MHAH010054922020

Presented on	:	02.12.2020
Registered on	:	19.12.2020
Decided on	:	08.05.2026
Duration	:	Y. M. Ds. 05 04 19

BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, AT : AHMEDNAGAR.

[Presided over by A.M.Patil, Member, MACT/DJ-1]

M.A.C.P. No.345/2020 **Exh.74**

Balsaheb Dashrath Vetal
Age : 50 years, Occ. : Business
Resident of Nimblak,
Tal. and Dist.Ahmednagar. ...**Petitioner**

Versus

1. Machchindra Jaywant Kandekar,
   Age : 55 years, Occ. : Business
   Resident of L & T Colony, in front of
   Renuka Mata Temple, near MIDC Gymkhana,
   near Ramrao Chavhan Vidyalaya, MIDC,
   Navnagapur, Dist. Ahmednagar.
2. Varsha Balasaheb Temak,
   Age : 40 years, Occ. : Driver
   Resident of Plot No.55, Ahilyanagari, Bhistbag,
   Pipeline road, Savedi, Dist. Ahmednagar.
3. H.D.F.C. Ergo General Insurance Co. Ltd.,
   1st Floor, Sai Icon, Survey No.95/3, in front of
   Axix Bank, Savedi road, Dist.Ahmednagar. ...**Respondents**

Claim : Under section 166 of the Motor Vehicles Act.

: Appearances :

Mr. R. A. Katore, Advocate for the Petitioner.

Mr. K. R. Kotkar, Advocate for Respondents no.1 and 2.

Mr. A. S. Gaikwad, Advocate for Respondent no.3.

JUDGMENT

(Delivered on the 8th Day of May 2026)

1. The petitioner has prayed for compensation of Rs.6,00,000/- on account of permanent disability sustained by him in motor vehicular accident dated 07.10.2020.

2. The facts of the claim petition, in brief, are as under;

On 07.10.2020 at about 10.45 a.m. the petitioner was proceeding on Motorcycle No. MH 16 CN 1977 in MIDC area with Manish Subhedarprasad Kumar. When they reached at the square in front of Suvidha Hotel, Car bearing No. MH 16 BF 0090 (here-in-after referred to as 'the offending vehicle') came from the Sahyadri Chowk in high speed in negligent manner and gave a dash to their motorcycle. Due to which accident took place. The petitioner sustained fracture injury to his vertebra. He was immediately taken to Darandale Hospital, Nagapur, Ahmednagar. He was admitted there as an indoor patient from 10.10.2020 to 15.10.2020. Manish Subhedarprasad Kumar was driving his motorcycle in slow speed to the side of the road by wearing helmet. The petitioner was pillion rider. The driver of the offending vehicle i.e. respondent no.2 drove it in high speed and negligent manner and caused the accident.

3. The petitioner further contended that prior to the accident, he was doing business of crane service and earning Rs.20,000/- per month. Due to the accident he is unable to work. He was well bodied person and earning member of his family. But due to disability he is unable to do his daily work. He further contended that he had undergone the surgery and still, he needs to take treatment and spending Rs.10,000/- per month.

The petitioner further contended that the offending vehicle was owned by the respondent no.1, driven by the respondent no.2 and insured with respondent no.3. So they are liable to pay compensation to the petitioner.

4. Manish Subhedarprasad Kumar the rider of the motorcycle lodged report to MIDC Police Station about the accident. Therefore the police registered an offence against the driver of the offending vehicle vide Crime No.907/2020 punishable under sections 279, 337, 338, 427 of the Indian Penal Code and sections 184, 134(a)(b) r/w.177 of the Motor Vehicles Act, 1988. Hence, this claim petition.

5. Respondent No.3 Insurance Company appeared and filed its written statement at Exh.20. It denied all the contentions in the claim petition. It also submitted that the insured vehicle is fraudulently involved in the alleged accident with intention to grab the money from the insurer. It also submitted that there is unexplained delay in lodging the FIR. The respondent no.1 the owner of the car has committed breach of terms and conditions of insurance policy. At the material time, the driver of the insured car was not holding a valid and effective driving license to drive the same. It also raised statutory defence as well as general defence and submitted taht the respondent No.3 is not liable to pay any compensation.

6. Respondents No.1 and 2 appeared and filed their written statement at Exh.41. They denied all the contents of the petition. They submitted that the motorcycle rider himself drove it in high speed and hit their car i.e. offending vehicle and caused accident. They further submitted that at the time of accident the driver of offending vehicle was holding valid and effective driving license. There is no breach of any condition of insurance policy. There is no fault on the part of driver of offending vehicle. Lastly, they submitted that the offending vehicle was insured with the respondent no.3, hence, only insurance company is liable to pay the compensation and prayed for dismissal of the petition.

7. On the basis of the rival pleadings of the parties, following issues were framed by my learned predecessor at Exh.21 against which, I have recorded my findings along with the reasons as follows ;

Sr.No.	ISSUES	FINDINGS
1.	Whether the accident took place due to rash or negligent driving of the driver of Polo Car bearing registration No.MH 16-BF-0090 ?	..Yes.
2.	Whether the petitioner sustained permanent disabilities due to the injuries suffered by him in the said accident ? If yes, to what extent ?	..Yes.
3.	Whether the petitioner is entitled to get compensation ? If yes, to what extent and from whom ?	..Yes.
4.	Whether the opponent no.3 proves that the owner of car has committed breach of terms and conditions of insurance policy ?	..No.
5.	What order, cost and award ?	As per the final order.

R E A S O N S

8. To substantiate the claim, the petitioner proved the documents i.e. FIR(Exh.25), Spot Panchnama(Exh.26), medical certificate (Exh.27), R.C.Book of the offending vehicle (Exh.28), copy of insurance policy(Exh.29), driving license of the respondent no.1(Exh.30), vehicle particulars of the offending vehicle(Exh.31), copy of Adhar Card of the petitioner(Exh.32), copy of charge-sheet(Exh.33), R.C. book of the motorcycle bearing No. MH 16 CN 1977(Exh.34), copy of insurance policy of the motorcycle(Exh.35) and medical papers at Exh.64 to 66.

As to Issue No.1:-

9. Balasaheb Dashrath Vetal(PW1) examined himself by way of filing his affidavit at Exh.22. He deposed as per the averments made in the petition. In his evidence, he has reiterated the same as per the claim petition in his evidence. He deposed that he was admitted in Darandale Hospital, Nagapur and thereafter shifted to Lokmanya Hospital, Pune and admitted there from 10.10.2020 to 15.10.2020. Surgery was done on his spine for which he spent Rs.2,00,000/-. He further deposed that due to the accidental injuries he has sustained 28% disability. He is unable to move and suffering pains.

During cross-examination the learned advocate for the respondent no.3 has suggested to the petitioner in respect of the not holding driving license, accidental injuries, his income, disability and medical bills. But, the witness denied all these suggestions. Even, this witness denied the suggestion of the respondent in respect of earning of money from the crane service business. But nothing material came on record to support the defence of the respondent.

10. The petitioner further examined Manish Subhedar Kumar(PW2) the rider of the motorcycle of which the petitioner was pillion rider and the informant of the accident at Exh.43. He deposed that on 07.10.2020 he alongwith the petitioner was proceeding from Tiles Chowk to Sahyadri Chowk for purchasing vegetables. At that time he was riding the motorcycle. At About 10.45 a.m. when they were passing from Suvidha Hotel Chowk, the offending vehicle driven by the respondent no.2 came in high speed and gave forcible dash to their motorcycle. Due to the accident he sustained simple injuries but the petitioner sustained grievous injuries. The people gathered there and took the petitioner to the hospital. The driver of the offending vehicle is responsible for the said accident. He further deposed that he lodged report of the accident to MIDC police station as he was an eye-witness to the accident.

During cross-examination the learned advocate for the respondent no.3 has suggested to this witness that the offending vehicle never gave dash to their motorcycle, he did not give information of the accident to MIDC police station, the petitioner was not admitted in the hospital. But, this witness denied all these suggestions and nothing material came on record to support the defence of the respondent.

The petitioner further examined Dr. Sandip Babasaheb Kokare(PW3) to prove the disability certificate. He deposed that the petitioner had sustained fracture L-1 vertebra due to road traffic accident. On examination he found that the petitioner had complaint of intermittent claudication with weakness in both lower limb which restriction of movement, inability in performing routine activities, inability in forward bending and extension. Therefore he issued Form Comp B -Exh.45 showing 28% disability of the petitioner.

During cross-examination by the respondent no.3 this witness denied that the disabilities shown in the disability certificate are curable in nature.

11. Insurance company did not lead any evidence and filed evidence closing pursis at Exh.71.

12. Upon perusal of police papers, it is seen that on 19.10.2020. On the basis of said report the police registered an offence against the driver of the offending vehicle. It is also seen that there is delay of 12 days in lodging FIR. But at the time of lodging report Manish Kumar clearly narrated the reason of delay that he was in the hospital at Pune alongwith the petitioner and the petitioner was discharged on 16.10.2010.

On the basis of above police papers, it is crystal clear that the accident took place because of rash and negligent driving of the driver of the offending vehicle.

13. In the judgment of our Hon'ble High Court in **Sneha Bankar and others V/s Hanumant Pednekar and another, 2016 (1) Mh.L.J. 200**, it is held that while deciding the accident cases the tribunal or court shall bear in mind the caution struck by the Apex court that the claim before the Motor Accident Claims Tribunal is neither criminal case nor a civil case. In a criminal case, in order to have a conviction the matter is to be proved beyond reasonable doubt and in the civil case the matter is to be decided on the basis of preponderance of probability, but in the claim petition before the Motor Accident Claims Tribunal, the standard of proof is much below than what is required in the criminal case as well as in the civil case. Undoubtedly, the inquiry before the Tribunal is a summary inquiry and therefore, does not require strict proof of liability.

14. In the judgment of our Hon'ble High Court in **United India Insurance Co. Ltd. Parbhani V/s Sayaji Shinde, 2009(3) Mh.L.J. 539,** it is held that certified copies of the F.I.R., spot panchanama and inquest panchanama produced by petitioner are the public documents and they can be read in evidence without any additional proof.

15. As per the ratio laid down by Hon'ble Supreme Court in the case of **Bimla Devi V/s Himachal Road Transport Corporation AIR 2009 SC 2819,** that "the petitioners of motor accident claim petition are not required to strictly prove the point of negligence as required in criminal case. It would suffice that the petitioners can establish negligence on the touchstone of preponderance of probability". On perusal of police papers i.e. copy of FIR, spot panchanama etc, it shows that the petitioner sustained injuries in road accident. Therefore, the ratio laid down in case of **Bimala Devi** (Supra) is well applicable in this case.

16. It is settled law as per the judgment of Hon'ble Supreme Court in **Vimla Devi and other V/s National Insurance company, 2019 ACJ 454**, in which Hon'ble Supreme Court observed that the claimant had filed material documents to prove the factum of accident and the person involved therein and therefore, held Insurance company liable to pay compensation. The observation in paragraph Nos.26 to 34 are important, is as under;

"26. First, the appellants had adduced sufficient evidence to prove the accident and the rash and negligent driving of the driver of the offending vehicle, which resulted in death of Rajendra Prasad.

27. Second, the appellants filed material documents to prove the factum of the accident and the persons involved therein.

28. Third, the documents clearly established the identity of the Truck involved in the accident, the identity of the driver driving the truck, the identity of the owner of the Truck, the name of the insurer of the offending Truck, the period of coverage of insurance of the Truck, the details of the lodging of FIR in the concerned police station in relation to the accident.

29. In our view, what more documents could be filed than the documents filed by the appellants to prove the factum of the accident and the persons involved therein.

30. Fourth, so far as the driver and owner of the Truck were concerned, both remained exparte since inception and, therefore, neither contested the appellants' claim petition nor entered into the witness box to rebut the allegations of the appellants made in the claim petition and the evidence. An adverse inference against both could be drawn.

31. Fifth, so far as the Insurance Company is concerned, they also did not examine any witness to rebut the appellants' evidence. The Insurance Company could have adduced evidence by examining the driver of the offending Truck as their witness but it was not done.

32. Sixth, on the other hand, the appellants examined three witnesses and thereby discharged their initial burden to prove the case.

33. Seventh, if the Court did not exhibit the documents despite the appellants referring them at the time of recording evidence then in such event, the appellants cannot be denied of their right to claim the compensation on such ground. In our opinion, it was nothing but a procedural lapse, which could not be made basis to reject the claim petition. It was more so when the appellants adduced oral and documentary evidence to prove their case and the respondents did

> nothing to counter them.
>
> 34. In the light of the aforementioned seven reasons, we are of the considered opinion that the appellants were able to prove the factum of the accident so also the factum of rash and negligent act of the driver causing the accident. It is also proved that the offending Truck was insured with respondent No. 1 at the time of accident and was owned by respondent No.3.”

In the present case in hand, the petitioner succeeded in proving the fact that the accident took place due to the rash and negligent driving of the driver of the offending vehicle. Considering all these aspects, I answer issue no.1 in the affirmative.

As to Issue No.2:-

17. Upon perusal of testimony of Dr. Sandip Babasaheb Kokare(PW3)it appears that the petitioner had sustained fracture L-1 vertebra due to road traffic accident. The petitioner had also complaint of intermittent claudication with weakness in both lower limb which restriction of movement, inability in performing routine activities, inability in forward bending and extension. During cross-examination by the respondent no.3 this witness denied that the disabilities shown in the disability certificate are curable in nature. Thus, respondent no.3 failed to prove that the petitioner has not sustained 28% permanent disability. In such circumstances, there is no any other alternative, except to accept 28% permanent disability of the petitioner. Hence, I answer issue No.2 in affirmative.

As to Issues No.4:-

18. The copy of Registration certificate (Exh.28) reveals that the respondent no.2 was registered owner of the offending car and it was registered in her name on 04.03.2014 having validity till 03.03.2029. The insurance policy (Exh.29) reveals that the offending vehicle was duly insured with respondent no.3 and coverage period was from 07.10.2020 to 06.10.2021. The accident has taken place on 07.10.2020. The driving license (Exh.30) of driver respondent no.2 reveals that it was valid and effective from 19.07.2019 to 31.10.2031. Thus, there is no breach of terms and conditions of insurance policy. Hence, I answer issue No.4 in negative.

As to Issues No.3:-

19. Considering the above discussion, the petitioner is entitled for compensation. So far as the income of the petitioner is concerned, there is nothing on record to prove monthly income of the petitioner and hence, his notional income of Rs.10,000/- per month (Rs.1,20,000/- per annum) is taken into consideration. As per Adhar Card of the petitioner his date of birth is 24.06.1967 therefore, on the day of the accident the age of the petitioner was 53 years.

20. At the time of argument, the learned advocate for the Insurance Company relied on the follwoing judgments of our Hon'ble Supreme Court and Hon'ble High Court Bombay;

(1) Bajaj Allianz General Insurance Company Limited vs. Manisha w/o. Lahu Kale and others 2018 DGLS (Bom) 2180.

(2) Shriram Insurance Company Limited Vs. Vanita Dhanaji Marekar and others 2019 DGLS (Bom) 865.

(3) Dadasaheb Gopinath Dange and others Vs. Mahesh Machchindra Wagh and another in first Appeal No.2545 of 2016 decided on 17th April 2017.

(4) M/s. ICICI Lombard Insurance Company Ltd. vs. Hajratbee w/o. Abdul Razak in First Appeal No.1366 of 2012 decided on 20th June, 2019.

(5) Anil and ors. Vs. New India Assurance Co. Ltd. 2018 DGLs (SC) 19.

(6) New India Assurance Company Limited Vs. Shaikh Ashiya and others 2021 DGLS (Bom.) 1397.

(7) Divisional Manager United India Insurance Co. Ltd. Vs. Basappa Dhareppa Khanapure and others MFA No.7469/2005.

(8) Dharampal and others Vs. U.P. State Road Transport Corporation 2008 DGLS (SC) 737.

After going through the above citations, it is seen that the facts in these citations are entirely different than the present case and therefore, the ratio laid down by Hon'ble Supreme Court and Hon'ble High Court is not applicable in this case with all respect.

21. The petitioner is entitled for the loss of earnings which comes to Rs.33,600/- (28% of Rs.1,20,000/-) X 11 = Rs.3,69,600/-. The petitioner also produced medical bills of the hospital and the pharmacist on record for Rs.1,81,643/-. The petitioner is entitled to get this amount. The petitioner is also entitled for Rs.25,000/- towards transportation charges. I also hold that petitioner is entitled for Rs.25,000/- towards pain and suffering. Thus, the petitioner is entitled for total compensation as under;

	Rs. 03,69,600/-	towards loss of earnings,
	Rs. 01,81,643/-	towards medical expenses,
	Rs. 00,25,000/-	towards pain and suffering,
	Rs. 00,25,000/-	towards transportation charges,
Total-	Rs. 06,01,243/-	

Thus, respondents No.1 to 3 are jointly and severally liable to pay the amount of Rs.6,01,243/- to the petitioner. Hence, I answer issue No.3 accordingly and in answer to issue No.5, pass the following order;

<u>O R D E R</u>

1. The petition is allowed.
2. Respondents No.1 to 3 are directed to pay jointly and severally to the petitioner an amount Rs.6,01,243/- (Rs.Six Lacks One Thousand Two Hundred Fourty Three only) including no fault liability amount, together with an interest at the rate of Rs.8% (Rs. eight per cent) per annum from the date of filing of this petition till its realization.

3. The respondents shall deposit the said amount within two months, from the date of this order.
4. After deposit, the said amount be disbursed to the petitioner by issuing account payee cheque in his name.
5. Award be drawn after payment of deficit court fees stamp, if any.

Dictated and pronounced in open Court.

ASHISH MANOHAR PATIL

Digitally signed by ASHISH MANOHAR PATIL
Date: 2026.05.08 13:07:11 +0530

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

Date : 08.05.2026