side</u> :-

10) Learned Advocate for the claimants argued that the accident was caused due to the sole negligence of Opponent No. 1. An FIR has been registered against the driver of the offending vehicle, and a charge sheet was also filed against Opponent No. 1 following the police investigation; therefore, the negligence of Opponent No. 1 is duly proved. As he is also the owner of the vehicle and the vehicle is insured with Opponent No. 2, the opponents are liable for the payment of compensation as claimed.

11) It was further argued that the deceased had been driving heavy goods vehicles for 11 years and held a valid driving license. Therefore, his monthly income should be considered as Rs. 20,000/- in view of the judgment delivered by the Hon'ble Punjab & Haryana High Court in the case of **National Insurance Co.**

Ltd. Vs. Vipur Kaur, 2025 (First A.O. 6751/2017, dated 18.12.2025). As the deceased was 37 years old, a multiplier of 15 should be applied. It is also submitted that 40% for future prospects should be added, leading to a claim of Rs. 25.20 lakh for loss of dependency.

12) The learned Advocate for the claimants also sought an award of Rs. 50,000/- under the head of Pain, Suffering, and Shock (PSS) and Rs. 50,000/- for loss of love and affection. Additionally, it is requested that Rs. 44,000/- be awarded under the head of consortium. Consequently, it is submitted that a total compensation award of Rs. 27,29,000/- along with interest at the rate of 12% p.a. be passed. The claimants rely upon the following decisions in support of this claim:".

1) **National Insurance Co. Ltd. Vs. Vimal Kaur And Ors.; P & B Hariyana High Court, dated 18.12.2025.**
2) **Samjudaben Wd/O Afjalkhan @ Kadarkhan Nasrathkhan Makrani & Or., Vs. Amuddin Suleman Muslim & Ors; GHC: R/First Appeal No. 629 of 2012, dated 04.12.2024.**
3) **Pranayn Setthy Vs. National Insurance Co. Ltd. (SC).**
4) **Megam H.D.I. General Insurance Co. Ltd. Vs. Nanuram: 2018 (o): SC:, AIJEL-SC-62739.**
5) **National Insurance Co. Ltd. Vs. Vimal Kaur: 2025 SCC: P & H High Court 18804, dated 18.12.2025.**

Arguments of opponent's side :-

13) Ld. Advocate of the Insurance Company, Mr. P.B.Desai has made oral submissions. He also filed written argument. He mainly argued that at night hours deceased stopped truck on highway road though having knowledge being a driver that vehicle cannot stop even on a third track of the road. The deceased stepped down from the vehicle from his truck at that time, the vehicle of opponent No.1 dashed on back side of stopped Eicher. Therefore, he prayed to consider contributory negligence of deceased to the extent of 40%. So far as income aspect is concerned, he argued that monthly Rs.12,000/- income of the deceased should be considered. In all, he argued to pass an award Rs.9.41 lakhs. On the aspect of interest, he argued to make award with interest @6% p.a.

14) I have heard the arguments of Ld. advocate of the parties. I have also perused the record and proceedings.

-: REASONS :-

Issue No. 1:-

15) In this point the involvement of the vehicles in the accident and the issue of negligence on the part of the respective drivers are material points for consideration. It is the case of the claimants that Opponent No. 1 dashed into the rear of the deceased's vehicle. The brother of the deceased, Harishchandra, deposed at Exh. 23 that on 09.02.2024 at 2:00 a.m., while the deceased was stepping down from his truck on track No. 3 of the Vadodara-Bharuch highway, he was struck from behind by the driver of Tempo No. GJ-09-AU-5063. He further deposed that his brother sustained serious injuries and subsequently succumbed to them. However, from the testimony of this witness, it appears he was not an eyewitness; thus, his evidence regarding the aspect of negligence is not material.

16) The FIR of accident was registered at the instance of Vinod Ramanarayan, another brother of the deceased, who was also not an eyewitness. Upon perusing the Panchnama of the scene of the accident at Exh. 29, it is noted that the document was prepared on

09.02.2024 at 15:00 hours. The Panchnama confirms that Tempo No. GJ-09-AU-5063 and Truck No. GJ-15-XX-5424 were found in damaged condition at the site. As the Panchnama is an admitted document. Thus on rely upon the Panchnama it is believed that the claimants have succeeded in proving that the accident occurred between the two aforementioned vehicles.

17) Furthermore, perusing the Detailed Accident Report (DAR) at Exh. 13 along with the police investigation papers, it is proved that the police filed a charge sheet against Opponent No. 1. The sketch drawn in Form No. 8 by the Investigating Officer indicates that the deceased's truck was stationary on the third lane of the highway. In this case, the accident occurred at midnight while the deceased was stepping down from his truck. Opponent No. 1, as the driver of a heavy goods vehicle, had a duty to maintain a sufficient distance and keep a proper lookout. Since the Ashok Leyland vehicle dashed into the rear of the deceased's truck, it is apparent that Opponent No. 1 failed to exercise reasonable care while driving on a national highway. Conversely, a driver is also expected to exercise caution when stopping a heavy vehicle on a national highway. It appears the deceased failed to fully discharge this duty.

18) In view of the above, it is concluded that the accident occurred due to the contributory negligence of both the deceased and Opponent No. 1. Therefore, negligence is apportioned at 80% on the part of Opponent No. 1 and 20% on the part of the deceased. The higher degree of negligence is attributed to Opponent No. 1 as he struck the rear of the vehicle that the deceased had just stopped. As such, the issue of negligence and the involvement of the vehicles is decided in the partly affirmative.

Issue No. 2 :-

19) Now, it is the duty of the tribunal to decide just compensation. Just compensation means adequate compensation which is fair and equitable, on the facts and circumstances of the case. The compensation must not be a bonanza, largess or source of profit, likewise, it should not be meager, pittance. For determination of just compensation in the case of death, basically, three facts need to be established by the legal representatives of the deceased i.e (a) age of the deceased; (b) income of the deceased; and the (c) the number of dependents. The issues to be determined by the Tribunal to arrive at the loss of dependency are (i) additions/ deductions to be made for arriving at the income; (ii) the deduction to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference of the age of the deceased. In view of above now latest examined the case of claimants separately on above aspects.

Age and applicable multiplier :-

20) From the Aadhar card, pan card, driving license and the mark sheet of the deceased at Exh.33, 34, 44 and 35 respectively, it is proved that the date of birth of the deceased was 11.05.1987. The accident is admittedly made on 09.02.2024. Thus, it is believed that deceased was 36 years 8 months and 29 days old at the time of accident.

21) For applying multiplier, the Hon'ble Apex Court in the case of ***National Insurance Company V/s. Pranay Shethi, (2017) 16 SSC-680*** held as under;

"44. As far as the multiplier is concerned, the claims tribunal and the Courts shall be guided by Step 2 that finds place in paragraph 19 of Sarla Verma read with paragraph 42 of the said judgment. For the sake of completeness, paragraph 42 is extracted below :-
"42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M- 16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

22) Thus, deceased Sanjay Ramnarayan Palival falls in the age bracket of 36 to 40 Yrs. So applicable multiplier for calculating dependency loss would be **15**. Accordingly, it is accepted.

<u>Income of deceased</u> :-

23) As per claimants' case deceased was driver. He is having a valid driving license to drive heavy goods vehicle. It is produced at Exh. 44. On the aspect of income of deceased, his brother testified at Exh.23 that deceased earned monthly Rs. 20,000/- from driving and for doing agricultural work. Except oral evidence of the claimant No. 2 regarding income of deceased, nothing before the tribunal in support of said aspect. The deceased was residing in small village. Perusing the High School examination mark sheet certificate of deceased at Exh. 35 Std-10, it seems that deceased failed in most of subject in the year of 2002. Means, deceased was not such qualified person, of course, he is having a valid and effective driving license as on date of accident to drive the heavy goods vehicle. The copy of the said driving license is also on record. But, considering the intellectual standard of deceased and his age as well as minimum wages rate of relevant period, the evidence of claimant regarding income of deceased monthly Rs. 20,000/- is not inspired confidence. On the other side, insurance company argued to believe monthly income of deceased Rs. 12,000/-. Same is also appeared on very lower side. Therefore, now this Tribunal has no other option except to believe income of deceased on the basis of guess work. In view of that keeping in mind the qualification and age of deceased with the minimum wages rate and value of human hours and inflation rate, it seems just and proper to believe that deceased was earning monthly Rs. 15,000/- p.m. This tribunal assumed the above income in view of above all material and rely upon the recent pronouncement of Hon'ble Supreme Court of India delivered in the case of ***Devendra Kumar Tripathi & Ors. v. The Oriental Insurance Company Ltd. & Anr. (2025 INSC 1429)***,

Deduction for personal living expenses and addition of income for future prospects :-

24) The deceased was 37 years and profession by driving. In view of that 40% enhancement is warranted on established income. Whereas, under the head of personal expenses 50% of his established income deserves to be deducted as deceased was bachelor.

Conventional heads, namely, loss of estate, loss of consortium and funeral expenses :-

25) It is also held in the case of ***National Insurance Company V/s. Pranay Shethi, (2017) 16 SSC-680*** that "conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10 % in every three years. As such Rs. 18,150/- under the head of loss of estate and for the cost of funeral respectively are awarded.

26) The deceased was 37 years old, son of claimant No.1. The claimant no.2 is also major son of claimant No.1. Furthermore, it gathered from the FIR that claimant No.1 has in all four son including deceased. The elder son of present claimant No.1 was 54 years old at the time of accident. In view of that claimants' case for the filial consortium is not accepted.

27) There is no any bills and evidence for medical expenses incurred by claimants, therefore, nothing is awarded under the said head.

Computation of compensation :-

28) In view of above all, the claimant No. 1 is entitled to get compensation as under for the death of her son in the vehicular accident;

Heading of compensation	**Rs.**
Dependency loss Monthly Income Rs. 15,000/= x 12 = Rs. 1,80,000/= + 40 % (Rs.72,000/=) Rs.2,52,000/= - 50% (Rs.1,26,000/=) Rs.1,26,000/= x 15	**18,90,000/=**
Conventional heads (loss of estate and Funeral expenses)	**36,300/=**
Negligence on the part of deceased i.e 20%	**- 3,85,260/=**
Total awarded compensation (Rounded off)	**15,41,000/=**

<u>Interest</u> :-

29) It is pertinent to note that it is discretion of the court or tribunal to grant interest or not or for what period. There is no any statutory provisions for the rate of interest. It is held by Hon'ble Apex court in the case of **United India Insurance Co. Ltd. Vs. Ramanbhai K. Raval, 1996(1) GLR Page no. 272**. In view of above all and considering the factual aspect with the nature of proceeding, I am of the view that interest at the of 7.5 % p.m. should be granted from the date of claim till the realization. Same shall meets the end of justice. This Tribunal is awarded simple interest, therefore, arguments of Ld. Advocate of the insurance company is not accepted regarding rate of interest because bank rate is always cumulative. That the arguments of Ld. advocates for the parties are partly accepted.

Liability for payment of compensation :-

30) As it is held in issue No.1 that driver of Ashok Leylend truck is responsible for causing accident at 80%, therefore, opponent No.1, who is driver and an owner of the offending truck as per documents on record, he is held responsible for making payment for the above compensation. Admittedly, offending truck was duly insured with the opponent No.3- Insurance Company vide policy at Exh. 41. As such opponent No.3 is held responsible for the payment of compensation.

31) The Ld. Advocate of the claimant relied upon the judgment delivered by P & H High Court, in the case of ***National Insurance Co. Ltd. Vs. Vimal Kaur*** to bolster his argument for accepting income of deceased Rs. 20,000/-. However, it is case relating to Punjab and Hariyana State. The minimum wages rate are varied from State to State and also depends upon the geographical situation of the particular area. In present case, this Tribunal is not inclined to accept the argument of Ld. Advocate of the claimants on that aspect as minimum wages rate are different from State to State. Furthermore, Ld. Advocate of the claimant relied upon the judgment delivered by Hon'ble Gujarat High Court in First appeal No. 629 of 2012, **Samjudaben Wd/of Afzal**

Khan Kadar Khan (Supra). In the said case, monthly income of driver was considered Rs. 5,000/-. In view of all, this Tribunal take into note of minimum wages rate of skill person of Zone-II while deciding income of deceased.

32) In view of above all the arguments of Ld. advocate of the parties are hereby partly accepted. That the following order is passed,

Final Order

1) The MACP No. 23 of 2024 is hereby partly allowed with proportionate costs and interest.

2) The claimant No.1 is hereby held entitled to recover **Rs.15,41,000/=** for compensation from the opponents Nos. 1 - 2 together with interest @ 7.5 % p.a. from the date of petition till they deposit the amount.

3) The above opponents are herein directed to deposit the awarded amount to the credit of bank account of tribunal as per below mentioned details after verify the details directly by NEFT or RTGS mode, after deducting the amount of interim compensation if any, paid under section 140 of M.V. Act, with in one month from date of this order.

1) **Account Holder Name: Motor Accident Claim Tribunal (Auxi), Karjan.**
2) **Account No: 40731414956 with State Bank of India, Miya Gam -Karjan Branch, IFSC Code No.SBIN0001035.**

4) The opponents shall communicate the details of deposit forth with/expeditiously to the MACT with the following information;

Sr. No.	Particulars	Details
1.	MACP No.	
2.	Tribunal Name	
3.	Date of Award	

4.	Compensation amount	
5.	Bank transaction reference no./unique transaction (UTR)no.	

5) The opponents shall follow the guidelines given in a case of **Hansagauri Prafulchandra 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.

6) On depositing the amount of compensation with this Tribunal, amount of Court Fees, if recoverable on the awarded amount, shall be recovered from the deposited amount and same be taxed as the costs of petition and transit said amount in state.

7) After deducting the court fees, the rest of the amount shall be paid to the claimant no. 1 i.e. mother of deceased. Out of them, 40% shall be paid by RTGS and rest of 60% of shall be invested in any nationalize bank as per her choice with as usual conditions that claimant is entitled to get interest of said FDR only for next five years. Nothing is given to the claimant No.2- brother of deceased as he is major and having an independent income by doing labour work. Furthermore, there is no any material on record to believe that claimant No.2 is depend upon the income of the deceased.

8) Registry/MACT department shall E-mail an authenticated copy of the award to the opponents.

9) Award to be drawn accordingly in each case separately.

Signed and pronounced in open Tribunal today
i.e. on this 13th day of May, 2026

Digitally signed by
MANOJ BHAILALBHAI KOTAK
Reason: PARTLY ALLOWED
at KARJAN
on 13/05/2026 16:53:11 IST.

Date : 13/05/2026

(MANOJ BHAILALBHAI KOTAK)
M.A.C. Tribunal (Auxi.)
Vadodara @ Karjan.
UID CODE NO.GJ00718

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