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	Duration	:	06-Y. 11-M. 05-D.

BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, AT OSMANABAD.

(Presided over by Dr. F. A. M. Khwaja, Member, MACT, Osmanabad)

Motor Accident Claim Petition No. 369/2019

Exh.47

1	Smt. Shital w/o Audumbar Fuge. Age-40 years, Occu- Household, R/o. Aadhyapak Colony, Barshi, Tq. Barshi, Dist. Solapur, A/P. Prasad Colony, Osmanabad, Tq. & Dist. Osmanabad.	
2	Ashish s/o Audumbar Fuge. Age-21 years, Occu- Education, R/o. as above.	
3	Bharti D/o. Audumbar Fuge. Age-20 years, Occu- Education, R/o. as above.	
4	Ekta D/o. Audumbar Fuge. Age-17 yrs, Occu- Education, R/o. as above.	
5	Jyotiba s/o Audumbar Fuge, Age-11 years, Occu- Education, R/o. as above. The claimant Nos. 4 & 5 are minors and	

	Under guardianship of their real mother i.e. claimant No. 1.	**Claimants**

- V/s -

1.	Hanumant s/o Baburao Veer. Age- Major, Occu- Agri., R/o. Alani, Tq. and Dist. Osmanabad.	
2.	The Branch Manager, The Oriental Insurance Co. Ltd. Branch office-26/965, Aurangabad Road, Near Bank of Maharashtra, Bhanu Nagar, Osmanabad, Tq. and Dist. Osmanabad.	**Respondents**

Claim under Section 166 of the Motor Vehicles Act, 1988.

Appearance	Mr. S.S.Ritapure, advocate for claimants. Matter is proceeded without W.S. of respondent 1. Mr. D.R.Kulkarni, advocate for respondent No.2.

J U D G M E N T

(Delivered on this 10th day of July, 2026)

(1) This petition is filed under Section 166 of the Motor Vehicles Act 1988, seeking compensation to the tune of Rs.30,15,250=00 from the respondents on account of death of Audumbar Tukaram Fuge and restricted up to Rs.1,00,000/-.

(2) The brief facts of the petition are that, the claimant No. 1 is widow, claimant Nos.2 and 5 are sons and claimant Nos.3 and 4 are daughters of deceased Audumbar Tukaram Fuge. On 10.03.2019 deceased Audumbar Tukaram Fuge and claimant No.2 were proceeding from Barshi towards village Devlali by motor-cycle No. MH 13/BH 4683. The claimant No.2 was riding the suit motor-cycle

and deceased Audumbar was pillion rider. The claimant No.2 was riding the motor- cycle slowly, cautiously, in moderate speed by following the traffic rules by the correct side i.e. left side of Barshi-Tadsaudane road. When they reached near the spot of accident near by-pass B.I.T.College Chowk at about 10.30 a.m. A.M. at that time one motor cycle No. MH-25/AN-9065 was also proceeding from Barshi towards village Tadsaudane. The rider of the said motor cycle was riding the said motor-cycle in very excessive high speed and in rash and negligent manner. As the said motor cycle was in very excessive high speed, the rider of the said motor-cycle could not control the speed of the said motor-cycle and he gave forcible dash to the motor cycle of the deceased from back side, due to which the claimant No.2 and deceased Audumbar Fuge fell down on the road and in the said accident the deceased Audumbar sustained grievous head injury and became unconscious. The said accident occurred only due to rash and negligent riding of motor-cycle No.MH-25/AN-9065 by its rider. The deceased and claimant No.2 was not at fault in any manner.

(3) After the accident the Barshi Taluka Police Station have shifted the injured Audumbar in Jagdalemama Hospital Barshi for treatment. As the injured Audumbar has sustained grievous head injury and he was in unconscious, despite the efforts taken by the doctors to save his life, the injured Audumbar succumbed to the injuries in said hospital on 11.03.2019.

After enquiry the Rural Police Station Barshi has registered the Crime No.233/2019, under section 279, 304 (A), 337, 427 of I.P.C. and 184,134 (A) (B) & 177 of Motor Vehicles Act against the rider of motor-cycle No.MH-25/AN-9065.

(4) It is further averred by the claimants that, at the time of accident the deceased Audumbar was 52 years old. He was strong and stout and was not suffering from any disease, or was not addicted to any bad vices. It is submitted that, the deceased was serving as a watchman in M.I.T. School at Barshi and was earning Rs. 15,000/- per month salary. The family of the claimants and deceased is having 05 Acre irrigated land at village Devlali, Tq. Bhoom, Dist. Osmanabad. The deceased was personally cultivating said land and was raising cash crops like sugar cane, sunflower, toor, ground nuts, tomato etc. and was earning Rs.1,50,000/-per year towards net profit from agricultural occupation. The deceased was spending most of his earnings for the claimants. The deceased was the only earning member in the family of the claimants. The deceased has very good prospects in future. In future the deceased would earn not less than Rs.25,000/-per month from the service, if this unfortunate accident would not occurred. The claimants were totally depending on the earning of the deceased. However, the claimants are entitled to claim the compensation to the tune of Rs. 30,12,250/- on various counts. However, the claimants have restricted their claim up to Rs.1,00,000/-.

(5) That, the respondent No. 1 is the registered owner of the suit suit motor-cycle No.MH-25/AN-9065 and the respondent No. 2 is Insurance company of the motor-cycle No.MH-25/AN-9065. The concerned Insurance Policy of the motor-cycle was enforce on the relevant date, time and place of the accident. Hence, the claimants

prayed to pay the compensation of Rs.30,15,250-00 with costs and interest from the respondents Nos.1 and 2 are jointly and severally and restricted their claim up to Rs.1,00,000/-.

(6) Respondent No. 1 is appeared but failed to file written statement. Hence, by order dated 30.10.2023 matter is proceeded without written statement of respondent No.1.

(7) Respondent No. 2 – Insurance Company has filed its written statement at Exh. 15. Besides denying all the contents and the averments made in the petition, it is contended that, the above claim petition is based on untrue and unfounded facts and exaggerated. It is specifically denied by this respondent that, the motor-cycle bearing No.MH-25/AN-9065 was insured with this respondent and insurance policy was enforce as on the date of accident. Further, it is specifically denied that alleged rider Hanumant Baburao Pawar was on motor-cycle at the relevant time and he was holding effective and valid driving license so as to drive the motorcycle at the relevant time. That, from careful perusal of the police papers and pleading itself it revels that the deceased Audumbar Fuge shown to be a pillion rider and his son Ashish Fuge shown to be a rider on motorcycle No. MH-13/BF-7006 at the relevant time. It is specifically denied that Ashish Fuge was the rider on motor-cycle at the relevant time and was holding effective and valid driving license so as to drive the motor-cycle at the relevant time. Another vehicle i.e. motor-cycle No.MH-13/BF-7006 was also involved in the accident on which the deceased and his son Ashish Fuge were travelling at the relevant time.

Further, it is also came on record by way of pleading and police papers that the suit accident is a direct result of head on collusion and most of the ratio of negligence is on the part of rider of motor-cycle No.MH-13/BF-7006, hence in absence of the owner and insurer of above motor-cycle, the claim petition is bad in law for non-joinder of necessary party. Admittedly, the deceased was travelling on suit motor-cycle without helmet by violating traffic rules under M.V.Act hence it just needs to be held that the deceased himself has contributed the suit accident and therefore this respondent alone be not held liable for the alleged claim. For want of strict proof the age, occupation service under alleged employment and agriculturist and monthly income of Rs.15,000/-and net annual income from agriculture of Rs.1,50,000/- of deceased and alleged dependency as specifically shown and as alleged. The contents as regards the permanent residence of the claimants, the relationship inter-se and with deceased as shown is not so much seriously disputed, but it is specifically denied that the claimants are the legal heirs of deceased and are legally entitled for the claim. The compensation claimed by the claimant on various grounds and amount calculated as Rs. 30,15,250/-with interest and cost claimed by the claimants is more excessive, exorbitant and exaggerated and claimants are not entitled for the same from the respondents. The claimants are not legal heirs and dependent of the deceased and hence claimants are put to strict proof of the same with the documentary evidence. The respondent No.2 lastly prayed to dismiss the learned Trial Court petition.

(8) On the basis of rival pleadings of the parties, following issues are framed at Exh 16 and findings thereon with reasons thereto are as under.

Sr. No.	Issues		Findings
1	Whether the claimants prove that due to rash and negligent driving of the offending vehicle motorcycle bearing registration No. MH-25 /AN-9065, the accident was occurred on 10.03.2019 at about 10:30 a.m. near the by-pass B.I.T. College Chowk, Barshi, Tadsaudane road, within the vicinity of Barshi and as a consequence thereof Audumbar Rukaram Fuge died ?	...	In the affirmative.
2	Whether claim is bad for non-joinder of necessary parties ?	...	In the negative.
3	Whether there is breach of terms and conditions of insurance policy ?	...	In the negative.
4	Whether the claimants are entitled to get compensation ?	...	Rs.11,66,000/- with interest from respondent Nos. 1 & 2.
5	Who is liable to pay compensation ?	...	Respondent Nos. 1 and 2.
6	What order ?	...	As per the final order.

(9) To substantiate the claim, claimants have examined C.W.-1 Shital Audumber Fuge (claimant No.1) at Exh.17, C.W.-2 Ashish Audumber Fuge (Claimant No.2) at Exh.30.

(10) The claimants have relied upon the following documents.

Sr. No.	Documents.	Exh.No.
1	Copy of Complaint.	22-A
2	Copy of F.I.R.	22
3	Copy of Spot panchnama.	23

4	Copy of Inquest panchnama.	24
5	Copy of post-mortem report.	25
6	Copy of driving licence of respondent No.1	26
7	Copy of insurance policy of offending vehicle	27
8	Copy of Road Traffic Accident Report and Annex A	28

(11) The claimants have closed their oral evidence by filing pursis at Exh.31. Matter is proceeded without W.S. of the respondent No.1. The respondent No. 2 has filed pursis at Exh. 42 contending that he does not want to adduce further more oral evidence.

(12) Heard Mr. S.S.Ritapure, learned Advocate for the claimants and Mr. D.R.Kulkarni, learned advocate for the respondent No.2.

REASONS

AS TO ISSUE Nos. 1 and 3 :

(13) C.W. 1 Shital and C.W. 2 Ashish have deposed as per contentions in the petition. Moreover, they tried to substantiate that on 10.03.2019 deceased Audumbar Tukaram Fuge and claimant No.2 were proceeding from Barshi towards village Devlali by motor-cycle No. MH 13/BH 4683. The claimant No.2 was riding the suit motor-cycle and deceased Audumbar was pillion rider. The claimant No.2 was riding the motor- cycle slowly, cautiously, in moderate speed by following the traffic rules by the correct side i.e. left side of Barshi-Tadsaudane road. When they reached near the spot of accident near by-pass B.I.T.College Chowk at about 10.30 a.m. A.M. at that time one motor cycle No. MH-25/AN-9065 was also proceeding from

Barshi towards village Tadsaudane. The rider of the said motor cycle was riding the said motor-cycle in very excessive high speed and in rash and negligent manner. As the said motor cycle was in very excessive high speed, the rider of the said motor-cycle could not control the speed of the said motor-cycle and he gave forcible dash to the motor cycle of the deceased from back side, due to which the claimant No.2 and deceased Audumbar Fuge fell down on the road and in the said accident the deceased Audumbar sustained grievous head injury and became unconscious. The said accident occurred only due to rash and negligent riding of motor-cycle No.MH-25/AN-9065 by its rider. The deceased and claimant No.2 was not at fault in any manner. After the accident the Barshi Taluka Police Station have shifted the injured Audumbar in Jagdalemama Hospital Barshi for treatment. As the injured Audumbar has sustained grievous head injury and he was in unconscious, despite the efforts taken by the doctors to save his life, the injured Audumbar succumbed to the injuries in said hospital on 11.03.2019.

(14) Apart from the aforesaid oral evidence, the claimants have relied on documentary evidence such as FIR Exh.22, complaint (Supplementary statement of claimant No.2 Ashish Fuge) Exh.22A, spot panchnama Exh.23, inquest panchnama Exh.24 and post-mortem report Exh.25, copies of road traffic accident report Exh.28 and 28/A. On perusal of aforesaid documents, it clearly seems that the deceased Audumber Fuge died due to “Head Injury” and other injuries sustained by him in the accident. Furthermore, it is pertinent to note that respondents have not challenged the death of deceased Audumbar in a vehicular traffic accident. The testimony of CW-1 and

2 went virtually unimpeached on the factum of death of the deceased in a vehicular accident. The respondent No. 1 failed to file his written statement to the claim petition. Though, futile effort is made on behalf of respondent no.2 that the offending vehicle was not involved in the accident, but there is no evidence adduced on this aspect.

(15) Learned advocate for respondent No.2 Mr. D.R.Kulkarni has vehemently argued that there was no rashness or negligence on the part of respondent No.1 and according to him, the deceased himself was responsible for the accident. He further argued on the point of breach of terms and conditions of insurance policy at the hands of respondent No.1 as he was not holding valid and effective driving licence, permit and fitness certificate at the relevant time of accident. However, it is significant to note that initially the respondent-insurance company has denied the involvement of the vehicle in their written statement and further alleged the breach of policy condition, however, they have not examined any witness to substantiate the said contentions nor led any documentary evidence to establish that the vehicle is not involved and there was breach of policy condition. He also pointed out that, the deceased was not wearing the helmet at the time of accident, therefore contributory negligence be considered. In support of his submission he has placed reliance on the following authorities.

1. Vanita and others V/s. M/s. Shriram Insurance Company Ltd. and another in Civil Appeal No. 6794 of 2025- Supreme Court.

2. National Insurance Co. Ltd. V/s. Smt. Nandabai Wd/o. Prakash @ Pralhad Dhumal – First Appeal No. 1565 of 2012, D/d. 04.07.2017 – Bombay High Court.

3. Bajaj Allianz General Insurance Co. Ltd. V/s. Meera w/o. Raju Choudhary and others – First Appeal No. 1921 of 2013 with Civil Application No. 9092 of 2013 – In the High Court of judicature at Bombay Bench at Aurangabad.

4. Sangita Changdeo Gavhane and others V/s. Vikas Pramod Kale and another – First Appeal No. 2392 of 2016-In the High Court of judicature at Bombay Bench at Aurangabad.

5. The New India Assurance Co. Ltd. V/s. Mr. Julius T.J. Freitas and others – First Appeal (Stamp) No. 30932 of 2016-AIRONLINE 2019 BOM 1641 - In the High Court of judicature at Bombay.

The principle evolved in the above cited precedents is that non wearing of helmet amounts to contributory negligence. Non specification of the registration number of the offending vehicle at the time of lodging of FIR or at the time of recording statement of the injured /victim clearly indicates the plantation of vehicle when there is inordinate and unexplained delay in lodging of the report of the accident. With fullest regards to the law laid down in the above cited precedents here it is significant to note that the accident is of dated 10.03.2019 and on 12.03.2019 the First Information Report has been lodged. Thus, there is delay of two days in lodging of the First Information Report. It is significant to note that the deceased was receiving treatment for the injuries sustained in the above said accident in Jagdale Mama Hospital Barshi. Of course for the reason of treatment nay hospitalization and time to recover from the injuries and come out from the trauma the delay might have been caused in lodging the report of the accident in question, therefore in the given set of circumstances the delay in lodging the report of the accident cannot be termed to be fatal.

(21) I have minutely gone through the above cited precedents. It is reiterated that in a Motor Accident Claim Petition as per the settled position of law the initial burden to prove the factum of accident and involvement of offending vehicle lie on the claimants. It is the claimants who have to discharge this primary burden by establishing the occurrence of accident and the involvement as well as identity of the vehicle at least on prima-facie basis. Only then the onus to disprove shifts to the other side.

(22) It is equally reiterated that mere production of police papers and exhibiting those documents does not dispense the proof of the contents of those documents. It was also held that merely on the basis of certified copies of the First Information Report, Spot Panchnama and other documents the claimants cannot prove their case. The absence of examination of eye witnesses to the incident can also be one of the factor which can be considered that the claimants failed to prove the involvement of the vehicle vis-a-vis rashness and negligence on the part of offending vehicle, since only the certified copy of the First Information Report said to be cogent material and conclusive evidence to prove the involvement of the offending motorcycle owned by the respondent No.1. There are instances where the false implication of the vehicle owned by the relatives or persons from nearby village with intention to convert orphan accident in a

motor vehicular accident, which is frequent practice observed in the recent past.

With fullest regards to the settled position crystallized in the above cited precedent, in the case in hand facts differ, respondent No. 1 specifically admitted the factum of accident and involvement of offending vehicle in the accident, but only denied rashness and negligence on the part of its driver.

(23) Adverting to the aspect of negligence the Hon'ble Bombay **High Court in the case of Rammurti and others vs. Madhukar and others, reported in 2016 ACJ 2350**, has enunciated that one cannot act stubbornly to insist strict evidence in Motor Accident Claim Petitions as if it is criminal trial requiring the evidence to be proved beyond all reasonable doubts. It is well settled legal position that the documents scribed during the course of investigation are sufficient proof to reach to the conclusion that the driver was negligent and the proceedings under the Motor Vehicles Act are not akin to a proceeding in a civil suit and hence, strict rules of evidence are not required to be followed in this regard. In present case the respondents have not rebutted the involvement of the offending vehicle of respondent No. 1. Thus, a futile effort is made to suggest that in the accident offending vehicle is not involved.

(25) There can be no dispute about the broad proposition that the liability to pay compensation is rested on the principle of injury to negligence. The victim or dependent of the victim, as the case may be, has to establish negligence on the part of the driver of the offending vehicle so as to make the owner and insurer liable to pay the compensation, in a claim under section 166 of the M.V. Act. But the

degree of proof of negligence varies. In a claim petition the claimants are not expected to establish "gross negligence or rashness" at par with the burden which rests upon the prosecution in a criminal case. It has to be established and proved on the touchstone of preponderance of probabilities, with a lesser degree of proof.

(26) Thus, the question of negligence is required to be determined on the basis of the contemporaneous documents placed on record. The true copy of compliant (Exh.22-A), FIR (Exh.22), spot panchanama (Exh.23), inquest panchanama (Exh.24) and postmortem report (Exh.25), evidence of C.W.1 and 2 squarely shows that due to the dash given by the offending vehicle deceased Audumber sustained injuries. If the driver of the offending vehicle would had taken adequate care the impact would have been averted.

(27) It is trite that a person driving the motor vehicle on a public road must drive the vehicle with reasonable care, strictly observing the traffic regulations and rules of the road, so as not to imperil the safety of other persons. The driver must keep a proper lookout for pedestrians, condition of the road and other related factors while driving.

(28) From the nature of the accident wherein the rider of offending vehicle was driving vehicle rashly leading to accident. Thus, the claim of the claimants appears to be nearer to truth as it finds requisite support and sustenance in the investigation papers placed on record. Considering the aforesaid discussion, I am impelled to hold that the accident occurred due to the sole negligence on the part of the driver of the offending vehicle.

(29) In view of the above facts and circumstances of the case, it clearly reveals that the accident in question was an outcome of rash and negligent driving of the offending vehicle i.e. motor-cycle bearing registration No. MH-25/AN-9065 by the respondent No.1. Admittedly, the driver of offending vehicle i.e. respondent No.1 has been prosecuted for the offence arising out of the accident. Furthermore, in the case of **Bimaladevi V/s. Himachal Road Transport Corporation AIR 2009 S.C. 2819** it is observed by Hon'ble Apex Court that -

> The claimants are merely to establish their case on the touch stone of preponderance of probability. The standard of proof beyond reasonable doubt cannot be applied before the Tribunal. Therefore, strict proof of negligence like criminal trial is not required. The Tribunal can draw inference of negligence on the basis of preponderance of the probability.

(30) As far as another defence of insurance company in respect of breach of insurance policy is concerned, it is sufficiently discussed at length. It is not substantiated by leading any legally acceptable, cogent evidence.

(31) Thus, taking into consideration the aforesaid police papers, evidence of C.W.Nos.1 and 2, the ratio laid down in the aforesaid judgments, the principles of preponderance of probabilities, so also in view of aforesaid discussion, I have no hesitation to come to the conclusion that the accident causing death of deceased Audumber occurred due to rash and negligent driving of the

offending vehicle and the accident is root cause of the death of deceased Audumber. Hence, issue No.1 is answered in the affirmative and issue No.3 is answered in the negative.

As to Issue No.2:

(32) Though it is pleaded that the claim petition is bad for non joinder of necessary party as the owner and insurance company of the motor-cycle driven by the deceased are not made a party. This plea was raised by the respondent No.2 Insurance Company that the claim petition is bad on that count i.e. non joinder of necessary party. However, in view of the answer to issue No. 3 the Insurance Company has to be exonerated and further the plea taken by Insurance Company worth no consideration even otherwise terming it to be a legal issue or question then also the FIR is lodged against the offending motorcycle. There is no plea of contributory or composite negligence. There is no counter FIR against the motor-cycle. Thus, it cannot be said that the non inclusion of the insurance company with which the motor-cycle may be insured is fatal to the claim petition. Hence, the issue No.2 is answered in the negative.

AS TO ISSUE Nos. 4 and 5 :

(32) At the time of fixing compensation, basically, only three facts need to be established by the claimants for assessing compensation in the case of death, i.e. as under:

(i) Age of the deceased

(ii) Income of the deceased

(iii) Number of dependents

(33) According to claimants, deceased Audumber was aged about 52 years. Post-mortem report Exh.25 is also showing the age of deceased as 52 years. Moreover, the respondents have not seriously disputed that deceased was not 52 years old at the time of accident. Hence, age of the deceased is considered as 52 years.

(34) Claimant Nos.1 and 2 states in his evidence that, the claimant s were dependent upon the income of the deceased Audumber at the time of accident. It is contended by claimants and also deposed by C.W.1 and 2 that the deceased was serving as a Watchman in M.I.T. School at Barshi and was getting Rs.15,000/- per month. The family of the claimants and deceased is having 05 Acre irrigated land at village Devlali, Tq. Bhoom, Dist. Osmanabad. The deceased was personally cultivating said land and was raising cash crops like sugar cane, sunflower, toor, ground nuts, tomato etc. and was earning Rs.1,50,000/-per year towards net profit from agricultural occupation. To prove the same, the claimants have examined C.W.1 Shital Fuge below Exh.17 and Ashish Fuge at Exh.30. It appears from the evidence of C.W. 1 and 2 that the deceased Audumber was serving as a Watchman in M.I.T. School at Barshi and was getting Rs.15,000/- per month.

(35) On this aspect, claimants have not submitted any documentary evidence to show that the deceased was serving as a Watchman in M.I.T. School at Barshi and was getting Rs.15,000/- per month and also getting Rs.1,50,000/- per year income from the agricultural land. To put it otherwise there is no convincing and legally acceptable evidence to show the exact income of the deceased.

23. In view of the findings to issue nos. 1 to 3, the claim of the claimants for compensation become justifiable. As the claimants are legal heirs of the deceased, their claim for compensation cannot be questioned. This takes me to the aspect of quantum of compensation. On this aspect, claimants have not submitted any documentary evidence to show the exact income of the deceased. Learned advocate for the claimants submitted that, by taking recourse of the Minimum Wages Notification, notional income of the deceased be considered as Rs.10,000/- per month. In support of his contention learned advocate for the claimants placed his reliance upon the observations of the Hon'ble Bombay High Court in the case of **Jalindar Bhausaheb Argade Vs. Mayur Vinayak Kshirsagar and ors (First Appeal No. 348 of 2025) dated 12 th September, 2025**.

> " 6.15 As I recorded above, there is no straitjacket formula for holding the notional income of a person and it is purely a mindful guess work, which has to be applied judiciously in above terms considering the notifications published by the concerned Govt. authorities defining minimum wages from time to time, ensuring that the end result out of that would neither be a pittance nor a bonanza.
>
> 6.16 Under these circumstances, in my considered view holding claimant's income @ Rs.15,000/- p.m. instead of Rs.10,000/- p.m., would meet the ends of justice and the compensation would mean 'just and proper' within the meaning of the Motor Vehicles Act 1988.
>
> 6.17 It would be not out of place to mention here that while assessing compensation in the cases of persons whose

income cannot be proved with evidence, Ld. Tribunal and the parties would take recourse to the Minimum wages notifications, or any such notification published by the Govt. authorities laying down scale of minimum wages, and would adopt a realistic approach to add needful something more corresponding to the facts of each case, as is directed by the Honorable Supreme Court in the cases of Chandra @ Chanda (Supra), Hitesh Patel (Supra), Baby Sakshi Greola (supra) and Kajal (supra)."

(36) While assessing the income of the deceased in the case cited supra, the Hon'ble High Court assessed the notional income of the deceased by considering his age which was 40 years. In the case in hand, as per the postmortem report (Exh.25) age of the deceased Audumber Fuge was 52 years as on the date of accident. Considering the age of the deceased and in view of the ratio laid down in the case cited supra, in absence of any specific evidence about exact income of the deceased, considering the citation relied by learned advocate for claimant, it would be just to consider notional income of the deceased to the tune of Rs.10,000/- per month.

(37) In the light, of the observation of Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and Others, 2017 (4) T.A.C. 673 (S.C.)**, 1/4th of the income of the deceased has to be deducted towards personal and living expenses considering that the petitioner Nos.1 to 5 were dependent upon the income of the deceased. Suffice here to say that the age of claimant No.4 who is daughter of the deceased is shown as 17 years. It is submitted that she has become major. Therefore, in view of the

principle laid down by Hon'ble Apex Court, the amount of total compensation is calculated as under :

No.	**Heads**	**Calculation (Rs.)**
1]	Yearly Income of deceased (Rs.10,000 x 12)	1,20,000/-
2]	Add:10 % future prospect (Rs.1,20,000 x 10 %)	12,000/-
3]	Total income of the deceased	1,32,000/-
4]	Deduction : 1/4th of the income of the deceased for his personal and living expenses (as per the judgment of **Pranay case supra**) (Rs.1,32,000 divided by 4 = Rs.33,000/-) Rs.1,32,000 – Rs.33,000/- = Actual income.	99,000/-
5]	Deceased was 52 years old, hence multiplier '11' is applicable. Rs.99,000 x 11 = **Net total**	**10,89,000/-**
6]	Loss of consortium	**44,000/-**
7]	For loss of estate	**16,500/-**
8]	Funeral expenses.	**16,500/-**
	FINAL TOTAL	**11,66,000/-**

Thus, the claimants are entitled to claim compensation amount of Rs.11,66,000/- (Rupees Eleven Lakh Sixty Six Thousand only) towards compensation with interest. On the point of awarding interest on the compensation amount, this Court deems it proper to quote here the decision in the case of **Kajal Vs. Jagdishchand, Civil**

Appeal No.735 of 2020, wherein the Hon'ble Supreme Court had granted interest at the rate of 7.5% p.a. Thus, it would be appropriate to grant interest at the rate of 7.5% p.a. from the date of petition i.e. from 05.08.2019 till realization of the compensation amount.

Who is liable to pay compensation ?

(38) The respondents No.1 being registered owner of the vehicle in question and the respondent No.2 being insurer of the said offending vehicle, are jointly and severally liable to pay the said compensation amount to the claimants. Accordingly, the findings are given on the issues as such. In the result, I pass the following order :

O R D E R

1)	The petition is allowed with proportionate costs.
2)	Respondent Nos.1 and 2 do jointly and severally pay an amount Rs.11,66,000/- (Rupees Eleven Lakh Sixty Six Thousand only) towards compensation to the claimant Nos. 1 to 3, inclusive of all, with interest at the rate of 7.5 % p.a. from the date of petition i.e. from 05.08.2019 till the realization of the compensation amount.
3)	The respondent Nos. 1 and 2 shall deposit aforesaid compensation amount to the credit of Current Account No. 40460537496 having I.F.S.Code No.SBIN0020039 of the District Judge and Member, Motor Accident Claim Tribunal, Osmanabad maintained with State Bank of India, Branch, District Court, Osmanabad directly by NEFT/RTGS.

4)	Claimant Nos. 1 to 5 are entitled for receipt of Rs.11,66,000/- (Rupees Eleven Lakh Sixty Six Thousand only), excluding NFL amount, with applicable interest as mentioned supra in equal proportion.
5)	Amount coming to the share of claimant No. 5 be invested in a fix deposit scheme of any nationalized bank for a period of 3 years, or till she attain majority whichever is earlier. Claimant No. 1 be appointed as their legal guardian. She will be entitled to receive quarterly interest.
6)	Deficit Court fee, if any, be recovered from the claimants.
7)	Award be drawn up accordingly.

Dictated and pronounced in the open Court.

Digitally signed by KHWAJA FAROOQ AHMED KHWAJA MANZURUDDIN
Date: 2026.07.10 16:18:18 +0530

(Dr. F. A. M. Khwaja)
Member,
Motor Accident Claim Tribunal,
Osmanabad.

Osmanabad.
Date : 10.07.2026

CERTIFICATE

I affirm that the contents of this PDF file Order/Judgment are same word to word as per the original Order/Judgment.

Name of Stenographer	S.B. Ghodke (Grade-I)
Name of Court	Motor Accident Claim Tribunal Osmanabad.
Date of order/Judgment	10.07.2026
Date of order/judgment signed by presiding officer.	10.07.2026
Judgment/Order uploaded on	10.07.2026