

GJBK230002762022



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DECIDED ON : 13/08/2026
DURATION : Y. - M - D.
04 03 00

EXH. NO:-

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(AUXI.), THARAD, BANASKANTHA**

MACP No. 03/2022

Patel Dharamsibhai Ravjibhai

Age : Adult, Occupation: Farming,

R/o. Dantiya, Taluka : Tharad, Dist : Banaskantha

...Claimant

V E R S U S

Driver, Owner & Insurance Co. of Vehicle No. GJ-12-BX-5550

1. Jayantibhai Lavengbhai Thakor

Aged : Adult,

R/o. : Korda, Santalpur, Patan

2. Samatbhai Ratabhai Chhaiya

Aged : Adult,

R/o. : Tapar, Anjaar, Kutchh

3. The New India Insurance Co. Ltd.

Aashirwad Complex, Plot No. 334, Ward 12-B,
Gandhidham

Owner & Insurance Co. of Vehicle No. GJ-01-HT-2399

4. Dineshbhai Prakashbhai Vachheta

Aged : Adult,

R/o : 13-1, Brahmksatriya Society, Nava Vadaj,
Ahmedabad

5. Reliance General Insurance Co. Ltd.,

2nd Floor, Opp. Classic Empire, Near The Mehsana
Urban Co. Opp. Bank, Mehsana

...Respondents

Appearance :

Mr. H. A. Patel – Ld. Advocate for the Claimant.

Mr. D. K. Thakor – Ld. Advocate for the respondent No.3.

Mr. P. L. Kiri – Ld. Advocate for the respondent No.5.

Respondent No.1, 2 & 4 – *Ex parte*.

CLAIM PETITION U/S.166 OF M.V.ACT
FOR COMPENSATION OF RS.5,00,000/-

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

- 1] The present claim petition had been filed under Section 164 of the M. V. Act. During the proceedings of the petition, the learned advocate for the claimant had moved an application to convert the present claim petition into the claim petition under Section 166 of the M. V. Act which was allowed by this Tribunal and the present claim petition was converted into the claim petition filed under Section 166 of the M. V. Act for grant of compensation of Rs. 5,00,000/- with interest for the injuries caused by the claimant in vehicular accident, which had taken place on 04.10.2021.

- 2] **Brief facts leading to the present Claim Petition are as under:-**

It has been averred in the claim petition that the claimant was coming back to his home at Datiya by sitting in passenger vehicle bearing registration no. GJ-01-HT-2399 and the driver of said vehicle was driving the vehicle in slow speed and on the correct side of the road. It is further averred that when they reached near Goliya Primary School at Dudhva-Mangrol road, one tanker bearing

registration no. GJ-12-BX-5550 which was driven by its driver in rash and negligent manner, had hit the vehicle in which, the claimant was seated and the accident had occurred in which the claimant had sustained serious injuries which resultant into permanent disablement.

3] The summons was served upon the respondents and none has appeared on behalf of respondents no.1, 2 & 4 and not filed any reply or written statement against the present claim petition.

3.1] The Ld. Advocate Mr. D. K. Thakor has appeared on behalf of respondent No.3 and filed written statement at Exh.19, *interalia* denying all the contentions of the Claimant made in his claim petition. Further, the respondent no.3 has also denied the age, income of the claimant. It is further stated that the driver of the said vehicle was not holding valid and effective driving licence at the time of accident and there are breach of essential terms of policy and the opponent no.3 is not liable to pay compensation to the claimant. The involvement of vehicle was also denies by the respondent no.3. It is further stated that the accident had occurred due to sole negligence on the part of driver of vehicle no. GJ-01-HT-2399 and there was no negligence on the part of driver of vehicle no. GJ-12-BX-5550. The respondent No.3 has raised many contentions on legal and factual aspects with prayer to dismiss the claim petition against it.

- 3.2] The Ld. Advocate Mr. P. L. Kiri has appeared on behalf of respondent No.5 and filed written statements at Exh.59, *interalia* denying all the contentions of the Claimant made in the claim petition. Further, the respondent no.5 has also denied the age, income of the claimant. It is further stated that the claimant was traveling as an unauthorized passenger in the said vehicle and his risk was not covered under the policy and there are breach of conditions of the policy, hence the insurance company is not liable to pay any compensation. It is further submitted that the driver of the vehicle No. GJ-01-HT-2399 was not negligent in his driving and the accident had occurred due to sole negligence of the driver of vehicle No. GJ-12-BX-5550. It is further submitted that the passengers more than sitting capacity, were traveling in the above vehicle, and there was breach of essential terms of policy. The involvement of vehicle was also denied by the respondent no.4. The respondent No.4 has raised many contentions on legal and factual aspects with prayer to dismiss the claim petition against it.
- 4] Before ascribing reasons for arriving at findings, the oral as well as documentary evidences, relied upon by the parties in support of their contentions are as follows :-
- A.** On behalf of the Claimant, following oral as well as documentary evidence is produced:-

ORAL EVIDENCE

Sr. No.	Exh.	Particulars of document.
1.	24	Examination-in-Chief in form of Affidavit of claimant

DOCUMENTARY EVIDENCE

Sr. No.	Particulars of documents	Exh.
1	Various Bills for expense of treatment	23-38
2	CT Scan Report	39
3	X-Ray	40
4	Disability Certificate of the claimant	41
5	Certified Copy of complaint	44
6	Certified Copy of the Spot Panchnama	45
7	Certified Copy of Injury Certificate of the claimant	46
8	Copy of R.C. Book of the vehicle No. GJ-12-BX-5550	Mark 5/4
9	Copy of insurance policy of the vehicle No. GJ-12-BX-5550	Mark 5/5
10	Copy of driving licence of driver of vehicle No. GJ-12-BX-5550	Mark 5/6
11	Copy of R.C. Book of the vehicle No. GJ-01-HT-2399	Mark 5/7
12	Copy of insurance policy of the vehicle No. GJ-01-HT-2399	Mark 5/8
13	Copy of PAN Card of the claimant	Mark 5/9
14	Copy of Aadhaar Card of the claimant	Mark 5/10

5] From the above pleadings and evidences, following points arise for determination of the present claim petition:

1. Whether the applicant proves his case u/s 164 of the Motor Vehicle Act ?
2. Whether the opponents prove their defence u/s 164 of the Motor Vehicle Act ?
3. What order ?

It is to be noted that the claimant has converted the present claim petition into a petition under Section 166 of the M. V. Act but the Issues was not changes under the petition

under Section 166 of the M. V. Act. As the present claim petition is currently at the stage of final arguments, this tribunal has decided to proceed further.

6] My findings to the above stated issued, for the reasons stated below are as under:-

- 1 As per final order.
- 2 As per final order.
- 3 As per final order.

7] I have heard submissions of Learned Advocates for the concerned parties. The Ld. Advocates for the claimants, respondent no.3 and respondent no.5 have filed their closing purshis at Exh.43, 47 & 51 respectively. Over and above oral arguments, Ld. Advocate for the respondent no.5 has produced written arguments at Exh.70. I have carefully gone through the arguments and considered the material on record.

:-REASONS:-

8] All the points are inter-related to each other and therefore to avoid the repetition, all the points are decided together.

9] While deciding the point of negligence, it has to be borne in mind that negligence is required to be proved in claim Petition under Section 166 of the Act only on the touchstone of the preponderance of probability and not beyond doubt. Above referred ratio is laid down by Hon'ble Apex Court in the cases of (1) Bimla Devi Vs. H.R.T.C. Reported in AIR 2009 SC 2819 and (2)

Parmeshwari Devi Vs. Amir Chand, report in 2011 (11) SCC 635.

- 10] The claimant has filed his evidence by the way of the affidavit at Exh.24 and reiterated the facts of the claim petition in his affidavit. Over and above affidavit of examination in chief, the claimant has also produced the documents in the form of copy of FIR at Exh.44, copy of spot panchnama at Exh.45, copy of disability certificate at Exh.42, the copy of Medico Legal Certificate at Exh.46 and other relevant documents.

The claimant was duly cross-examined by the learned Advocates for the respondent no.3 & 5 and in cross-examination, he has admitted that he has not produced any documentary evidence with regard to his income. He has also denied the suggestion that he has stated falsely that about a man staying behind for three months for his treatment.

- 11] Having considered the arguments put forward, it is an undisputed fact that the claimant sustained serious injuries in the vehicular accident and documents produced on record support the said contention. As regards the negligency is concerned, the Ld. Advocate for the claimant as well as Ld. Advocate for the respondent no.5 has produced the the copy of judgment dated 26.03.2025 passed in MACP No.325/2021 with its consolidated matters by the Ld. Chairman, MACT (4th Aux.), Banaskantha at Palanpur and has submitted that the said

cases had also arisen from the same accident and Ld. Chairman, MACT (4th Auxi.), Banaskantha at Palanpur had decided that the driver of the vehicle bearing registration No. GJ-12-BX-5550 was solely negligent in his driving for causing the accident while the driver of the vehicle bearing registration no. GJ-01-HT-2399 was not held negligent. It has been submitted that the issue of negligence has already settled in above cases and therefore, the sole negligence of the driver of vehicle bearing registration No. GJ-12-BX-5550 may be decided in accordance with the above judgment which has arisen from the same accident.

As the MACP No.325/2021 with its consolidated matters have arisen from the same accident and the findings of the Ld. Chairman, MACT (4th Auxi.), Banaskantha at Palanpur in respect of negligence is binding upon this Tribunal. Further, I am also of the view that there is no error in the finding of Ld. Chairman, MACT (4th Auxi.), Banaskantha at Palanpur and therefore, it is held that the driver of vehicle bearing registration No. GJ-12-BX-5550 was solely negligent in his driving and there was no negligence on the part of driver of the vehicle bearing registration no. GJ-01-HT-2399 for causing the accident. Hence, the Issue No. 1 is answered accordingly.

Quantum of Compensation

- 12] It has been pleaded that due to the accident, claimant suffered serious injuries and due to these injuries, he had taken treatment and thereby, incurred substantial expenditure. It is further averred that at the time of accident, the claimant was 36 years old hale and healthy person and was earning Rs. 20,000/- to 25,000/- per month by doing agricultural as well as animal husbandry work. It is further pleaded that he received multiple, grievous and serious injuries in the accident, due to which, he has become permanently disabled, unable to do casual and routine work. Hence, it was prayed that on account of his treatment, hospitalization, medicines, investigation, transportation, and on special diet etc. and further on account of pecuniary loss, permanent disablement, physical pains, mental agony and shock, loss of earning capacity, depression, expenditure and treatment and future treatment, services rendered by attendant and family members, loss of future earning, loss of amenities of life etc. compensation to the tune of Rs. 5,00,000/- alongwith interest may be awarded from the date of filing of petition till realization.

AGE :

- 13] Claimant in his cross-examination, admitted that at the time of accident he was aged around 36 years and to prove this fact, the claimant has produced the copy of his PAN card at Mark 5/9 in which, the date of birth of the

claimant is mentioned as 01.01.1985 and the accident in question had occurred on 04.10.2021. Therefore, considering the Mark 5/9, this Tribunal is of the opinion that at the time of accident, claimant was aged around 36 years and 10 months. Hence, in view of Judgment of the Hon'ble Supreme court in the case of **Sarla Verma v. Delhi Transport Corporation : 2009 ACJ 1298 and the Schedule-II of the M.V.Act**, a multiplier of 15 is to be taken for the purpose of computing loss of future income since age of claimant was falling in the age group of 36 years to 40 years.

P.S.S. (PAIN, SHOCK & SUFFERING) S.A.T. (SPECIAL DIET, ATTENDANT CHARGES, TRANSPORTATION):-

- 14] Looking to the entire case file, it appears that claimant suffered serious injuries on his body, therefore, a sum of Rs. 15,000/- is awarded towards pain, shock and suffering and a sum of Rs. 9,000/- is awarded towards special diet, transportation etc. and that would be the just and reasonable compensation under this head on these counts.

MEDICAL EXPENSES:-

- 15] Claimant has brought on record medical bills amounting Rs. 14,458/- on his treatment, hospitalization, medicines, investigation, etc. vide Exhibit:23 to 38. Hence, a sum of Rs. 15,000/- is awarded under the head of medical expense.

INCOME

- 16] Claimant pleaded that at the time of accident, he was doing agricultural as well as animal husbandry work and thereby, he was earning Rs. 20,000/- to 25,000/- per month. To prove this fact, the claimant has not produced any documentary evidence on record. Accordingly, considering year of accident and nature of work done by claimant, notional income of claimant is derived as Rs. 9,000/- per month which comes to Rs. 1,08,000/- per annum.

DISABILITY :

- 17] Claimant has produced disability certificate issued by Dr. Nirav R. Gadhvi at Exh.41, in which, disablement suffered by claimant is shown as 16.98% in context of whole body. Considering the judgment of Hon'ble Supreme Court in Raj Kumar vs Ajay Kumar & Anr. (AIR ONLINE 2010 SC 125), this Tribunal comes to the conclusion that disability of the claimant can be considered as 17% in the context of body as a whole, which appears to be just and proper. Thus, future loss of income comes to $[Rs. 1,08,000/- \times 15(\text{multiplier}) \times 17(\text{disability})/100] = Rs.2,75,400/-$.
- 18] As far as, amount towards Actual Loss towards income incurred by claimant is concerned, looking to the injuries suffered by claimant, this Tribunal is of the opinion that claimant had suffered actual Loss of income for two months as after accident the claimant had undergone

conservative treatment and even for the period of recovery from injury and physiotherapy as well, which comes to Rs. 18,000/- and that amount would be just compensation under this head on this count in the absence of any specific evidence.

- 19] In view of the above facts, circumstances and discussion made here in above, the claimant is entitled for the following amount as compensation:

Loss of Future Income	Rs.2,75,400/-
Loss of Income during Treatment	Rs.18,000/-
Medical Expense	Rs.15,000/-
Pain, shock & suffering	Rs.15,000/-
Transportation, Special Diet, Attendant Charges etc.	Rs.9,000/-
Total	Rs.3,32,400/-

In all, claimant is found entitled to a sum of **Rs.3,32,400/-** on the all the above count as just compensation.

LIABILITY :

- 20] As discussed above, the driver of the vehicle bearing registration no. GJ-12-BX-5550 is held solely negligent for happening of the accident while no negligency on the part of the driver of vehicle bearing registration no. GJ-01-HT-2399 has been considered by this tribunal as per the material available on record. The perusal of the copy of R. C. Book of vehicle bearing registration no. GJ-12-BX-5550 shows that the respondent no.2 was the owner of said vehicle at the time of accident. Further, it is clearly established from the record that the said vehicle was

driving by the respondent no.1 at the time of accident. The perusal of the copy of insurance policy of vehicle bearing registration no. GJ-12-BX-5550 shows that the vehicle was insured with the respondent no.3 and the period of insurance is shown from 19.06.2021 to 18.06.2022 and the accident in question had occurred on 04.10.2021, hence, the policy of the said vehicle was in force at the time of accident.

- 21] The Ld. Advocate for the respondent no.5 has submitted written arguments at Exh.70 and also examined its witness at Exh.62 and raised its defence that the passengers more than sitting capacity, were traveling in the above Eeco vehicle, and there was breach of essential terms of policy. As this tribunal is held sole negligence on the part of driver of vehicle bearing registration no. GJ-12-BX-5550 and no negligency on the part of the driver of vehicle bearing registration no. GJ-01-HT-2399 has been considered, hence, as the respondent no.5 has already been exonerated from the liability fo pay any compensation, the defence raised on behalf of respondent no.5 has not been taken into consideration.
- 22] As already discussed, the driver of the vehicle bearing registration no. GJ-01-HT-2399 is not held negligent in his driving and hence, the respondent no.4 & 5 are required to be exonerated from the liability of any compensation with regard to present claim petition.

INTEREST

- 23] Now so far as this issue is concerned, the Hon'ble Apex Court after considering various Judgments, has held that the award should be JUST COMPENSATION and not a BONANZA. By considering Section 171 of Motor Vehicle Act, the issue with regard to grant of interest has been discussed by the Honble Apex Court in the case of Dharampal Versus Uttar Pradesh State Road Transport Corporation, reported in 2008 (12) SCC 208, wherein, the Apex Court was of the view that Award of interest would normally depend upon the bank rate prevailing at the relevant time. Furthermore, the Apex Court in the case of Subulaxmi Versus M.D., Tamil Nadu State Transport Corporation reported in 2012 (10) SCC 177 has held that award of interest would normally depend on the bank rate prevailing at the time of accident. From the above, it can be culled out that award of interest would not only depend on the facts and circumstances of the case but also it would normally depend on bank rate prevailing at the time of accident and, hence, considering the Year of accident, claimants are entitled to 8% interest from date of filing of claim petition till realization.
- 24] Therefore, the respondents No.1, 2 & 3 are jointly and severally liable to pay the aforesaid amount of compensation to the claimant with interest at the rate of 8% p.a. from the date of petition till realization. Hence,

Issue No. 2 is answered accordingly and for issue No.3, the following order is passed.

// O R D E R //

- 1] The claim petition is hereby partly allowed.
- 2] The claimant is entitled to recover the amount of compensation of **Rs.3,32,400/- (Rupees Three Lakh Thirty Two Thousand Four Hundred only)** from the respondent no. 1, 2 & 3 with interest at the rate of 8% per annum from the date of the claim petition till realization.
- 3] The respondent no.4 & 5 are hereby exonerated from the liability to pay any compensation to the claimant of present claim petition.
- 4] The respondent no. 1, 2 & 3 are hereby directed to deposit the above amount of award within one month from the date of this order.
- 5] On depositing of the above amount of award by the respondent no. 1, 2 & 3 in this Tribunal, the deficit amount of Court Fee Stamp, if any, on the awarded amount be deducted first and thereafter, the remaining amount be disbursed to the Petitioner/Claimant.
- 6] After deducting the above deficit amount, out of remaining amount of compensation, 70% of the amount be deposited as FDR in the name of the claimant, in any nationalized bank of his choice for the period of 5 years and the remaining 30% be paid to the claimant through NEFT/RTGS.

- 7] Respondent No. 1, 2 & 3 are hereby directed to deposit the aforesaid amount before this Tribunal within one month from the date of this order. Further, in view of the directions of the Hon'ble Supreme Court in the case of **Bajaj Allianz General Insurance Company Pvt. Ltd. Vs. Union of India & Ors. in W.P. (Civil) No.534/2020** and the directions of the Hon'ble High Court, respondent No. 1, 2 & 3 are directed to deposit the aforesaid amount by way of Direct Bank Transfer through NEFT or RTGS only to the below mentioned Bank Account of this Claims Tribunal.

Account Name	Motor Accident Claims Tribunal, Tharad
Account No.	41072181340
Name of Bank	State Bank Of India
Name of Branch	Tharad Main Branch.
IFSC Code	SBIN0000560
MICR Code	385002118

- 8] Further, after deposit of the awarded amount, the respondent no. 1, 2 & 3 are instructed to ensure that deposit of the awarded amount, along with payment advice by way of direct bank transfer to the above said Bank Account in compliance of the Award passed by the Tribunal is accomplished by furnishing the following information in the format prescribed herein below to the Nazir Department of this Tribunal for maintaining the account MACP Deposits by the Court, and also inform to the petitioner herein.

MACP No.	
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On the file of Claims Tribunal Name	
Name of Petitioner	
Date of Award	
Compensation Amount	
Name of the bank who Deposit the amount	
Income Tax Deducted at Source	
Bank Transaction Reference No. / Unique Transaction Reference (UTR) No.	

- 9] The disbursal of compensation amount shall be made directly to the credit of the bank account of the petitioner/claimant by NEFT or RTGS.
- 10] The claimant shall produce copy of his Bank Passbook, Adhaar Card and PAN Card within 1 (One) Month from the date of this Order.
- 11] The claimant shall be entitled to receive periodical interest on the Fixed Deposit, but shall not be entitled to raise loan or advance without the prior permission of this Tribunal.
- 12] The Respondent No. 1, 2 & 3 are directed to follow and comply with the directions and guidelines laid down by the Hon'ble Apex Court in case of **the Oriental Insurance Company Vs. Chief Commissioner of Income-Tax (TDS) in R/SPCA NO.4800/2021 decided on 05.04.2022** for the purpose of Income Tax.
- 13] Registry, Claimant, Respondent No. 1, 2 & 3 and the concerned bank shall ensure compliance of the

directions of the Hon'ble Supreme Court in the case of Bajaj Allianz General Insurance Company Pvt. Ltd. Vs. Union of India & Ors. in W.P.(Civil) No.534/2020.

- 14] Pending application(s), if any, shall also stand(s) disposed off accordingly.
- 15] Award be drawn accordingly. An authenticated copy of the award be sent to the respondents through e-mail.

Signed & Pronounced in the open court today on this 13th day of August, 2026 at Tharad, Banaskantha.

THARAD
DATE : 13/08/2026

(P. M. SAYANI)
CHAIRMAN, MACT (AUXI)
THARAD, BANASKANTHA
UIC No. GJ00575