RECEIVED ON : 24-11-2020

REGISTERED ON : 24-11-2020

DECIDED ON : 10-04-2026

DURATION : Y.- M.-D.

EXH.

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUX) & 9th ADDL. DISTRICT JUDGE, AT AHMEDABAD (RURAL)

M.A.C.P. No. 1044 of 2020

Mukesh Babu S/o Ramkishor Baghel,
Aged about 36 years, Occu : Plumbing work,
R/o House No.94, Shreenath nagar, Pataravali Chali,
Opp. Bhilvas pond, Narol, Ahmedabad.

...............…...............Claimant

V E R S U S

Driver, owner & Insurance co. of Ecco Vehicle No.GJ-27-X-0874

1. Driver, owner : Anandbhai Dhirubhai Vaghela,
Resi. 18/540, Vikasnagar, Jantanagar,
Amraivadi road, Ahmedabad.

2. Insurance co. : HDFC ERGO General Insurance Co. Ltd.
At. 206, 2nd Floor, Soperce Plaza-4,
Telephone exchange road, Navrangpura,

Ahmedabad.

Policy No.2314202736768700000.

Dt.09-04-2019 to Dt.08-04-2020 till

…..........Opponents

APPEARANCE

Mr. P.K. Rathod, Learned Advocate for the claimant.

No one is present for the opponent No. 1

Mr.K.C. Maheta, Learned Advocate for the opponent No.2

Claim petition for compensation of Rs.3,00,000/- (Rupees Three Lacs Only) 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.3,00,000/-** 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 **05-01-2020.**

[2] The brief facts of the present case is that on 05-01-2020 applicant was returning his home with his motorcycle no.UP-75-7731 at that time at about 10:30 pm when he reached swastik char rasta. The opponent no. 1 that is driver of the ecco car no.GJ.27.X.0874 came in a rash and negligent manner and dashed with his motorcycle. 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.8,000/- 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.3,00,000/-** with interest and costs from the opponents.

[3] The summons was served upon the opponents and in response to the same, Opponent No. 3 has filed his reply vide Exh.15 wherein the age, income, nature of injuries etc., are denied. It is contended by the Ld. Advocate of opponent no. 3 that the accident took place due to sheer negligent driving of the claimant. It is contended that defendant No. 3 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.

<u>// ORAL EVIDENCE //</u>

Sr. No.	Name of the witness	Exh. No.
1	**Deposition of Applicant- Mukeshbabu Ramkishor Baghel.**	17

<u>// DOCUMENTARY EVIDENCE //</u>

Sr. No.	Particulars of Document	Exh. No.
1	Copy of complaint.	20
2	Injury certificate.	21
3	Case paper of civil hospital.	22
4	FIR	26
5	Panchnama	27
6	R.C. Book	29
7	Copy of Policy	30
8	Pursis	24

[5] The opponent No. 3 has produced neither oral nor documentary evidence.

[6] I have heard learned advocates for the respective parties. Ld. Advocate for the claimant has submitted that date, time and place of the accident has been proved. The involvement of vehicle is also proved. Income of the claimant is proved and therefore, necessary order of compensation should be made. It is submitted that this claim petition should be allowed as prayed for.

[7] Per contra Ld. Advocate for the opponent No. 3 has submitted that facts of the claim petition are not proved. It is also submitted that involvement of the vehicle is not proved. It is also submitted that driver of the alleged vehicle did not possess valid driving license. It is also submitted that the present petition should be dismissed.

[8] 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 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 ?

[9] 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.

[10] 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>

[11] 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".

[12] 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.

(Negligency)

[13] So far as the question of negligence is concerned, the claimant namely; **Mukesh Babu Ramkishor Baghel** has filed affidavit of examination-in chief at **Exh. 17**, in which he has reiterated the facts of the petition. The claimant was cross-examined by learned advocate for the Insurance company, wherein he has not mentioned number of the ecco car in the F.I.R. Further, nothing contrary has been elicited therefrom. It is pertinent to note that claimant has produced complaint, panchnama and injury certificate. Considering the all the documents and conjoint reading thereof, it is borne out that the ECCO car No.GJ-27-X-0874 has been involved in the alleged accident. It is proved that the aforesaid car is the sole negligent for the alleged accident.

[14] Moreover, the applicant has produced medical papers and disability certificate. The aforesaid documents show that the applicant has sustained bodily injuries resulting into permanent disability. Thus, considering the above documents, it appears that accident has happened due to sole negligence on the part of driver of ecco car**.** Hence, considering the oral and documentary evidence and in view of the above facts and circumstances, this tribunal is of the considered opinion that the opponent no. 1 was sole negligent for the occurrence of accident. Moreover, it is also proved that the applicant has sustained injuries resulting into permanent disability. Thus, in view of the above facts and circumstances, Issue No.1, 2 & 3 are answered accordingly.

[15] **<u>ISSUE NO.4</u>**

As the issue No.1 is decided in affirmative, now 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.*"

[16] As per the settled legal proposition, factors to be considered for deciding quantum of compensation in a claim petition wherein the applicant had suffered permanent disability in a motor vehicular accident are, age of applicant to ascertain proper multiplier, income of applicant at the time of accident, percentage of permanent disablement of body as a whole, actual loss of income due to injuries sustained, medical expenses (already incurred and future medical expenses), expenses incurred for attendant, transportation and special diet, non-pecuniary loss (pain, shock and sufferings) and the appropriate rate of interest on the calculated compensation amount.

[17] **Quantum** :

[17.1] **Income** :

The applicant has submitted that at the time of accident, he was earning Rs.8,000/- per month. Such fact has been deposed by the applicant in his deposition. In support of the aforesaid fact to prove his income the applicant has not produced any kind of documentary evidence. It is well-settled that only because documentary evidence is not produced, the same cannot be fatal to the claimant's claim if otherwise income is proved. In a such a situation considering the prevailing condition the fact of having Rs. 8,000/- monthly income is required to be accepted. Hence, considering the same, it is just and proper to consider **Rs. 8,000/- p.m.** as monthly income of the applicant for calculating loss of income.

[17.2] **Age & Multiplier :**

The applicant has stated in his claim petition that he was 36 years old at the time of accident. The claimant has produces her Adhar Card wherein his date of birth is mentioned as 01.01.1984 and the accident was took place on dt.05.01.2020, hence, at the time of accident applicant was 36 years old. Considering the all the material on record the age of the claimant can be considered as 36 years. As per the Yard-stick 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 15** is suggested between the age group of 36 to 40 years and therefore, the applicant is entitled for **multiplier of 15** for the calculation of future loss of income.

[17.3] **Disability :**

So far as sustaining serious injuries resulting permanent disablement due to accident is concerned, applicant has produced pursis in respect of disability sustained and as discussed herein above it has been assessed as 8% body as a whole for calculating future loss of income. However, both the parties have agreed to reduce disability and consider 8% disability body as whole by producing pursis at Exh.24. Hence, this Tribunal has considered disability **8% body as whole.**

[17.4] <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.1,15,200/-** [Rs.8,000/- (monthly income) X 8/100 (disability) = 640 X 12 X 15 (Multiplier)]. So, under the head of future loss of income, applicant is entitled to get **Rs.1,15,200/-.**

[17.5] <u>Actual loss of income</u> :

According to the applicant, due to vehicular accident she sustained permanent disability and she could not work for the period as she was bedridden for certain time. It is borne out from the record that she was admitted into Hospital for certain period as indoor patient. Hence, it can be safely inferred that she could not be in a position to work as a healthy man. Looking to the injury sustained by the applicant, she might have lost 6 months income. It can certainly be concluded that the applicant could not work for 6 months and, therefore, he is entitled for **Rs. 48,000/- (8,000/- x 6 months) for actual loss of income.**

[17.6] <u>Medical Expenses</u> :

The applicant has claimed to have undergone medical treatment for long time and he has produced medical papers. Looking to the all the papers no medical bill has been filled. Hence, he is not entitle to get medical bill amount.

[17.7] <u>Special diet, Attendant Charges & Transportation</u> :

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 her to look after her. Hence, in view of above discussion, the claimant is also entitled to get compensation of **Rs.50,000/-** under the head of Special diet, Attendant Charges & Transportation, which is just and reasonable.

[17.8] **<u>Pain, Shock and Suffering</u>** :

The applicant has sustained serious injuries in the accident and due to that injuries, a permanent disability is also caused to her and due to that she definitely have undergone severe pain, shock and suffering for considerable period. Further, due to permanent disability, she is facing several difficulties in her routine and other work. The applicant would have to suffer these difficulties till her entire life span. Hence, this Tribunal is of the opinion that if the applicant is compensated with **Rs.50,000/-** under the head of pain, shock and suffering it would meet the ends of justice.

[18] 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.1,15,200/-.**
2	Actual Loss of income	Rs.48,000/-
3	Medical Expenses	00
4	Special diet, Attendant charges, and Transportation	Rs.50,000/-
5	Pain, Shock and Suffering.	Rs.50,000/-
	Total	**Rs.2,63,200/-**

[19] **<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.

<u>LIABILITY :</u>

[20]. As discussed in the aforesaid Issues the driver of offending Vehicle No. GJ-27-X-0874 was negligent for occurrence of accident. In the case on hand, Ins. Policy of aforesaid vehicle is produced on record. From the perusal of the said documents, particularly, the insurance policy of the offending vehicle, it appears that; on the date of accident, the Opponent No.1 was registered owner of aforesaid vehicle and as per the insurance policy the said vehicle was insured with Opponent No.2 - Ins. Co. for the period from **09/04/2019 to 08/04/2020** and the accident took place on **05/01/2020.** Hence, the policy covers the date of accident. Therefore, on the date of accident the Insurance Policy was in force. Hence, it is proved that the Insurance company is under obligation to indemnify the owner of the vehicle. In view of the aforesaid discussions all the opponents are held jointly and severally responsible to pay compensation and therefore, issue No. 1, 2,3 are answered accordingly.

[21] <u>ISSUE NO. 4</u>

In view of above referred discussion, applicant is entitled for the just and fair compensation as discussed herein above and I pass the following final order in the interest of justice :-

<u>:ORDER:-</u>

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

(2) The Applicant is entitled to recover compensation of **Rs.2,63,200/- (Rupees Two Lakhs Sixty three Thousand Two 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 severally liable to pay the awarded compensation to the applicant**.**

(3) The Opponent No. 2 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 opponents 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 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 applicants/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 10th day of April, 2026.

Digitally signed by
SANJAYKUMAR CHHAGANBHAI MAKVANA
on 10/04/2026 17:54:25 IST.

Ahmedabad
Date : 10-04-2026

[Sanjaykumar Chhaganbhai Makvana]
M.A.C. Tribunal (Aux) &
9th Additional District Judge
Ahmedabad (Rural)
UID Code GJ00920