

GJBH010013782022



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**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL (AUX)
& 4th ADDITIONAL DISTRICT JUDGE, AT BHARUCH**

M. A. C. P. No.199/2022

Exh.40

Applicants :

1. Shajis Shivaji Valvi
2. Manisha Shajis Valvi
3. Minor Ajay Shajis Valvi
4. Minor Kiran Shajis Valvi
5. Shivaji Aagya Valvi

All the above applicants are residing at Ta. Taloda Dist-
Nandubar, Maharashtra

The minor applicants No.3 & 4 are represented through her guardian father, applicant No.1 - Shajisbhai

V/s.

Opponents :

1. Girish Baba Vasave

Age : 25 year

Driver of Unicorn Motorcycle No. MH-39/AK-2243)

Resi.: Hunakhamb, Ta. - Akkalkuva. Dist- Nandubar,
Maharashtra

2. Bajaj Alliance General Insurance Company Pvt. Ltd.

Resi.: R.K. Kastha Complex, behind Super Market,
Bharuch.

**Subject :-Petition under Sec.163-A of M. V. Act to get the
compensation of Rs.20,00,000/-**

Appearance :

Mr. C.R. Intwala, L.A. for the applicants

Opponent No. 1 ex-parte

Mr. P.G. Shah, L.A. for the opponent No.2

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

1. The applicants have filed this claim petition to get the compensation of Rs.20,00,000/- together with costs and interest from the opponents, jointly and severally on account of the death of deceased in the vehicular accident

took place on 15-11-2021 by the involved motorcycle No. MH-39-AK-2243 under Section 166 of the M.V. Act, thereafter, Ld Adv for the claimant has filed amendment application vide Exh-22 and convert present claim petition under Section 163-A of the M.V. Act.

2. The short facts of the present claim petition are as under : -
It is the case of the applicants that on 15/11/2021 at about 5.30 p.m., near Modalpada village, on the Taloda-Akkalkuwa Road, within the jurisdiction of Taloda Police Station, District Nandubar, State of Maharashtra, the deceased Sameer was riding his motorcycle bearing Registration No. MH-39/E-4138 from Taloda towards Akkalkuwa at moderate speed Soham was travelling as a pillion rider on the said motorcycle. At the relevant time and place, the rider of the offending motorcycle bearing Registration No. MH-39/AK-2243 drove the motorcycle in a rash and negligent manner, lost control over it, came onto the wrong side of the road and dashed against the motorcycle of the deceased. As the result of the impact, the deceased Sameer and the pillion rider Soham were thrown on the road and sustained grievous injuries. Both of them succumbed to the injuries sustained in the said accident.
3. Opponents were duly served with the notices of the claim petition. Thereby, the opponent nos 1 has not remain present before this Court and hence, an Ex-parte order was passed on dated 14/07/2025 vide **Exh-19**. The opponent

No.2 - Insurance Company appeared through Id. advocate Mr. P.G. Shah and filed written statement against the present claim petition at **Exh.13** and contended that the claim petition of the claimant is not bonafide and hence, the same deserves to be dismissed. The opponent says that the driver of the Motorcycle No. MH-39-AK-2243 does not have valid and effective driving license and committed breach of Policy condition and MV Act and Insurance Company is not liable. It is averred that the accident has not been happened due to negligence on the part of opponent No.1, as alleged resulting into injuries and death of the deceased who was pillion rider on the Motorcycle No. MH-39-E-4138. It is a clear violation of policy conditions, therefore, the opponent No.2 cannot be held liable to pay the compensation. In nutshell, the opponent No.2 has denied all the material facts stated in the claim petition and prayed for dismissal of the claim petition.

4. The parties have produced following documentary evidence :-

Oral Evidence:

Sr. No.	Details	Exhibit
1.	Affidavit in chief of Shajis Shivaji Valvi	34

Documentary Evidences:

Sr. No.	Details	Exhibit

1.	Aadhar card of the deceased Samir.	25
2.	Xerox Copy of FIR	26
3.	Xerox Copy of Panchnamu	27
4.	Certified Copy of Inquest Panchnama of the deceased 'Samir'.	28
5.	Certified Copy of Post-Mortem Report of the deceased 'Samir'.	29
6.	Certified Copy of Invoice of Honda Unicorn Motorcycle.	30
7.	Certified Copy of Insurance Policy of Bajaj Alliance.	31
8.	Certified Copy of the license of Opponent No. 1 i.e., owner of unicorn motorcycle.	32
9.	Xerox Copy of Caste Certificate of the claimant.	33

5. Ld. Advocate for the claimants has submitted closing pursis vide **Exh-35**.
6. In view of above pleadings, following issues have been framed at **Exh.20**.
 1. Whether the applicants prove his case u/s.163-A of the Motor Vehicle Act ?
 2. Whether the Opponents prove their Defense U/s 163-A of the Motor Vehicle Act?
 3. What order and award?

7. My findings on the above stated issued are as under :-

1. In affirmative.
2. In Negative.
3. As per final order

:- REASONS :-

8. Ld Advocate for the claimant has filed written argument vide Exh-36 & 38 and the Ld Advocate for the opponent i.e. Insurance Company has filed his written argument at vide Exh- 39.

The applicant No.1 has filed affidavit at Exh.34 and narrated the facts of accident as stated in plaint. No Cross Examination has been conducted. On perusal of the F.I.R. at Exh.26, it appears that it has been lodged on 20/11/2021, deceased Sameer was riding his motorcycle bearing Registration No. MH-39/E-4138 from Taloda towards Akkalkuwa at moderate speed Soham was travelling as a pillion rider on the said motorcycle. At the relevant time and place, the rider of the offending motorcycle bearing Registration No. MH-39/AK-2243 drove the motorcycle in a rash and negligent manner, lost control over it, came onto the wrong side of the road and dashed against the motorcycle of the deceased. As the result of the impact, the deceased Sameer and the pillion rider Soham were thrown onto the road and sustained injuries and died in the accident. Thus, it can be said from the evidence on record that the applicants have established that the deceased met

with accident by the alleged Motorcycle No.MH-39-AK-2243. It is pertinent to note that, the present claim petition is filed u/s.163-A, hence, as per the settled Law, considering the provisions of sub-section 2 of section 163A of M.V. Act, this Tribunal is not required to see or to decide any negligence or the fault on the part of the owner or either party.

9. **Issue No.2 :-**

MINISTRY OF ROAD TRANSPORT AND HIGHWAY

NOTIFICATION

New Delhi, the 22nd May, 2018

S.O. 2022(E).— In exercise of the powers conferred by sub-section (3) of section 163A of the Motor Vehicles Act, 1988 (59 of 1988), the Central Government, Keeping in view the cost of living, hereby makes the following amendment to the Second Schedule to the said Act, namely:—

In the Motor Vehicle Act, 1988, for the Second Schedule, the following Schedule shall be substituted namely:—

“THE SECOND SCHEDULE

(See Section 163A)

SCHEDULE FOR COMPENSATION FOR THIRD PARTY FATAL ACCIDENTS/INJURY CASES CLAIMS

1. **(a) Fatal Accidents:**

Compensation payable in case of Death shall be five lakh rupees.

(b) Accidents resulting in permanent disability:

Compensation payable shall be = [Rs. 5,00,000/- x percentage disability as per Schedule I of the Employee's Compensation Act, 1923 (8 of 1923)] :

Provided that the minimum compensation in case of permanent disability of any kind shall not be less than fifty thousand rupees.]

(c) Accidents resulting in minor injury:

A fixed compensation of twenty five thousand rupees shall be payable

2. On and from the date of 1st day of January, 2019 the amount of compensation specified in the clauses (a) to (c) of paragraph (1) shall stand increased by 5 per cent annually”.
3. This notification shall into form on the date of its publication in the Official Gazette.”

[F. No. RT-11021/65/2017-MVL]

ABHAY DAMLE, Jt. Secy.

9.1. As per Notification No. S.O. 2022(E) dated 22/05/2018 issued by the Ministry of Road Transport and Highways under Section 163-A of the Motor Vehicles Act, the compensation payable in case of fatal accident is fixed at Rs. 5,00,000/- with a further increase of 5% per annum from 01/01/2019. Since the accident in the present case occurred on 15/11/2021, the compensation is liable to be enhanced by 5% annually for three years. Accordingly, the applicants are entitled to compensation of Rs. 5,78,813/- under Section 163A of the Motor Vehicles Act.

9.2. It is clear from the evidence on record that the offending vehicle bearing Registration No. MH-39-AK-2243 was duly insured with Opponent No. 2, Insurance Company from 23/06/2021 to 22/06/2022 for own damage and for third party liability the policy valid from 23/06/2021 to 22/06/2026. The defence raised by the Insurance Company is not sufficient to avoid its statutory liability under Section 163A of the Motor Vehicles Act. Therefore, the claimants are entitled to the compensation with interest @ 9% p.a from the date of claim petition till realization from opponent Nos. 1 & 2 jointly & severally. Accordingly, in regards to Issue No. 1 in Affirmative, Issue No. 2 in Negative and for the Issue No. 3, the following order is passed.

:- ORDER :-

1. The claim petition stands partly allowed.
2. The opponent Insurance Company is hereby directed to pay a sum of Rs. 5,78,812/- (Five Lakhs Seventy Eight

Thousand Eight Hundred and Twelve only) as compensation to the claimants, together with proportionate costs and interest @ 9% p.a. from the date of claim petition till its realization.

3. The interim amount of compensation, if any, paid or deposited under the principle of “No Fault Liability”, will be adjusted from the aforesaid amount of compensation awarded in this final adjudication.
4. Amount of Court fees, if recoverable; be recovered from the awarded amount of compensation and the same to be taxed as costs of the petition.
5. As per the award, the opponents are directed to transfer the amount of court fees through RTGS or NEFT mode in the account of Additional District Judge, Bharuch, the details of account are as under:

A/c Name	Additional District Judge, Bharuch
Branch Name	State Bank of India, Muktinagar Branch, Bharuch.
A/c No.	40759978524
IFSC Code	SBIN0008278
MICR	392002002

6. After depositing the amount of court fees in the account of Additional District Judge, Bharuch, the opponent No. 3 Insurance Company shall inform with full details, such as MACP Number, Date of Award, Transfer of Court Fee

Amount and Date Of Transfer to this Tribunal on e-mail I.D.mactbha@gmail.com.

7. The claimants are hereby directed to furnish the details of his bank account maintained with Nationalized Bank along with first page of the Passbook showing Account Number, Name of the Account Holder, IFSC Code and other required details duly supported by an affidavit within reasonable time before this Tribunal. It is further directed to the claimant to submit the certificate of the banker certifying that the account is of the concerned claimant. Upon receipt of the aforesaid bank details, as per the decision of the Hon'ble Apex Court in the case Parminder Singh v. Honey Goyal & Ors in Civil Appeal arising out of SLP (C) No. 4484 of 2020, the opponent No. 2 is directed to transfer The awarded amount into bank account of concerned claimant within 30 days. Before transferring the amount into the bank account of the concerned claimant, the opponent No. 2, Insurance Company shall inform the concerned bank of the claimant well in advance regarding the transfer of the awarded amount, so that the concerned bank is able to give effect to the direction in fixed deposit.
8. The opponents are also directed to intimate this tribunal one-email I.D. mactbha@gmail.com with respect to transfer of awarded amount in bank account of the concerned claimant along with proof of such transfer, such as, MACP Number, Name of Claimant, Amount Transfer,

Date of Transfer, Name of Claimant's Bank with Account Number within 7 days from date of transfer.

9. It is further ordered out of the amount coming to the share of claimant no. 1, claimant no. 2, claimant no. 5, **70%** amount shall be invested in FDR by the concerned bank in the name of concerned claimant/s for a period of 5 years. In respect of Claimant Nos. 3 & 4 , being a minor/legal dependent, the share of compensation shall be deposited in Fixed Deposit Receipts (FDRs) in a nationalised bank, to be kept under lien until attainment of majority or for a period of five years, whichever is later. The bank of the claimant/s is directed to intimate the details with respect to the Fixed Deposit/s made as per the present award in the name of concerned claimant/s to this tribunal immediately after depositing the amount in FDR. The concerned Bank is directed not to grant any loan, advances or withdrawal against the said FDRs without obtaining prior permission of this Tribunal. However, the claimant/s will be at liberty to withdraw the periodical interest accrued on the said FDRs. The Nazir of the District Court to ensure the compliance of this award.
10. The claimant nos. 1 & 2 (parents of the deceased) shall get 30% each, claimant nos. 3 & 4 (Brothers of the deceased) shall get 15% each and claimant nos. 5 (grandfather of the deceased) shall get 10% share in the awarded amount.
11. Insofar as tax deduction at source, if any, is concerned; Form 16-A of the Income Tax Act should be provided to

the claimant/victim on whose behalf the deduction has been made so as to enable him to seek refund of tax deducted.

12. The cost of the proceedings incurred by the claimant as well as the opponents shall be borne by the respondents.
13. Registry is directed to forward the copy of the judgment through e-mail to the opponent No.2 Insurance Company as well as concerned bank of the claimant.
14. Award be drawn accordingly.

Signed & Pronounced in the open Court today 12th of August day of 2026.

Date: 12/08/2026	Virendra Bhikubhai Rajput
Place: Bharuch	MAC Tribunal (Auxi) Bharuch
(M.M.S)	Code No.GJ00692