

MHBH010012292022



Received on - 13.10.2022

Registered on - 17.10.2022

Decided on - 23.09.2025

Duration - 02Y-11M-06D

**BEFORE MOTOR ACCIDENT CLAIMS TRIBUNAL, BHANDARA**

*(Presided over by Bharti Kale, Member, Motor Accident Claims Tribunal, Bhandara)*

**M.A.C.P No.137/2022**

*(CNR No.MHBH01001229-2022)*

**Exh.No.31**

**Laxmi W/o Balkrushna Kosare,**

Aged about 47 years, Occu.- Ladies Tailor,

R/o. Malviy Nagar, Tumsar,

Tah. Tumsar, Dist. Bhandara-441912.

...

**Petitioner.**

**-Versus-**

**1) Vishnu Nath S/o Pooran Nath,**

Aged about Major, Occu.- Owner,

R/o H. No.51, Vill Thati, Tehri Garhwal,

Uttarakhand-249201.

**2) The Oriental Insurance Co. Ltd.**

**Through its Nagpur Branch**

At 15, A. D. Compex, Mount Road,

Extension Sadar, Nagpur-440001.

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**Respondents.**

**Claim under section 166 of the Motor Vehicles Act.**

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Shri V. O. Marjiwe, Ld. Advocate for petitioners.

Smt. Neela Nashine, Ld. Advocate for respondent No.2.

Respondent No.1- Ex-parte.  
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**J U D G M E N T**

(Delivered on this 23<sup>rd</sup> September, 2025)

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This petition is filed u/sec.166 of the Motor Vehicles Act, 1988,  
for compensation for the injury sustained in a motor vehicular accident.

2) It is contended that on 26/05/2022, the petitioner was travelling along with her family members and relatives in a Mahindra Bolero Jeep bearing registration No.UK-14/TA-0635 (offending vehicle) proceeding from Barkot towards Janki Chatti. When they reached Dabarkot, the offending vehicle's driver rashly and negligently took the car in reverse without taking any precaution and caused the accident. In the said accident, the petitioner sustained grievous physical injury, i.e. ortho neurosurgery. She was immediately rushed to Associated Doon Hospital, Dehradun. She was hospitalised there.

3) The doctor had treated and operated, and the petitioner was admitted to the hospital from 27/05/2022 to 15/06/2022. The petitioner has become permanently disabled. Petitioner incurred around Rs.1,00,000/- for her treatment and medical bills.

4) The accident was reported to the Barkot Police Station. Uttarkashi (Uttarakhand) and FIR was registered vide crime No.17/2022 for offence under sections 279, 337, 338, 304(A) of the Indian Penal Code against the driver of the offending vehicle, i.e. respondent No.1.

5) Before the accident, the petitioner was doing the Tailoring work, earning Rs.15,000/- per month. After the accident, she cannot work correctly, reducing her capacity. She had to incur expenses for her treatment. She suffered a loss of earnings and had to spend money on auto charges, attendance charges and special diet after the accident. Thus, she is entitled to Rs.4,50,000/- compensation towards the aforesaid expenses and sufferings.

6) Respondent No.1 is the owner, and Respondent No.2 is the insurer of the offending vehicle. They are jointly and severally liable to pay compensation to the petitioner. Petitioner prayed for the grant of compensation accordingly.

7) Respondent No.1 failed to appear, and the case proceeded against him.

8) Respondent No.2 filed its written statement, denying the averments made by the petitioner about the accident, the compensation amount, and the fact that the vehicle was insured. Respondent No.2 specifically stated that there was no insurance policy. The vehicle was permitted to carry only nine passengers. But, he has allowed 13 passengers by accepting money. Hence, there is a breach of policy. The driver did not have a driving license, and the vehicle did not have a taxi permit or other certificates. The respondent denied that the petitioner received grievous injuries and permanent disability. The petitioner is therefore not entitled to the compensation amount and the interest as claimed. Hence, respondent No.2 prayed for dismissal of the claim petition.

9) Considering rival pleadings of the parties, my learned predecessor framed issues below Exh.11. I heard learned counsel for the petitioner and counsel for respondent No.2. The issues are reproduced hereinafter. I have recorded my findings on those issues along with the following reasons.

| Sr. No. | ISSUES                                                                                                                                                                                                                                                                          |   | FINDINGS                            |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-------------------------------------|
| 1)      | Whether the petitioner proves that the driver of the Mahindra Bolero bearing registration No. UK-14/TA-0635 drove the same rashly and negligently, resulting in an accident causing injury, loss of future earning capacity, travelling and medical expenses to the petitioner? | : | <b>Yes.</b>                         |
| 2)      | Is the petitioner entitled to the compensation?<br>If yes, to what extent and from whom?                                                                                                                                                                                        | : | <b>Yes, as per the final order.</b> |
| 3)      | What award and costs?                                                                                                                                                                                                                                                           | : | <b>As per the final order.</b>      |

**REASONS**

10) To substantiate her case, petitioner examined herself at Exh.12. She relied on certain documents viz. Final report at Exh.16, F.I.R. at Exh.17, Spot Panchanama along with map at Exh.18, vehicle particulars at Exh.19, Discharge card at Exh.20 and Aadhar card of the petitioner at Exh.21. Petitioner has examined PW2 Dr. Rajeev Chawla at Exh.27.

11) Respondent No.2 has not adduced any oral or documentary evidence.

**AS TO ISSUE NO.1:-**

12) Petitioner deposed according to the contentions in the claim petition. She specifically deposed that while she was proceeding from Barkot towards Janki Chatti, along with her family members and relatives, when they reached Dabarkot, the driver of the offending vehicle took his vehicle in reverse rashly and negligently, without taking any precaution and caused the accident. In the said accident, he sustained grievous physical injury, i.e. RTA as mentioned in the discharge summary. She has further deposed that due to the disability, she is unable to open her mouth completely and has a disability in mastication with multiple facial injuries. She is permanently disabled, causing pain and suffering. She was immediately rushed to Associated Doon Hospital, Dehradun and was hospitalised there. There is nothing brought in her cross-examination to disbelieve her testimony regarding the occurrence of the accident.

13) Learned counsel for the petitioner argued that police papers substantiate the petitioner's testimony to show the offending vehicle's involvement in the accident and the rash and negligent driving of the vehicle's driver. Learned counsel for respondent No.2, the insurance company, vehemently argued that the report does not support the petitioner's rash and

negligent driving case. Learned counsel submitted that police papers filed by the petitioner himself are sufficient to falsify the petitioner's case that the driver of the offending vehicle was rash and negligent.

14) Undoubtedly, in motor accident claim cases, police papers can be looked into even without examining the witnesses thereon to see the probable circumstances to conclude if the driver is rash or negligent driving. However, the value attached to the direct evidence, i.e. the verbal evidence of the eyewitnesses, always remains on a higher footing. There is direct evidence of the petitioner, which is corroborated by the spot panchanama. Therefore, on the touchstone of the preponderance of probabilities, it has to be held that the offending vehicle's driver was rash and negligent. Accordingly, this issue is answered.

**AS TO ISSUE NO.2:-**

15) It is already held that the petitioner sustained bodily injury in an accident caused by the rash and negligent driving of the offending vehicle's driver.

16) In that view of the matter, it is necessary to go into the aspect of compensation. It is well settled that the Tribunal has to award equitable, fair and reasonable compensation regarding the settled principles on assessment of damages. Statutory provisions clearly indicate that the compensation must be just, and it can not be a bonanza or a source of profit, but at the same time, it should not be a pittance.

17) As regards pecuniary damages, the discharge card shows that the petitioner was an indoor patient from 27/05/2022 to 02/06/2022, i.e. for six days at Government Doon Medical College, Dehradun. She was treated there.

As per the discharge card, she had suffered the injuries, including swelling in the left maxillary region and other parts. She has admitted in cross-examination that she was not operated upon. As per the testimony of PW2, Dr. Rajeev Chawla, the petitioner was admitted on 6/6/2022 and discharged on 11/6/2022 in the earlier hospital, and he had treated the petitioner in the O.P.D. on 26/05/2022. But no papers are produced. In Form COMP "B", it is mentioned that the petitioner suffered a fifteen per cent deformity due to being unable to open the mouth completely, difficulty in mastication, and multiple facial injuries. The petitioner stated in her cross-examination that she had received Ayurvedic treatment. It has come in the cross-examination of P.W.2 that the certificate was not a disability certificate, and he did not operate upon the patient. Therefore, from the evidence on record, it cannot be held that there was permanent disability causing the inability to carry out the work for the petitioner. But there is evidence to establish that there was disfigurement.

18) The petitioner has deposed that she was required to spend on diet, extra nourishment, and travelling expenses, which arose from the injury she sustained in the accident. Therefore, the petitioner is entitled to compensation for diet, extra nourishment, and travel expenses, which would be just, proper, and reasonable.

19) The petitioner has stated her occupation as a Tailor and that she was earning 15,000/- per month. There are no documents filed on record about the income. But considering the nature of work. It can be said that she was self-employed and was earning Rs. 8,000/- per month. The petitioner was admitted to the hospital and received treatment thereafter. Hence, she is entitled to the loss of income for eight months.

20) As regards non-pecuniary damages, from available material on record, the petitioner is entitled to compensation for the pain and trauma suffered by her on account of bodily injury and disfigurement sustained by her. Considering the nature of injury suffered by the petitioner and her treatment, it would be proper to award a just and adequate compensation amount for the pain and suffering due to bodily injury sustained by the petitioner.

21) Thus, the petitioner is entitled to compensation as stated below:-

| Sr. No. | Head                                                            | Compensation Awarded  |
|---------|-----------------------------------------------------------------|-----------------------|
| 1)      | Loss of income                                                  | Rs. 8000 X 8=64,000/- |
| 2)      | Compensation for medical expenses (Hospital, Medical & Lab)     | Rs. 35,000/-          |
| 3)      | Compensation for pain and suffering                             | Rs. 50,000/-          |
| 4)      | Compensation for special diet, attendant and conveyance charges | Rs. 25,000/-          |
| 5)      | Loss of amenities and enjoyment of life                         | Rs. 25,000/-          |
| 6)      | Compensation for disfigurement                                  | Rs. 50,000/-          |
| 7)      | Future medical expenses                                         | Rs. 30,000/-          |
| 8)      | Total compensation                                              | <b>Rs.2,79,000/-</b>  |

22) Respondent No.1 is the owner and Respondent No.2 is the insurer of the offending vehicle at the relevant time.

23) It is already held that even in the case of composite negligence, liability of more than one tort-feasor is joint and several. Petitioner can choose any one of them for their claim. Therefore, the non-impleadment of the owner and insurance company of the offending vehicle will not affect the petitioner's entitlement to get all compensation from the tort-feasor who is impleaded as a party. It is already held that the petition is not bad for the non-joinder of those parties.

24) In that view of the matter, I hold that respondents Nos.1 and 2, owner and insurer of the offending vehicle, are jointly and severally liable to pay the compensation amount to the petitioner. Accordingly, this issue is answered.

**AS TO ISSUE NO. 3:-**

25) Given all the findings, I pass the following order.

**ORDER**

- 1) Petition is allowed with costs.
- 2) Respondents No.1 and 2 do pay jointly and severally the amount of Rs.2,79,000/- (Rs. Two Lacks Seventy Nine Thousand only) to the petitioner within one month from the date of this award with simple interest @ 6% per annum from the date of petition till actual realisation of the entire amount.
- 3) Respondents No.1 and 2 pay the petitioner's costs and bear their own expenses.
- 4) On realisation of the compensation amount, 50% amount shall be kept in a Fixed Deposit in the name of the petitioner for a period of three years in any Nationalised Bank of the choice of the petitioner, and the remaining 50% amount shall be paid to him by RTGS or NEFT.
- 5) The award will be drawn up accordingly.

(Bharti Kale)

Member

Motor Accident Claims Tribunal  
Bhandara.

Date : 23.09.2025



CERTIFICATE

I affirm that the contents of this PDF file judgment are the same word-for-word as per the original judgment.

|               |                              |
|---------------|------------------------------|
| Name of Steno | : G. M. Agashe               |
| Court Name    | : Member, M.A.C.T., Bhandara |