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<tr><td rowspan="5">MHAH010062272021</td><td>Presented on</td><td>:</td><td colspan="3">10.11.2021</td></tr>
<tr><td>Registered on</td><td>:</td><td colspan="3">20.11.2021</td></tr>
<tr><td>Decided on</td><td>:</td><td colspan="3">11.08.2026</td></tr>
<tr><td rowspan="2">Duration</td><td rowspan="2">:</td><td><u>Ys.</u></td><td><u>M.</u></td><td><u>Ds.</u></td></tr>
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BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL, AHMEDNAGAR, DISTRICT AHMEDNAGAR.

(Presided over by **S. B. Kachare**)

Motor Accident Claim Petition No. 438 of 2021

Exh.No.53

Claimants :

1) **Smt. Savita Ganesh Lohar**
Age : 30 Yrs, Occ. - Household,

2) **Aayush Ganesh Lohar**
Age : 9 Yrs, Occ. - Education,

3) **Arnav Ganesh Lohar**
Age : 4 Yrs, Occ. - Nil,
Claimants No.2 and 3 are minors, through mother guardian claimant No.1 Smt.Savita Ganesh Lohar.

4) **Sarjerao Dattatray Lohar**
Age : 40 Yrs, Occ. - Nil,

5) **Koushalya Sarjerao Lohar**
Age : 55 Yrs, Occ. - Nil,
All R/o Ashti Fata, Tal. Ashti,
District – Beed.

Represented by : Advocate Shri. D. B. Kardile.

- VERSUS -

Respondents :

1) **Gokul Vishnu Kadam (Deceased)**
Through Legal Heirs

1A) **Vishnu Sakhahari Kadam**
Age : 56 Yrs, Occ. - Driver,

1B) Lata Vishnu Kadam
Age : 50 Yrs, Occ. - Household,
Both R/o. Narharinagar, Dasak, Jail Road,
Nashik road, Nashik – 422 101.

2) Chandrakant Shewakram Gdani
Age : 42 Yrs, Occ. - Business,
R/o. Flat No.23, Panchsheel Building,
Veera Desai Road, Andheri West,
Mumbai – 400 053.

3) Ambadas Vitthal Pund
Age : 34 Yrs, Occ. - Driver,
R/o. Nepti, Tal. Nagar,
Dist. Ahmednagar.

4) United India Insurance Co. Ltd.
Divisional Office, Kisan Kranti Building,
Market Yard, Ahmednagar.

Represented by : Resp.No.1A, 1B, 2 and 3 – *Ex parte*.
: Adv.Shri A. K. Bang, for Resp. No.4.

Claim : Petition for compensation of Rs.14,00,000/- under Section 166 of the Motor Vehicles Act, 1988.

: <u>**J U D G M E N T**</u> :

(**Delivered on this 12th day of August 2026**)

1] The present petition is filed under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the death of Ganesh Sarjerao Lohar (in short “the deceased”), died in the motor vehicular accident. Claimant No.1 is wife, No.2 and 3 minor children and No.4 and 5 are the parents of the deceased Ganesh Lohar.

2] **The case of the claimants, in brief, is as follows :**

On 17.06.2019 deceased Ganesh Sarjerao Lohar was riding on his motorcycle bearing No.MH-16-AX-3714 on Ashti-Doithan Road, to go to Doithan for his private work. He was riding the said motorcycle in a slow speed, observing all traffic rules and regulations and by left side of the road. When he was passing from the vicinity of village Sidewadi, one Tata Indica Car bearing registration No.MH-02-AQ-6227 (hereinafter referred to as 'the offending Car') driven by it's driver i.e. opponent No.3, came from back side i.e. Ashti side in high and excessive speed, in rash and negligent manner, without observing traffic rules and regulations and gave forceful dash to the motorcycle of Ganesh. Due to the dash, Ganesh fell down on the road and sustained multiple grievous injuries to his vital organs and died before shifting to the hospital.

3] The claimants contended that the deceased was about 37 years of age, hale and hearty person, serving in Gauri Hotel and earning approximately Rs.10,000/- per month. According to claimants, the deceased was only *karta* of their family and they were dependent on his income. Due to his unfortunate accidental death, the claimants have suffered loss of estate and loss of dependency.

4] The claimants further contended that they incurred substantial expenditure towards ambulance charges and funeral. On these averments, they claimed compensation under various pecuniary and non-pecuniary heads. Though the total loss was assessed at a much higher figure, the claim was restricted to Rs.14,00,000/- with interest.

5] Respondent No.1A, 1B, 2 and 3, the owners and driver of the offending car, despite service by substituted mode through RPAD, failed to appear before the Tribunal. Consequently, the matter proceeded exparte against them vide order dated 21.02.2024.

6] Respondent No.4 - Insurance Company filed its written statement resisting the claim at Exh.19. While admitting that the offending car was insured with it on the date of the accident, it denied all other material averments made in the claim petition. The Insurance Company denied the manner in which the accident allegedly occurred and disputed the rash and negligent driving attributed to the driver of the offending car. It also denied the occupation and income of the deceased and subsequently the amount of compensation claimed by the claimants. The Insurance Company further contended that the driver of the offending car was not holding a valid and effective driving licence on the date of the accident. It is, therefore, pleaded that there was breach of the terms and conditions of the insurance policy and consequently the insurer is not liable to indemnify the owner. On these grounds, respondent No.4 prayed for dismissal of the claim petition.

7] Claimant No.1 Savita Lohar, widow of the deceased examined herself as CW1 at Exh. 26 and reiterated the contentions made in the petition. In support, the claimants have produced on record police papers at Exh.29 to 34, Post Mortem Notes at Exh.35, copy of driving license of respondent No.1 i.e. owner of the offending car at Exh.36, copy of insurance policy at Exh.37, copy of driving license of respondent No.3 i.e. driver of the offending car and closed the evidence by filing pursis at Exh.40.

8] On the other hand, respondent No.4 examined Vishal Santosh Salve as DW1 at Exh.45. In support, it produced on record extract of driving license of respondent No.3 i.e. driver of the offending car at Exh.48 and closed the evidence vide pursis Exh.49.

9] Heard the learned advocate of the claimants and learned advocate for respondent No.4.

10] On the basis of the rival pleadings of the parties, the following issues came to be framed by my learned predecessor at Exh.25 and I have recorded my findings thereon for the reasons stated below.

Sr.No.	**Issues**		**Findings**
1.	Whether the petitioners prove that Ganesh Sarjerao Lohar died due to rash and negligent driving of Tata India Car bearing No.MH-02-AQ-6227 by Respondent No.3 on 17.06.2019 at about 7.30 p.m. on Ashti to Doithan road in the vicinity of Sidewadi ?	:	**In the affirmative.**

2.	Whether respondent No.4 -Insurance Company proves that the terms and conditions of the insurance policy were breached for want of valid and effective driving licence of Tata India Car's driver ?	:	**In the negative.**
3.	Whether the petitioners prove that deceased Ganesh was getting gross salary of Rs.10,000/- p.m. by serving in Gauri Hotel ?	:	**In partly affirmative to the extent of Rs.6,000/- per month.**
4.	Whether the petitioners prove that they are entitled for compensation ? If yes, what shall be the quantum and payable by whom ?	:	**Yes, as per final order.**
5.	What order and award ?	:	**As per final order.**

: **REASONS** :

11] The claimants' learned advocate relied upon the judgments in the cases as under :

1. **Ranjeet and anr. Vs. Abdul Kayam Neb and anr. in SLP(c) No.10351/2019.**
2. **ICICI Lombord Insurance Co. Ltd. Vs. Smt. Maya Govind Patel and others 2024 A.C. 108 (Bom.)**
3. **Anjana Narayan Kamble and others Vs. Branch Manager, Reliance General Insurance Company Ltd. and Another in** Civil Appeal No. 5113 of 2022 decided on 4th August,2022.
4. **Poonam Devi and another Vs. United India Insurance Co. Ltd. 2026(2) T.A.C. 421 (S.C.).**

I have carefully gone through the judgments cited above by the claimants.

AS TO ISSUE NO.1 :

12] The evidence of claimants is based on the information received. On perusal of the F.I.R., it appears that there is some delay in lodging the report. It is well settled that the proceedings before the Motor Accident Claims Tribunal are essentially summary in nature. The standard of proof is the preponderance of the probabilities, and not proof beyond reasonable doubt.

13] In this case, the accident occurred on 17.06.2019. The investigation papers produced on record at Exh.29 to Exh.34 and post-mortem report at Exh.35 established that the deceased sustained fatal injuries in the motor vehicular accident. The report specifically identifies the vehicle involved and attributes the accident to its driver. The police, after investigation, proceeded against the driver of the offending car for the offences arising from the accident. The non examination of an eyewitness or the Investigating Officer by itself, is not sufficient to brush aside the testimony of the CW1 Smt. Savita Ganesh Lohar, which is supported by the documentary evidence.

14] It is significant to note that respondent No.3, who was driving the offending car and was a person having direct knowledge of the circumstance in which an accident occurred has remained exparte. He neither entered in the witness box nor placed any competing version of the accident before the Tribunal. The other respondents No.1A, 1B, and 2 are also exparte. No doubt respondent No.4 has been permitted to contest the petition, but it has not adduced any evidence regarding the actual manner of occurrence of the accident. Therefore, taking into consideration the over all evidence brought on record coupled with the investigation papers and in absence of any contrary evidence from the driver of the offending vehicle, I come to conclusion that the evidence is sufficient on the touch stone of preponderance of the probabilities to hold that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver. Hence, issue No.1 is answered **in the affirmative**.

AS TO ISSUE NO.2 :

15] Respondent No.4 -Insurance Company contended that respondent No.3 was not holding a valid and effective driving licence on the date of accident and thus, there was breach of policy condition. For establishing its defence, respondent No.4 examined DW1 Vishal Salve from the Regional Transport Office and produced the official extract of the driving licence at Exh.48. Exh.48 shows that respondent No.3 Ambadas Vitthal Pund was issued a driving licence on 25.02.2011. The licence records the categories MCWG and LMV – TR. Significantly the extract records validity of non-transport licence from 25.02.2011 to 24.02.2031. It further reveals that the transport authorization has expired on 23.02.2018 and specifically runs on 16.08.2024. The accident had occurred on 17.06.2019. On the basis of gap in transport authorization, respondent No.4 Insurance Company contended that respondent No.3 was not holding a valid and effective driving licence to drive the offending vehicle on the date of accident. The offending vehicle is Tata India Car, it is not in dispute that it covers under LMV category. The person holding LMV licence can drive the transport vehicle having gross vehicle weight not exceeding 7500 k.g. without a separate authorization for transport vehicle.

16] The documentary evidence at Exh.48 records the non transport validity licence upto 24.02.2031. Therefore, the oral interpretation of DW1 cannot override the legal effect of the official licence extract. Thus, respondent No.4 Insurance Company has failed to prove that the offending vehicle was outside the statutory LMV weight category. Therefore, it cannot be held that respondent No.3 was not authorized to drive the offending vehicle. Hence, issue is answered **in the negative**.

AS TO ISSUE NO.3 :

17] CW1 Smt. Lohar has stated that deceased was earning Rs.10,000/- per month while working as a Cook in Gauri Hotel. But, the claimant has not examined the Proprietor of Gauri Hotel. No documentary evidence has been produced to establish monthly earning of Rs.10,000/-. Therefore, a precise income of Rs.10,000/- per month can not be accepted as proved.

18] Nevertheless, it cannot be presumed that the deceased had no income. The deceased was able bodied person aged about 37 years and was maintaining his wife, two minor children and parents. Considering his age, nature of work attributing to him, the year of accident and the over all circumstances, it would be just and reasonable to assess his monthly income at Rs.6,000/-.

19] The school leaving certificate filed on record with list Exh.28 shows that the date of birth of the deceased was 05.06.1982. The accident occurred on 17.06.2019. Thus, the deceased had completed 37 years of the age. For the age group of 36 to 40 years, an appropriate multiplier is 15. The deceased was not proved to be in permanent salaried employment. He was below 40 years of age, therefore, 40% of his income is required to be added towards future prospects.

20] The deceased left behind 5 dependents. Therefore, ¼th of his income is required to be deducted towards his personal and living expenses. In addition thereto, claimant No.1 being the widow, is entitled to spousal consortium, claimants No.2 and 3 being children are entitled to parental consortium and claimants No.4 and 5 being parents of the deceased, are entitled to filial consortium.

21] The Hon'ble Supreme Court has held that the conventional amount under the heads consortium, loss of estate and funeral expenses to be enhanced by 10% for every three years. The compensation is therefore, calculated as follows :

(Amount in Rupees)

	Particulars			**Compensation**
(i)	Loss of Estate plus 20% increase	:	18,000/-	
(ii)	Funeral Expenses plus 20% increase	:	18,000/-	
	Total of (i) to (iii) :			36,000/-
(A)	**Annual Income** = Monthly income of the deceased is Rs.6,000/-. Accordingly, the annual income comes to Rs.72,000/- (6000 x 12).	:	72,000/-	
(B)	**Less** – ¼ th towards personal and living expenses **(05** dependents) (1/4th of Rs.72,000 = 18,000)	:	18,000/- ------------ 54,000/-	
(C)	**Loss of dependency -** Income Rs. 54,000 x 15 - Multiplier for the age group of 36 to 40 years.	:		8,10,000/-
(D)	**Add** 40% future prospects i.e. 3,24,000/- (40% of Rs.8,10,000/-).	:		3,24,00/-
(E)	Spousal, Parental and Filial consortium Rs.48,000 X 5 (dependents)			2,40,000/-
	Total Compensation	:		**14,10,000/-**

22] Though the claimants have claimed compensation of Rs.14,000/-. The compensation amount determined by this Tribunal comes to Rs.14,10,000/-. Under Section 168 of the Motor Vehicles

Act, 1988, the Tribunal is required to award just compensation. Therefore, the claimants are entitled to Rs.14,10,000/-.

23] It is not in dispute that the offending vehicle was insured with respondent No.4 on the date of accident. Therefore, respondents are jointly and severally liable to satisfy the award. Considering the nature of the claim and prevailing circumstances, the claimants are entitled to interest at the rate of 7% per annum from the date of filing of the petition till realization.

24] As per the Hon'ble Supreme Court guidelines some portion of the compensation amount has to be kept in Fixed Deposit for a period of time in case of the claimants from the category of minors, illiterate or widow. Therefore, out of compensation awarded to claimants No.1, 4 and 5, amount of 50% each shall be kept in Fixed Deposit in any nationalized bank for a period of three years. So also the compensation awarded to claimants No.2 and 3 shall be kept in Fixed Deposit in any nationalized bank, for a period till attaining the age of majority by them. Therefore, the issues are answered accordingly. In view of the aforesaid findings, I pass the following order.

O R D E R

(1) **The claim petition is allowed.**

(2) The claimants are held entitled to compensation of Rs.14,10,000/- (Rs. Fourteen Lakh Ten Thousand only) inclusive of N.F.L. amount, together with interest at the rate of 7% (Seven percent) per annum, from the date of filing of the claim petition i.e. 10.11.2021 till realization.

(3) Respondents No.1A to 4 shall be jointly and severally liable to pay the aforesaid compensation.

(4) Respondent No.4 Insurance Company shall deposit the entire award amount before this Tribunal within 8 weeks from the date of this award.

(4) The amount of compensation along with interest shall be apportioned amongst the claimants, as under :

Claimant No.1	:	40%
Claimants No.2 to 5	:	15 % each

(5) Fifty percent each of the share of claimants No.1, 4 and 5 shall be invested in Fixed Deposit, in their names separately, in a nationalized bank of their choice, for a period of three years, with liberty to withdraw the accrued interest periodically. The balance amount shall be released to them.

(6) The share of claimants No.2 and 3 being minors, shall be invested in Fixed Deposit, in their names separately under the guardianship of their mother claimant No.1, in a nationalized bank of her choice, for a period till attaining the age of majority by the minors with liberty to withdraw the accrued interest periodically.

(7) On deposit of the compensation amount, the Tribunal shall disburse the amount to the claimants after due verification of identity.

(8) If amount had already paid under Section 140 of the Motor Vehicles Act, 1988, or under any interim order, the same shall be adjusted towards the final award.

(9) The claimants shall pay the requisite Court fees, if any, on the enhanced amount before drawing the award.

(10) Draw the award accordingly.

(Dictated and pronounced in open Court).

SHIVAJI
BHAGWANRAO
KACHARE

Digitally signed by
SHIVAJI
BHAGWANRAO
KACHARE
Date: 2026.08.11
18:59:08 +0530

Date : 11.08.2026
Ahmednagar.

(S. B. Kachare)
Chairman,
Motor Accidents Claims Tribunal,
Ahmednagar.

: CERTIFICATE FOR UPLOADING TO CIS :

I affirm that, the contents of this P.D.F. file judgment, are same word to word as per the contents of original judgment.

Name of Stenographer	:	Ganesh S. Sabban Stenographer (Grade-1)
Name of the Court	:	M.A.C. Tribunal, Ahmednagar.
Date of Judgment	:	11.08.2026
Signed by P.O. on	:	11.08.2026
Uploaded in CIS on	:	11.08.2026