MHAH010001512020

Presented on :	08.01.2020
Registered on :	10.01.2020
Decided on :	**03.08.2026**
Duration :	Y. M. Ds **06 06 25**

BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL AT : AHMEDNAGAR

(Presided over by S.B. Gaidhani)

Motor Accident Claim Petition No. 21/2020   **Exh. No.93.**

Abhaysinh Ramkrushna Sarode,
Age : - 33 years, Occ.: - Service and agri,
R/o Dawangaon, Tal. Rahuri,
Dist. Ahmednagar.   ... **Petitioner.**

- Versus -

1] **Dhanjay Bapusaheb Bombale,**
Age :- 45 yrs, Occu. :- Agri and transport,
R/o Jatap, Tal. Rahuri, Dist. Ahmednagar,
(Owner of offending tempo No. MH-20-EG-3143)

2] **Dagadu Sikandar Pathan,**
Age :-35 yrs, Occu. :- Driver,
R/o Birobanagar, Rahuri Bu. Tal. Rahuri,
Dist. Ahmednagar,
A/o Jatap, Tal. Rahuri, Dist. Ahmednagar,
(Driver of offending tempo No. MH-20-EG-3143)

3] **Shriram General Insurance Company Limited,**
Savedi Naka, in front of Bhide Hospital,
Ahmednagar, Dist. Ahmednagar.
(Insurer of offending tempo No. MH-20-EG-3143)   … **Respondents.**

CLAIM OF RS.30,00,000/- UNDER SECTION 166 AND Rs.25,000/- U/S. 140 OF THE MOTOR VEHICLE ACT, 1988.

Shri. D.R. Todmal, advocate for the petitioner.
Shri. S.S. Dighe, advocate for the respondents No.1 and 2.
Smt. G.D. Gandhi, advocate for the respondent No.3.

JUDGMENT
(**Delivered on 03.08.2026**)

1) This application is filed u/s. 166 of Motor Vehicles Act, 1988 for grant of compensation of Rs. 30,00,000/- for the injuries and permanent disability sustained by the petitioner in motor accident.

Facts in nutshell **:**

2) On 17.06.2019 at about 10.30 a.m. injured petitioner was proceeding on his motorcycle numbering MH-17-CA-8833 from Rahuri to Taklimiya road. The injured petitioner was proceeding near More Petrol pump, at that time, tempo numbering MH-20-EG-3143 suddenly took left turn to petrol pump and gave dash to the motorcycle of injured. The petitioner sustained severe injuries. He was taken to Vikhe Foundation Hospital, Vilad Ghat, Ahmednagar and from there he was shifted to Rubi Hall Clinic, Pune. He was admitted in Rubi Hall Clinic, Pune from 17.06.2019 to 25.06.2019. Thereafter, he was admitted in Vikhe Foundation Hospital, Vilad Ghat, Ahmednagar from 25.06.2019 to 08.07.2019. As per petitioner, the accident in which he sustained injuries and permanent disability has taken place because of rash and negligent driving of driver of the offending tempo numbering MH-20-EG-3143. As per the petitioner, he has incurred hospital and medical expenses to the tune of Rs.8 to 9 lakh.

3) The respondent No.1 is owner and respondent No.2 was driver of said offending tempo at the time of accident. The injured petitioner was doing job and also looking his agricultural land. As per the petitioner, he was earning annual income of Rs.2,40,000/- from his agricultural land and Rs.1,00,000/- per month from his job. He has suffered permanent disability and therefore he prayed for allowing his petition.

4) The respondents No.1 and 2 appeared but did not file their written statement and hence the matter proceeded without their written statement.

5) The respondent No.3 insurance company resisted the petition by filing its written statement below Exh.14. The respondent No.3 contended that there is inordinate delay in lodging the FIR as the accident had taken place on 17.06.2019 and the FIR is lodged on 01.08.2019. The respondent No.3 Insurance company contended that offending tempo numbering MH-20-EG-3143 is not involved in the accident and is falsely implicated in this accident. It is also contended that the driver i.e. respondent No.2 was driving the offending tempo numbering MH-20-EG-3143 has not valid and effective driving licence and therefore there is breach of terms and conditions of the policy. The respondent No.3 insurance company further contended that it denies the age, income and occupation of the petitioner. The respondent No.3 insurance company lastly prayed for for dismissing the petition.

6) My learned Predecessor has framed issues below Exh.17. I am reproducing them and recording my findings for the

reasons as follows :-

Sr. No.	ISSUES	FINDINGS
1]	Whether the petitioner proves that on 17.06.2019 at about 11.30 a.m. Rahuri-Takalimiya road, in front of More Petrol pump, Tal. Rahuri, Dist. Ahmednagar, the accident took place due to rash and negligent driving by the driver of Tata Ace Tempo bearing No. MH-20-EG-3143 ?	...In the affirmative.
2]	Whether the petitioner proves that he had sustained injuries resulting in to permanent disability to the extent of 50% in aforesaid motor vehicle accident ?	Partly affirmative, to the extent of 25%.
3]	Whether the petitioner is entitled for compensation ? If yes, to what extent and from whom ?	In the affirmative.
4]	What order and award ?	As per final order.

: R E A S O N S :

Evidence led by parties:

7) In order to prove his claim, petitioner himself examined as PW1 vide Exh.18, investigating officer API Prabhakar Bhaurao Shirsath as PW2 vide Exh.73 and Dr. Mayur Kapse as PW3 vide Exh.74 and relied on certified copies of complaint (Exh.21), spot panchnama (Exh.22), Offending vehicle inspection report (Exh.23), letter issued by I.O. to Shrirampur Depot (Exh. 24), order of PSO, Rahuri (Exh.25), copies of Registration Certificate of offending vehicle (Exh.26), Insurance Policy (Exh.27), vehicle particulars (Exh.28), Driving Licence of driver of offending vehicle (Exh.29), discharge summary (Exh.30), Income tax returns acknowledge

(Exhg.31), Marksheets in C.A (Exh.32 and 33), disability certificate (Exh.34), medical bills (Exh.35/1 to 35/26, 37/1 to 37/69, 39, 40/1 to 40/10, 41 to 43/7, 44, 45/1 to 45/10, Exh. 46/1 to 46/3), receipt of vehicle (Exh.36, 38/1 to 38/18), Certificate of practice (Exh. 47/1 to 47/3), 7/12 extract (Exh.48), certified copy of charge-sheet (Exh.52) and Detail Accident Report of Form/D.A.R. form (Exh. 32). The petitioner closed evidence by giving pursis at Exh.75.

8) Respondent No.3 examined Arkdeep Basak as RW-1 vide Exh.84 and and relied on authority letter (Exh.85), income tax returns (Exh.86 collectively) and filed closed its evidence vide pursis Exh. 89.

9) After giving sufficient opportunity, neither respondents No.1 and 2 did not adduce their evidence. Therefore, their evidence is closed by passing order below Exh.1.

10) Heard the Ld. Advocate Shri. D.R. Todmal for the petitioner and also perused the written notes of argument filed at Exh.91. Also heard the Ld. Advocate Smt. J.D. Gandhi for the respondent No.3/Insurance company. None remained present for respondents No.1 and 2.

11) The learned advocate for the petitioner has relied upon following decision of Hon'ble Supreme Court :

1] **Ravi ...Vs... Badrinarayan and Ors. [AIR 2011 Supreme Court 1226].**

I will consider above decisions while deciding the relevant issues.

As to issues No.1 and 2 :-

12) I am deciding both issues together as their finings are inter-say link to each others.

13) As per the injured/petitioner the accident in which he suffered injuries has taken place because of rash and negligent driving of driver of offending tempo numbering MH-20-EG-3143 i.e. respondent No.2. Similar facts is deposed by injured/petitioner in his affidavit of examination-in-chief (Exh.18). He is cross examined by learned advocate for respondent No.3/insurance company. Apart from denials nothing is extracted in his cross examination. No doubt, in his cross examination, he has admitted that he did not see exactly which vehicle gave dash to his vehicle but, in his examination-in-chief, he has clearly deposed number of the offending tempo which gave dash to him. The driver i.e. respondent No.2 of the offending tempo has been prosecuted by registering at Rahuri Police Station by crime No.618/2019 under Sections 279, 337, 338, 427 of the Indian Penal Code and Sections 184, 134 and 177 of M.V. Act. The evidence of petitioner witness No.2 API Prabhakar Shirsath makes out he received the investigation of the Crime registered in respect of accident and by carrying out investigation he submitted charge sheet in the court. His evidence is also makes out the he obtained MLC of the injured from the Rubi Hospital, Pune.

14) Now, I look into the aspect of non involvement of the offending tempo as contended by the insurance company and also delay in lodging the FIR. The accident has taken place on

17.06.2019 and FIR is lodged on 01.08.2019. Exh.30 is discharge summary of Rubi Hall Clinic, Pune. It makes out that injured/ petitioner was admitted in Rubi Hall Clinic, Pune on 17.06.2019 and was discharged on 25.06.2019. The medical papers including the hospital bills and medical bills filed at Exh.37/1 to 37/64 makes out that the injured petitioner was admitted in Rubi Hall Clinic, Pune and also in Vikhe Foundation Hospital, Vilad Ghat, Ahmednagar. Thus, the said fact makes out that the injured/ petitioner was hospitalized in Pune and as well as Vikhe Hospital, Vilad Ghat, Ahmednagar for considerable long period. Therefore, the delay in lodging the FIR certainly will not sufficient the discard case of the petitioner.

15) The Hon'ble Supreme Court in the case of **Ravi ...Vs... Badrinarayan and Ors. (cited supra)** which is relied upon by the learned advocate for the petitioner has held that,

> "20. *It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In*

cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.

16) Thus, considering the ratio of Hon'ble Supreme Court and facts brought on record in the form of hospitalization of the injured/ petitioner, it cannot be said that the delay is inordinate as some is explained. Further, the evidence of the petitioner has clearly made out the involvement of the offending tempo numbering MH-20-EG-3143 in the accident. The owner and driver i.e. respondents No.1 and 2 of the offending tempo did not file their written statement. Foregoing discussions leads to conclude that the injured/petitioner has proved that the accident in which he sustained injuries has taken place because of rash and negligent driving of the driver of the offending tempo numbering MH-20-EG-3143.

17) As per petitioner, he has suffered permanent disability to the extent of 50%. For proving said fact, petitioner injured has examined witness No.3 Dr. Mayur Kapase at Exh.74. He has deposed that he knows Abhaysinh Ramkrushna Sarode as he was his patient. On 03.07.2021, he issued disability certificate (Form Comp 'B'). In his cross examination, he has admitted that the patient was admitted in Rubi Hall Clinic, Pune and surgery was also done there. He has further admitted that patient was not admitted in his hospital. He has further admitted that the disability of the patient is in respect of only one leg. The disability certificate is at Exh.34. It mentions that permanent disability to the extent of 50%. It makes out that injured/petitioner has sustained right leg shortening by 3 inches. Admission of Dr.Mayur Kapse makes out that the disability is only of one leg. Considering said facts, in my considered opinion, it will be proper and just to held the permanent

disability to the extent of 25% and not 50%. Hence, I answer issue No.1 in the affirmative and issue No.2 to the extent of 25% only.

As to issue No.3 :-

18) In view of finding of issues No.1 and 2, the injured/ petitioner is entitled to pay compensation. As per petitioner, his age at the time of accident is of 33 years and same is gets support from Exh.30 which is Discharge Card of Rubi Hall Clinic, Pune which mentioned the age of patient is 33 years on the day of admission i.e. 17.06.2019.

19) Now, I look into the monthly income of the petitioner. As per petitioner, he was doing job and also looking his agricultural land. He has deposed that from agricultural land he was earning Rs.2,40,000/- per year and from his job, he was earning Rs.12/- lakh per year. It is pertinent to note that no documentary evidence pertaining to income from agricultural land and job is adduced by the injured/petitioner. On the contrary, in his cross examination taken by learned advocate for the insurance company he has admitted that he was earning Rs.10,000/- per month during his article-ship. Thus, it will proper to held the monthly income of Rs.10,000/-. The respondent No.3 insurance company by examining Income Tax Inspector has brought on record the income tax returns of injured. The accident has taken place on 17.06.2019. The income tax returns of the assessment year 2019-2020 is electronically submitted on 31.08.2019. Therefore, said income tax returns is of no help either to the petitioner or to the respondent No.3 Insurance company. Other income tax return are of

subsequent years. One has to consider the income of the injured on the date of the accident. Therefore, the subsequent income tax returns are of no help. Therefore, the monthly income of Rs.10,000/- as admitted by the injured/petitioner in his cross examination has to be held proper for the purpose of the monthly income.

20) I have already held the permanent disability to the extent of 25%. Thus, considering the monthly salary of Rs.10,000/-, the future loss of earning capacity of 25%, the monthly pecuniary loss of the petitioner comes to Rs.2500/-. Thus, annual pecuniary loss comes of Rs.30,000/-. The injured petitioner at the time of accident was 33 years old. Thus, he falls in age group of 31-35 years and hence multiplier of 16 is applicable to him. Therefore, the future pecuniary loss due to disability comes to Rs.4,80,000/-.

Medical Expenses :

21) The petitioner has filed medical bills at Exh.37/1 to 37/68 and also at Exh.38/1 to 38/14, 39, 41/1 to 41/10, 43/1 to 43/9, 44 and 45/1 to 45/10. Total amount of hospital bills and medical bills come Rs.11,19,776/- which is rounded upto Rs.11,20,000/-. Thus, the petitioner is entitled to Rs.11,20,000/- towards hospital bills and medical bills.

22) Considering the long period of hospitalization and nature of injuries suffered by the petitioner, he is also entitled Rs.50,000/- towards pains and suffering. In view of the foregoing discussions injured/petitioner is entitled to Rs.16,50,000/-

(Rs.4,80,000/- +Rs.11,20,000/- + Rs.50,000/- = Rs. 16,50,000/-) as compensation on all counts along with simple interest at the rate of 7% p.a. from the date of filing of the application.

Liability on whom :

23) The copy of registration certificate of offending tempo is filed at Exh.26. The vehicle particulars filed at Exh.28. The copy of driving licence of respondent No.2 who was driving the offending tempo at the time of accident is filed at Exh.29. The insurance policy of the offending tempo is filed at Exh.27. The validity period of the insurance was from 03.09.2018 to 02.09.2019. The accident has taken place on 17.06.2019. Thus, the insurance policy of the offending tempo was valid and effective at the time of accident. Hence, I answer issue No.3 in the affirmative and pass following order :

O R D E R

1] The application is partly allowed.

2] The respondents No.1 to 3 shall pay jointly and severally a sum of Rs.16,50,000/-(Rupees Sixteen Lakh Fifty Thousand only) inclusive of no fault liability to petitioner by way of compensation, with simple interest thereon at the rate of 7% per annum from the date of filing of application u/s. 166 of the Motor Vehicle Act till actual realization.

3] The petitioner is directed to pay the deficit court fees, if any.

4] Upon depositing of award amount of compensation and payment of deficit court fees, if any, Rs.5,00,000/- be deposited in Fixed Deposit in any Nationalize bank of his choice for three years and remaining amount be given to the petitioner, by account payee cheque or by way of electronic transfer mode in his name after his proper identification;

5] Award be drawn up accordingly.

SUNIL BAPURAO GAIDHANI Digitally signed by SUNIL BAPURAO GAIDHANI Date: 2026.08.03 17:13:25 +0530

Date : **03.08.2026**
Place : Ahmednagar

(**S.B. Gaidhani**)
Member,
Motor Accident Claim Tribunal,
Ahmednagar.