

અસલ હુકમનામું

(ઓ. ૨૦, કામ ૬-૭)

નામદારશ્રી મોટર એક્સીડેન્ટ ક્લેઇમ ટ્રીબ્યુનલ (મુખ્ય) સમક્ષ, ભુજ-કચ્છ

એમ.એ.સી.પી.નંબર: ૪૧૮/૨૦૧૯

આંક: ૬૦/એ

Mohammad Sajid Salemamad Mandhara,

Age 17 NOW 20 YEARS, Occupation : Study,

R/o. Village Varadia, Tal. Abadasa.

....Applicant

વિરુદ્ધ

1. Musa Haji Abdulla Mandhara,
Age adult, Occupation : Agriculture,
R/o. Village Varadia, Tal. Abadasa.
2. Hasam Haroon Mandhara,
Age adult, Occupation : Business,
R/o. Village Amarvandh, Tal. Abadasa.
3. Iffco Tokio General Insurance Co. Ltd.,
Office No.2-A, C-wing, 1st floor,
Katira Complex, RTO Relocation Site,
Opp. V.B.C., Bhuj.

.....Opponents

ફરીયાદ દાખલ કર્યા: તારીખ ૩૦

માહે ૧૨

સને ૨૦૧૯

ફરીયાદ રજીસ્ટરે લીધા:તારીખ ૩૦

માહે ૧૨

સને ૨૦૧૯

1. The injured claimant who was minor at the time of accident had filed the present claim petition under Section 166 of the Motor Vehicles Act, 1988 ('the M V Act'), through his guardian i.e. father, claiming compensation of Rs.1,30,00,000/- for the injuries sustained by him in the vehicular accident dated 02/10/2019, which resulted into permanent partial disablement sustained, along with the costs and interest at the rate of 18% per annum from the date of petition till realization, against the opponents.

1.1 Since the claimant has attained majority during the pendency of the claim petition, his guardian has been ordered to be removed as per order passed below application Exh.36 and the present claim petition is presented by the applicant himself, through his Ld. Advocate.

2. Brief facts of present claim petition are that, on 02.10.2019 the injured claimant was travelling on motorcycle bearing registration No.GJ-12-BQ-1317, as a pillion rider. The driver of the said motorcycle the opponent No.1 was plying the motorcycle in rash and negligent manner, at excessive speed. Hence, the motorcycle dashed with a cow and motorcycle slept and fell on the road. In the said accident the injured claimant sustained serious injuries, which resulted into permanent partial disablement because of the rash and negligent driving of the driver of the above mentioned motorcycle.

સામાવાળા નંબર: ૩ નો દાવાજવાબ આંક: ૧૬

મુદ્દા આંક-૨૨ થી મુકરર કરવામાં આવેલ છે.

આ ફરીયાદ આજરોજ તારીખ: ૧૭/૦૪/૨૦૨૩ ના રોજ ભુજ-કચ્છ જીલ્લાના મહેરબાન મોટર એક્સીડેન્ટ કલેઈમ ટ્રીબ્યુનલ (મુખ્ય) જજ સાહેબ શ્રી એચ.એસ.મુલીયા ની રૂબરૂમાં અરજદાર તરફથી વકીલશ્રી ઝેડ.એ.સૈયદ સામાવાળા ૩ તરફથી વકીલશ્રી એસ.જી.દરયાણીની હાજરીમાં આખર નીકાલ માટે નીકળવાથી નીચેના હુકમથી એવું ફરમાવવામાં આવે છે તથા એવું હુકમનામું કરી આપવામાં આવે છે કે :-

-: ORDER :-

- [1] The present Motor Accident Claim Petition is partly allowed.
- [2] The claimant is entitled to recover the amount of **Rs.27,77,000/- (Rupees Twenty Seven Lac Seventy Seven Thousand Only)** from the opponents, **jointly and severally** along with proportionate costs and interest at the

rate of **09% (Nine Percentage)** *per annum* from the date of filing the claim petition, till the amount is realized.

- [3] The opponents are directed to deposit the awarded amount within 30 days.
- [4] Out of the amount deposited, deficit Court Fees, if any, and the amount of interim relief, be deducted first.

Since now the applicant has become major and considering the financial background of the claimant and huge expenditure meted out by the claimant towards his medical treatment, **50%** amount be invested in fixed deposit scheme in any Nationalized Bank in the name of the claimant, for a period of Five years and same may be released in a phased manner in accordance with Motor Accident Claims Tribunal Annuity Deposit Scheme stipulated in Form XIX of the Amended M.V. Rules, 2022 and the remaining 50% shall be paid by way of Account Payee cheque only.

The claimant shall not be entitled to get any loan, advance or withdrawal or can create any encumbrances on the aforesaid FDR without prior permission of this Tribunal. However, interest accrued from time to time on the said FDR may be paid in cash to the claimant.

- [5] **The Claimant/s are directed to submit following details within one week from today:**
 - 1. Name of the claimant(s)/ victim(s) with address
 - 2. Name of the Bank & Branch Bank IFSC Code Account No(s). of the claimant(s)/victim(s)

3. The first page of the bank pass-book, which will compulsorily contain the photograph of the claimant(s)/victim(s), duly attested by the Bank concerned, should be made available.

4. Wherever the claimant(s)/victim(s) are impleaded as respondents, before the claims tribunal, their account details, as above, will have to be furnished.

- [6] The insurance companies and transport corporations and such other entities shall deposit the amount as directed in circular dated 27.12.2021 in Account Name:- **MACT District Court BHUJ, Account No.00000040691817448, IFS Code: SBIN0000334** and on such deposits being made, the insurance companies and transport corporations and such other entities 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, to enable the Claims Tribunal to keep tab on the deposits made and the MACPs for which they were made, which is a fundamental need for a smooth implementation. The Payment advice for remittance of compensation is as under:

PAYMENT ADVICE FOR REMITTANCE OF
COMPENSATION From:

..... Bank

To:

..... Court

We confirm remittance of compensation as follows on instructions of (insurance company/transport corporation):-

1. MACP Number
 2. On the file of (Claims Tribunal Name)
 3. Place
 4. Date of award
 5. Amount Deposited
 6. Income Tax Deduction at Source, if any
Unique Transaction Reference (UTR) No.
- 6.1 The Insurance Companies, Transport Corporations and such other entities 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 claimants or their counsel as the case may be.
- 6.2 Insofar as tax deduction at source is concerned, Form 16-A of the Income Tax Act should be provided to the claimant/victim on whose behalf the deduction has been made so as to enable him to seek refund of tax deducted.

Date : 17/04/2023.

આ ફરીયાદના ખર્ચ માટે રૂપિયા ૩૦૮૭૦ ની રકમ આજ તારીખથી તે વસુલ થયાની તારીખ સુધી દર વરસે સેંકડે— ટકા વ્યાજ સુધ્ધા સામાવાળાઓ એ અરજદારોને આપવી.

ખર્ચનો આંકડો			
અરજદારને થયેલ		સામાવાળાને થયેલ	
	રૂ. પૈસા		રૂ. પૈસા
૧) અરજીનો સ્ટેમ્પ	૭૫૦૦	૧) મુખત્યારનામાનો સ્ટેમ્પ	૩.૦૦
૨) વસુલ કરવા પાત્ર કોર્ટ ફી	૭૫૦૦	૨) રજુ કરેલ કાગળોનો સ્ટેમ્પ	—
૩) મુખત્યારનામાનો સ્ટેમ્પ	૩	કુલ કાગળો આપ્યા પ્રમાણે	—
૪) રજુ કરેલ કાગળોનો સ્ટેમ્પ	—	૩) સાક્ષીઓની ખોરાકી	—
કુલ કાગળો આપ્યા પ્રમાણે	—	૪) પ્લીડરની ફી	૧૫૮૬૦
૫) સાક્ષીઓની બાકી ખોરાકી		૫) પ્રોસેસ બજવણી	
૬) પ્લીડરની ફી	૧૫૮૬૦	૬) કમીશનર ફી	—
૭) પ્રોસેસ બજવણી	૭		—
૮) કમીશનર ફી	૦૦		
૯) છપામણી ખર્ચ	૦૦		
કુલ	૩૦૮૭૦	કુલ	૧૫૮૬૩
નહિં આપેલો ખર્ચ		નહિં આપેલો ખર્ચ	
ફરીયાદની અરજી ઉપર		ફરીયાદની અરજી ઉપર	—
પ્લીડરની ફી		પ્લીડરની ફી	
પ્રોસેસ ઉપર		પ્રોસેસ ઉપર	
મુખત્યારનામાનો સ્ટાંપ		મુખત્યારનામાનો સ્ટાંપ	
કુલ	૦	કુલ	
બાકી	૩૦૮૭૦	બાકી	

આજ તારીખ ૧૭મી માહે એપ્રિલ સને ૨૦૨૩ ના રોજ મારી સહી તથા કોર્ટનો સીકકો કરી આપ્યા તપાસ્યુ બરાબર છે.

સહિ/-

ડેપ્યુટી રજીસ્ટ્રાર
એમ.એ.સી.ટી. (મુખ્ય)
ભુજ-૬૨૬૭

આસીસ્ટન્ટ

(H.S.Mulia)
એમ.એ.સી.ટી. (મુખ્ય)
ભુજ-૬૨૬૭

અરજદારના વકીલ શ્રી
સામાવાળાના વકીલ શ્રી

(આ મુકદમાના પક્ષકારોને એવી ચેતવણી આપવામાં આવે છે કે, તેઓએ રજુ કરેલા દસ્તાવેજો માહેથી અપીલનો નીકાલ થયા પછી, કોઈપણ દસ્તાવેજ લઈ જવામાં નહિં આવે તો તે (દસ્તાવેજ) નાશ કરવાને પાત્ર ગણાશે)

:- **ORDER** :-

- [1] The present Motor Accident Claim Petition is partly allowed.
- [2] The claimant is entitled to recover the amount of **Rs.27,77,000/- (Rupees Twenty Seven Lac Seventy Seven Thousand Only)** from the opponents, **jointly and severally** along with proportionate costs and interest at the rate of **09% (Nine Percentage) per annum** from the date of filing the claim petition, till the amount is realized.
- [3] The opponents are directed to deposit the awarded amount within 30 days.
- [4] Out of the amount deposited, deficit Court Fees, if any, and the amount of interim relief, be deducted first. Since now the applicant has become major and considering the financial background of the claimant and huge expenditure meted out by the claimant towards his medical treatment, **50%** amount be invested in fixed deposit scheme in any Nationalized Bank in the name of the claimant, for a period of Five years and same may be released in a phased manner in accordance with Motor Accident Claims Tribunal Annuity Deposit Scheme stipulated in Form XIX of the Amended M.V. Rules, 2022 and the remaining 50% shall be paid by way of Account Payee cheque only. The claimant shall not be entitled to get any loan, advance or withdrawal or can create any encumbrances on the aforesaid FDR without prior permission of this Tribunal. However, interest accrued from time to time on the said FDR may be paid in cash to the claimant.
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- 6.2 Insofar as tax deduction at source is concerned, Form 16-A of the Income Tax Act should be provided to the claimant/victim on whose behalf the deduction has been made so as to enable him to seek refund of tax deducted.

Award shall be drawn accordingly.

Pronounced in open Tribunal today on this 17th day of April 2023.

Sd/-

(**H. S. MULIA**)

Motor Accident Claims Tribunal,
(Main) Kachchh at Bhuj.
(Code : GJ00915)