

-::Award::-

IN THE MOTOR ACCIDENT CLAIM TRIBUNAL (MAIN)**SHRI M.R.MENGDEY SAHEB, VADODARA.**

**M.A.C.P. NO.: 416/ 2010
EXH.:- 72****CLAIMANTS:-****Vyas Gunvantiben Ashokkumar**

Age: 47 Years, Occupation: Business
R/o.296, Sai Deep Nagar Society,
B/h.Vaikunth-II, New VIP Road,
Vadodara - 390 022.

VERSUS**OPPONENTS:-****1) Laxman Bachubhai Machhi**

Age: Adult, Occupation: -
R/o.31, Bharwad Nagar,
Waghodia Road, Vadodara.

2) Future Generali India Insurance Co. Ltd.

1st Floor, Anant Apartment,
Salatwada, Vadodara.

3) Vyas Ashokkumar Bhanushankar

Age: Adult, Occupation: Service
R/o.296, Sai Deep Nagar Society,
B/h.Vaikunth-II, New VIP Road,
Vadodara - 390 022.

4) United India Assurance Co. Ltd.

Raopura, Vadodara.

Suit filed on : 23rd March 2010.
Suit Registered on : 23rd March 2010.
Suit Decided on : 10th January 2022.

**Subject :- Petition for compensation of Rs. 3,00,000/-
Under Section 166 of The Motor Vehicle Act,1988.**

Appearance:

Mr.SV Parmar – Ld.Advocate for the claimant
Mr.NJ Bhavsar – Ld.Advocate for the opponent no.2
Mr.RA Joshi – Ld.Advocate for the opponent no.4
None for rest of the opponents

On 25th November 2009, the claimant along with her husband, was going to Railway Station for ticket reservation. She was a pillion rider on Activa Scooter No.GJ6CD9710 [for short “Activa”] driven by her husband. When they reached near overhead tank in Karelibaug area, he was dashed by on-coming Auto- Rickshaw No.GJ06XX2506 (for short “Auto- Rickshaw”) driven rashly and negligently by its driver.

As a result, the claimant and her husband received fracture injuries. For the treatment of the injuries sustained by the claimant, she was admitted to Nisarg Hospital, where, she remained inpatient during the period between 25/11/2009 to 01/12/2009, where, operation was performed.

Rash and negligent driving of opponent no.1 was reported to Karelibaug Police Station, which came to be registered as an offence against opponent no.1 vide I CR No.9/10.

Upon such facts of road accident, the claimant claims that at the relevant time, she was running tuition classes with yearly income of Rs.1,25,000/-. But the injuries being aftermath of the road accident have restricted her physical movement, and therefore, she has suffered loss of future prospects. Besides, she has also incurred huge expenditure behind medical treatment. That apart, compensation with regard to pain, shock & suffering, special diet, transportation charge, medical expenditure, loss of actual non- working days etc. is also claimed.

In total, the claimant has claimed compensation as noted herein-above with cost and interest.

This Claim petition on Dated **10th January 2022** for final Disposal before Motor Accident Claim Tribunal (Main) Vadodara, **Hon'ble Mr. M.R.Mengdey.**

-: : ORDER : :-

- (1) The present Claim Petition is hereby PARTLY ALLOWED with costs and interest against the opponents no.1 & 2 only.
- (2) The present Claim Petition is hereby DISMISSED against the opponents no.3 and 4.
- (3) The claimant do recover Rs.1,04,007/- (Rupees One Lakh Four Thousand Seven only) with interest @9% per annum from the date of the petition till its realization from the opponents no.1 and 2, jointly and/ or severally.
- (4) Accordingly, the opponents no.1 and 2 shall deposit the aforesaid amount of compensation together with interest and proportionate costs in the office of this tribunal, within one month from the date of receipt of this judgment & award.

- (5) The Deficit Court Fees, if any, be deducted first.
- (6) Principal Amount of interim / ad-hoc compensation granted under Section 140 of MV Act, if any, shall be deducted from finally awarded compensation.
- (7) After above deductions, out of the remaining amount, 30% be paid to claimant by an Account Payee Cheque after due verification and remaining 70% amount be deposited in her name, in any nationalized bank or government security to her choice, for a period of Five Years.
- (8) Above investment be made on the following terms and conditions:
 - (a) The interest on the fixed deposit investment/s as and when it becomes due, shall be paid to the beneficiary on monthly / quarterly / half yearly / yearly basis;
 - (b) No loan, over-draft or advance known by any other name or nomenclature, shall be made available on the said fixed deposit investment and the Bank / Post Office shall not, directly or indirectly, allow any encumbrance on the said investment;
 - (c) The Bank Manager / Post Master of the Post Office shall intimate to this Tribunal the particulars of fixed deposit investment such as the date of investment, number of fixed deposit receipt, date of maturity etc.;
 - (d) The Bank / Post office shall be at liberty to issue in the first instance, FDR for a lesser period, if as per its Rules, the Fixed Deposit cannot be issued for the entire period indicated above and upon the maturity renew the same till the remaining period is over;
 - (e) At the end of stipulated time period, the Bank / Post Office shall pay the principal amount of the fixed deposit, with bonus / interest accrued thereon, if any, to the claimant by an account payee cheque.

- (9) Opponents no.1 and 2 are directed to scrupulously follow the guidelines issued by the Hon'ble High Court of Gujarat in the case of Hansagauri Prafulchandra Ladhani & Ors. Vs. Oriental Insurance Co. Ltd. & Ors. [2007 ACJ 1897] qua TDS.
- (10) Award be drawn accordingly.

Signed & Pronounced in open Court today on this
10th day of January, 2022.

Date:- 10.01.2022
Place:-Vadodara.

Sd/-
(Mangesh R. Mengdey)
Chairman,
MACT (MAIN),
VADODARA.
Code No.GJ00913.

**** Rs. 750=00 Court Fee to be recover from Applicant.**

-: : MEMO OF COST : :-

Sr. No	Expense by Applicant	Rs.	Expense by Opponent	Rs.
1	Stamp on Application (On Awarded Amount)	3400=00	Stamp on Application	00=00
2	Stamp on V.P.	03=00	Stamp on V.P.	11=00
3	Stamp on Ex.6	10=00	Stamp on Ex.6	00=00
4	Advocate Fee	2495=00	Advocate Fee	3475=00
5	Process Fee	16=00	Process Fee	00=00
6	Witness Allowance	00=00	Witness Allowance	00=00
7	Paper Fee	00=00	Paper Fee	00=00
***	Total Expenses	5924=00	Total Expenses	3486=00
	Expenses (Not Paid)	00=00	Expenses (Not Paid)	00=00
	Stamp on Application (Paid by Applicant)	2650=00	Stamp on Application (Paid by Opponent)	00=00
***	Total Expenses	5924=00	Total Expenses	3486=00

**Given under my hand and Seal of the Court on
10th day of January, 2022.**

**Superintendent
M.A.C.P. (M.)
District Court,
Vadodara.**

**BCG-II
M.A.C.P. (M.)
District Court,
Vadodara.**

**(M.R.Mengdey)
M.A.C.T.(M.)
District Court,
Vadodara.**