MHAH010020882020

Presented on	:	15.06.2020
Registered on	:	19.06.2020
Decided on	:	04.03.2026
Duration	:	Y. M. Ds. 05 08 17

BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL,
AT : AHMEDNAGAR
[Presided over by A.M.Patil, Member, MACT/DJ-1]

M.A.C.P. No.152/2020 **Exh.87**

1. Vinod Pratap Lande
   Age : 29 years, Occ. : Agriculture
2. Nikita Vinod Lande
   Age : 26 years, Occ. : Household
   Both resident of Lande Vasti, Shevgaon,
   Tal. Shevgaon, Dist.Ahmednagar. **...Petitioners**

Versus

1. Umesh Bhimraj Lande
   Age : 30 years, Occ. : Agriculture
2. Rahul Tatyasaheb Lande
   Age : 40 years, Occ. : Agriculture
   Both resident of Lande Vasti, Shevgaon,
   Tal. Shevgaon, Dist.Ahmednagar.
3. Go Digit General Insurance Co.Ltd.
   Nyati, Unitry West Wing, First Floor,
   Yerwada, Dist.Pune. **...Respondents**

Claim : Under section 166 of the Motor Vehicles Act.

Appearances :

Mr. S.A.Lagad, Advocate for the Petitioners.
Mr. A. B. Kale Advocate for Respondents no.1 and 2.
Mr. A.S. Gaikwad, Advocate for Respondent no.3.

J U D G M E N T
(**Delivered on the 4th Day of March 2026**)

1. Petitioners are the legal representatives of the deceased who died in a motor vehicular accident dated 23.10.2019. They have claimed compensation of Rs.55,22,500/-.

2. It is the case of the petitioners that on 23.10.2019 the deceased Pratap Vitthal Lande was travelling on the Motorcycle bearing No. MH 16 CP 0252 (here-in-after referred as 'offending vehicle) of Bhimraj Lande as a pillion rider from Lande Vasti to Shevgaon on Newasa-Shevgaon road. He was driving his motorcycle in high speed. When they reached in Shevgaon, due to the rain their motorcycle skidded and they both fell down. Due to the said accident the deceased Pratap sustained injuries to his chest, right shoulder, right hand, right thigh, hand and the head. He was taken to the Adhar Hospital at Shevgaon and thereafter shifted to Max Care Hospital, Ahmednagar but he succumbed to the injuries at about 4.50 p.m.

3. It is further contended by the petitioner that the said accident caused due to rash and negligent driving of the respondent no.1. The offending vehicle was owned by the respondent no.2 and insured with the respondent no.3. They further contended that the deceased Pratap was doing agricultural business and earning Rs.20,000/- per month. He was also doing milk business and earning Rs.20,000/- per month. The deceased was retired as Asstt. Agricultural Officer from Mahatma Fule Krishi Vidyapith and getting pension of Rs.20,000/- per month. It is further contended by the petitioner that the deceased was only earning member of his family. His family was dependent upon him. The deceased was well bodied person. Due to his death the petitioners have lost loving family member and support of their family. Hence, petitioner prayed for compensation of Rs.55,22,500/-.

4. The son of the deceased Vinod Lande lodged a complaint to the Shevgaon Police Station on 02.12.2019. Police registered an offence under Sections 304-A, 279, 337, 338, 427 of the Indian Penal Code and Section and 184 r/w.177 of the Motor Vehicles Act, 1988 against the driver of the offending vehicle, vide Crime No.511/2019.

5. The respondent No.3 Insurance Company appeared and filed its written statement at Exh.17. It denied all the contentions in the claim petition. It also denied the involvement of the offending vehicle in the alleged accident. It submitted that the petitioners, owner of insured motorcycle bearing registration No.MH 16 CP 0252 with the help of police machinery collusively made this fraud case against the driver of insured vehicle motorcycle. It also submitted that the driver of the offending vehicle was not holding a valid driving license at the time of the accident. The respondents have committed breach of terms and conditions of the insurance policy. It also submitted that as per medical and hospital record the deceased Pratap shown to be fallen from bike. There is delay of 40 days in lodging the FIR. The deceased Pratap was not travelling as a pillion rider on the alleged moped, hence, his risk is not covered as 'Third Party". Moreover, the respondent no.1 and the deceased Pratap are relatives and such false claim is filed to grab amount of compensation. It also raised statutory defence as well as general defence and submitted that the said petition is liable to be dismissed.

6. My learned predecessor framed issues at Exh.16, against which, I have recorded my findings along with reasons as follows;

Sr.No.	**ISSUES**	**FINDINGS**
1.	Whether the accident dated 23.10.2019 occurred on Newasa-Shevgaon road, at Shevgaon, Dist.Ahmednagar due to rash and negligent driving of Aviator Motorcycle bearing No.MH 16 CP 0252 owned by non-applicant no.2, driven by non-applicant no.1 and insured with non-applicant no.3 and deceased Pratap Vitthal Lande died due to it ?	..No.
2.	Whether the Insurance Company proves that there is breach of insurance policy ?	..No.

3.	Whether the claimants are entitled for compensation ? If yes, to what extent and from whom ?	..Does not survive.
4.	What order and award ?	As per final order

R E A S O N S

7. To substantiate the claim, the petitioner no.1 Vinod Pratap Lande(PW1) examined himself by way of filing an affidavit at Exh.19. In his evidence, he reiterated the same as per the claim petition. The petitioners relied and proved the documents viz. report(Exh.25), spot panchanama(Exh.26), Inquest Panchnama(Exh.27), Postmortem Report (Exh.28), Copy of driving license of the respondent no.1 (Exh.29), Copy of R.C. book of the respondent no.2(Exh.30), Copy of insurance policy (Exh.31), Copy of charge-sheet(Exh.32), Medical papers(Exh.34 to 40), Copies of 7/12 and 8A extracts (Exh.41 to 46), Salary slip of the deceased for the month of February 2018 to April 2018(Exh.47), Certificate of Rajarshi Chatrapati Shahu Maharaj Krushi Maha Vidyalaya, Kolhapur (Exh.48), copy of school leaving certificate of the deceased (Exh.49), copy of school leaving certificate of the petitioner no.1 (Exh.50), Ambulance bill(Exh.51) and closed their evidence vide pursis at Exh.53.

8. The petitioners further examined Indrarao Pralhadrao Lande(PW2) to prove that the deceased was doing milk business.

9. On the other hand, the respondent no.3 examined Dr. Rahul Eknath Mate(DW1) at Exh.67 in respect of the manner of the accident. It relied on the authority letter (Exh.68), note dated 23.10.2019(Exh.69), MLC(Exh.70), Progress sheet(Exh.71) and Death Summary(Exh.72).

10. The respondent no.3 further examined Swapnil Rajendra Pimpalghare(DW2) at Exh.78 the legal manager of the insurance company.

As to Issue No.1 :

11. In the evidence of Vinod Lande(PW1), he reiterated the same as per the claim petition. He proved police papers. Upon perusal of report, it is seen that on 23.10.2019 at about 10.30 a.m. the petitioner was riding on the offending vehicle as a pillion rider and the respondent no.1 was driving the same in high speed. As there was raining their motorcycle slipped because of excessive speed and accident took place. He further deposed that in the said accident his father succumbed due to injuries.

12. During cross-examination, the respondent no.3 suggested this witness that his father was riding the offending vehicle in excessive speed. At that time due to raining the motorcycle of his father was skidded and he fell down and succummed to injuries. It was also suggested that he did not inform the said accident to the Max Care Hospital. He was also suggested that his father was not doing the work and and thereby denied his income. But, this witness denied all these suggestions.

13. Indrarao Pralhadrao Lande(PW2) deposed that he runs Om Milk Collection Center. He knows Pratap Vitthalrao Lande. He is father of the petitioner Vinod Lande. Pratap Lande met with an accident on 23.10.2019. He was member of their milk collection center and used to supply 28 to 30 liter milk to him daily and he used to pay Rs.20,000/- to 21,000/- per month.

14. During cross-examination, the respondent no.3 suggested this witness that the deceased was not member of their dairy. Except that no material suggestions were given to this witness.

15. On the other hand, the respondent no.3 examined Dr. Rahul Eknath Mate(DW1). He deposed that on 23.10.2019 the deceased Pratap Vitthalrao Lande was admitted in the Max Care Super Specialty Hospital. He died on the same day. He further deposed that after admission initially the patient was taken to the Casualty Ward, history was taken there. In the Exh.71 the manner of the accident is mentioned as “fall from two wheeler”. He further deposed that the said information was given by the nephew of the patient. In the death summary history of the accident is mentioned “fall from two wheeler”.

16. The respondent no.3 further examined Swapnil Rajendra Pimpalghare(DW2) who is the Legal Manager of the insurance company. He deposed that he revealed from the report, MLC that to grab the compensation the deceased is shown as pillion rider. The company is not liable to pay the compensation as the deceased himself was riding the said motorcycle. During cross-examination by the petitioner this witness admitted that he is deposing on the basis of the investigation of this crime. He further admitted that he is not an eye-witness of the said accident. The offence is registered against the rider of the offending vehicle bearing Crime No.511/2019 in the Shevgaon police station and charge-sheet came to be filed in the Court bearing SCC No.102/2020. He further admitted that in the said case the accused was acquitted and the offending vehicle was handed over to Rahul Lande. He further admitted that the statement of eye-witness Vikram Darkunde was recorded by police. The Max Care Hospital mentioned history as road traffic accident in the letter Exh.79. He further admitted that in the said letter it is not mentioned that the deceased was riding the said vehicle.

17. At the time of argument, the learned advocate for the insurance company relied on the judgment of our Hon’ble High Court in **Bajaj Alianze General Insurance Company Limited Vs. Manisha Kale in First Appeal No. 2742 of 2015 decided on 04.09.2018** to contend that, unless the initial burden of proof is not discharged by the claimant, the insurance company can not be held liable.

He also relied on the judgment of Hon'ble Supreme Court in **Rajamma Vs. M/s. Reliance General Insurance Company in Civil Appeal No.5172 of 2025 decided on 26.09.2025** to contend that the proof of accident is looked on the basis of preponderance of probability.

He further relied on the judgment of our Hon'ble High Court in **ICICI Lombard Vs. Hajratbee and others in First Appeal No.1366 of 2012 decided on 20.06.2019** to contend that mere filing of charge-sheet against the driver of offending vehicle is not sufficient to prove the involvement of the offending vehicle.

He further relied on the judgment of Hon'ble Supreme Court in **Anil and others Vs. New India Assurance Company Limited AIR 2018 SC 612** to contend that the delay in lodging of FIR is the ground for acquittal under Section 279 and 304-A of the IPC.

He further relied on judgment of our Hon'ble High Court in **Shriram Insurance Company Limited Vs. Vanita Marekar 2019 DGLS(Bom.) 865** to contend that the initial burden to prove the said accident is on the petitioners and for that purpose the evidence on the part of petitioners is necessary. If the petitioners failed to prove the involvement of the vehicle in the accident, then the insurance company shall not be held liable to pay compensation.

He further relied on the judgment of our Hon'ble High Court in **New India Assurance Company Ltd. Vs. Shaikh Ashiya 2021 DGLS (Bom.) 1397** to contend that it is the responsibility of the petitioners to prove the involvement of the vehicle in the accident.

Lastly, he relied on the judgment of our Hon'ble High Court in **Dharampal and ors. Vs. U.P. State Road Transport Corporation 2008 ACJ 2041** to contend that the award of interest would normally depend upon the bank rate prevailing at that time.

18. It is the defence of the insurance company that only with a view to grab the amount, the deceased was shown as a pillion rider. If it is so, then it is mandatory on the part of the petitioners to prove the same. Upon perusal of entire medical documents on record, everywhere, “fall from the two wheeler” is mentioned. It doesn’t show whether the deceased was rider or pillion rider of the two wheeler at the time of accident. As per the petitioners, the another eye-witness of the incident was one Mr. Vikram Raosaheb Darkunde who had seen the accident. There are two eye-witnesses to the incident. The FIR was lodged after 39 days of the incident by Vinod Pratap Lande who is the son of the deceased. It is seen that the said FIR was lodged on the information given by Vikram Raosaheb Darkunde. The petitioners did not examine both the eye-witnesses before the Court.

19. The another defence of the insurance company is that there is delay in lodging the FIR for 41 days. The Inquest Panchnama Exh.27 was prepared by the Tophkhana police station, Ahmednagar on 23.10.2019. It shows that police have mentioned the reason of death as ‘road accident’. It means, on the day when the deceased died the police had knowledge about the accident. Police have already taken it’s entry under Section 174 of the CrPC. If it is so, then why the police did not mention the vehicle number. It creates suspicion on the investigation done by the police.

20. As per the judgment of our Hon’ble High Court in **Vanita Marekar (supra)**, it is held that the initial burden is always on the claimants to prove the accident which includes not only the involvement of the vehicle but also the manner in which the accident had taken place. Mere production of police papers and exhibiting those documents do not dispense the proof of contents of those documents. If persons who had the knowledge about the accident, with the number of the offending vehicle do not come forward to lodge the report, then this point is required to be considered, when defence of ‘collusion between the driver and owner of the offending vehicle’ raised by the insurance company is taken. Merely because an offence was registered against the driver of the vehicle will not prove involvement of that vehicle in the accident.

21. In the present case in hand, petitioners failed to examine an eye-witnesses to prove the accident and involvement of the vehicle as well as there is unexplained long delay in lodging the FIR. The witnesses who have been examined by the petitioners are not an eye-witnesses and therefore considering the ratio laid down by our Hon'ble High Court in the **Vanita Marekar(supra)** is squarely applicable in the present case in hand. Hence, I come to the conclusion that the petitioners failed to discharge the initial burden of proof regarding the involvement of the said Motorcycle in the accident. Considering all these aspects, I answer issues No.1 in the negative.

As to Issue No.2

22. The respondent no.3 insurance company has examined Dr. Rahul Mate(DW1) and Swapnil(DW2). Upon perusal of their testimonies which are already discussed above, are not sufficient to prove that there is any breach of terms and condition of the policy and therefore I answer issue No.2 in the negative.

As to Issues No.3 and 4 :

23. In the present case in hand, upon perusal of school leaving certificate of the deceased(Exh.49) the date of birth of the deceased was 18.04.1960. There is no serious challenge as to the age of the deceased by the insurance company. Hence, the age of the deceased on the day of accident is considered as 59 years. On perusal of the certificate of milk collection(Exh.33) it is only in respect of membership of the dairy. It is not the proof of the income of the deceased. In absence of any document of income, it would be proper to consider his notional income of Rs.10,000/- per month i.e. Rs.1,20,000/- per annum. If the issue no.1 was proved in favour of the petitioners, then they would have entitled to receive the compensation.

24. As per the judgment of Hon'ble Supreme Court in **National Insurance Company Vs Pranay Sethi, 2017 SCC Online SC 1270** in case of 2 to 3 dependents then 1/3rd shall be deducted for personal expenses. Therefore, it comes to Rs.1,20,000– Rs.40,000/- = Rs.80,000/-. The age of deceased was 59 years and, therefore, multiplier of 9 would be applicable. By using multiplier of 9, the total loss of dependency would be of Rs.80,000 X 9= Rs.7,20,000/-. Besides this, petitioners would have also entitled to get Rs.23,500/- towards medical bills and Rs.15,000/- towards funeral expenses. Thus, the total entitlement would be as follows :-

	Rs.	07,20,000/-	Towards loss of dependency,
	Rs.	23,500/-	Towards medical bills
	Rs.	15,000/-	Towards funeral expenses,
Total -	Rs.	07,58,500/-	

25. In view of the finding of issue no.1 the petitioners are not entitled to get the amount of compensation. Hence, I answer issue No.3 accordingly and in answer to issue No.4, I pass the following order.

O R D E R

1. Petition is dismissed with costs.
2. Award be drawn accordingly.

(Dictated and pronounced in open Court)

ASHISH MANOHAR PATIL
Digitally signed by ASHISH MANOHAR PATIL
Date: 2026.03.05 18:31:22 +0530

(A. M. Patil)
Member, MACT/District Judge-1,
Ahmednagar.
JO Code-MH02456

Date : 04.03.2026