

MHAK010015492015



Presented on : 05.08.2015
Registered on : 06.08.2015
Decided on : 07.03.2026
Duration : 10 07 04
: Ys. Ms. Ds.

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT AKOLA

(Presided over by: **Rahul A. Shinde**, Member)

M.A.C.P No. 83/2015

Exhibit 63

Ravindra Suresh Ghatol

Aged about 39 yrs. Occ. Nil,
R/o. At Post Wadegaon,
Tq. Balapur, Dist. Akola.

... **Claimant.**

... **Vrs**

1] Vishwambar Ramchandra Kshirsagar

Aged- Adult. Occ. Driver,
R/o.Chatari, Tq. Patur, Dist. Akola.

2] Rameshwar Dashrath Lande

Aged- Adult. Occ. Owner
R/o. At po. Khetri, Tq. Patur, Dist. Akola.

**3] Cholamandalam MS General Insurance
Company Ltd.,**

R/o. "Dare House" 2nd Floor,
NSC Bose Road, Chennai-600001.

... **Respondents.**

Claim: Under Section 166 of The Motor Vehicles Act, 1988.

.....
Ld. Adv. for the Claimant : Shri. S. N. Wakhare
Ld. Adv. for the Respondent No. 1 : Exparte
Ld. Adv. for the Respondent No. 2 : Shri. A. D. Thorat
Ld. Adv. for the Respondent No. 3 : Shri. S. A. Patil
.....

- J U D G M E N T -

[Delivered on: 07th March, 2026]

This is a petition seeking compensation U/s. 166 of Motor Vehicle Act, 1988.

Facts in brief are as under :-

02] On 23.03.2013 at about 1.00 p.m. the claimant was proceeding from Wadegaon towards Akola by his motorcycle bearing No. MH 30 X 4665 at moderate speed and by following all the traffic rules. At that time, when he reached near village Kalambeshwar, the offending vehicle Auto-rickshaw bearing No. MH 30 AF 103 driven by respondent No.1 came from front side in excessive high speed and thereby gave dash to said motorcycle. In the said accident, due to rashness and negligence on the part of respondent No.1, the claimant has sustained multiple severe injuries and admitted to the Khan hospital at Akola and later on referred to Lilawati Hospital, Mumbai. He has sustained permanent disability due to fracture of Acetabulum, fracture to right Iliac blade and fracture to inferior pubic ramus. The said disability is to the extent of 17%. But, it caused him functional disability to the extent of 100%. Prior to accident, he was working as a office attendant with LIC agent Ashok Bhuskute and used to earn Rs. 10,000/- per month. His work was to collect LIC premium from the customers and to deposit it into the LIC office. For the same, he used to drive motorcycle regularly but due to said disability he is not able to ride motorcycle and therefore it caused complete functional disability to him. Not only that but he has suffered mental pain and

agony. The offending vehicle Auto-rickshaw is owned by respondent No.2 and insured with respondent No.3. Therefore, all the respondents are jointly and severally liable to compensate for pecuniary and non-pecuniary losses caused to him. It constrained claimant to move present petition.

03] In spite of service of notice, the respondent No.1 failed to appear before the Court and therefore the petition is proceeded ex parte against him.

04] The respondent No. 2 strongly opposed the petition by filing written statement at Exh.18. As per his contention, the said accident is occurred due to rash and negligent driving of claimant and there is no fault on the part of respondent No.1. He has denied the contention of claimants with regard to injury, permanent disability and his income and consequently regarding the compensation. As per his contention, the offending vehicle is insured with respondent No.3 and therefore he cannot be held liable to pay compensation. On this count, he prayed to dismiss the petition.

05] The respondent no.3 resisted the present petition by filing written statement at Exh.25. He has admitted the fact that the vehicle Auto-rickshaw bearing no. MH-30-AF-103 is insured with him but he has denied that the said accident is occurred due to rash and negligent driving of respondent no.1. As per his contentions, the said accident is occurred due to rash and negligent driving of motorcycle by claimant himself. Moreover, as per his contentions, the respondent

no.1 had no any valid and effective driving license and therefore the essential terms and conditions of insurance policy are breached. Therefore, the respondent no.3 needs to be exonerated from the said claim. He has also denied the contention of claimant with regard to his age and income. On this count, he prayed to dismiss the petition.

06] Considering rival contentions of both the parties and submissions made, my Ld. Predecessor has framed issues at Exh.21 to which I have recorded my findings with the reasons as follows :-

Sr. No.	Points	Findings.
1.	Whether the petitioner proves that she has sustained functional disability due to rash and negligent driving of the driver of auto rickshaw bearing registration No. MH-30-AF-103 ?	...In The affirmative.
2.	Whether the claimant is entitled to compensation as prayed? If yes, to what extent and from whom?	...In The partly Affirmative. [Rs. Rs. 9,70,743/ from respondents jointly & severally]
3.	What order ?	: As per final order.

AS TO POINTS NOs. 01 TO 03 :-

07] The abovementioned points are interlinked and connected to each other. Therefore, to avoid repetition of appreciation of evidence and for sake of brevity, I discuss and decide them conjunctively.

08] In the present case, the fact of accident dated 23.03.2013 in between motorcycle bearing No. MH 30 X 4665 and Auto-rickshaw bearing No. MH 30 AF 103 is admitted to both the parties. It is also an admitted fact that, the claimant was driving said motorcycle and the respondent No.1 was driving the vehicle Auto at relevant time. The only dispute between parties is with regard to rashness and negligence in driving said vehicles on the part of respondent No.1 and claimant. They both are alleging that not he but the other side was driving his vehicle rashly and negligently. Therefore, it is necessary to ascertain who was driving his vehicle rashly and negligently and caused said accident.

09] In order to find out the same, I have minutely scrutinized the record. The claimant who is the victim and eye witness of the incident has testified before the Court that the respondent No.1 drove said Auto rashly, negligently and in high speed and gave dash to him by coming to his side. Per contra, the respondent No.1 has not entered into the witness box to prove that the claimant was driving his motorcycle rashly and negligently. Therefore, the testimony of claimant to that extent remained unshaken and therefore I have no hesitation to rely the same.

10] The claimant additionally has relied on documents of FIR, spot panchanama and charge-sheet. On perusal of the same, it appears that the FIR of said incident is immediately lodged and the I.O. has drawn the spot panchanama. On perusal of recitals of said spot panchanama, it appears that the spot of incident is situated left

side of the road when the claimant was proceeding from Wadegoan to Akola. It is sufficient to show that the Auto-rickshaw went to the wrong side and gave dash to the motorcycle of claimant. Therefore, the said situation over the spot of incident is sufficient to corroborate the version of claimant that the said accident is occurred due to rash and negligent driving of Auto-rickshaw by respondent No.1. Moreover, the result of the investigation also suggests that the said accident is occurred due to rash and negligent driving of offending vehicle Auto-rickshaw by respondent No.1.

11] Therefore, from this, it is crystal clear that the said accident is occurred due to rash and negligent driving of offending vehicle Auto by respondent No.1 and there is nothing to prove any rashness or negligence on the part of claimant. Admittedly, the offending vehicle is owned by respondent No.2 and insured with respondent No.3. There is nothing to prove any breach of essential terms and conditions of policy. Therefore, the respondent No. 1 to 3 are jointly and severally liable to compensate the claimant for the pecuniary and non-pecuniary losses suffered by him.

12] Before proceeding to determine the exact amount of compensation towards pecuniary and non-pecuniary losses, it is necessary to decide what type of injury and disability the claimant has sustained in said accident. As per his version, due to said accident he has sustained fracture on right iliac bone and fracture right acetabulum. To prove the same, he has relied on testimony of Dr. Kalekhan (PW3) and Dr. Virvani (PW4). With the help of their

testimonies, it is well established and proved that in the said accident the claimant has sustained acetabulum fracture, fracture of right iliac bone and also fracture of inferior pubic ramus. Therefore, it is also established on the record that he has sustained 17% permanent disability and his right lower limb is shortened to the extent of 1 inch as compare to other limb. Therefore, it is well established on the record that the claimant has sustained 17% permanent disability to his one lower limb.

13] It is further submission on behalf claimant that he was working as a Office Attendant and used to collect and deposit premium of LIC from the customers. Therefore, he used to travel on the motorcycle and due to said permanent disability, he is not able to do said work properly and therefore he prayed to treat it as 100% functional disability. With this regard, it is pertinent to note here that from the testimony of claimant it appears that he was doing the work of collecting LIC premium and naturally for the same he has to travel on the motorcycle. From the evidence of said medical officer, it appears that now his one leg is shortened and he is having difficulty in walking. Therefore, considering nature of the work and nature of said disability, I am of the opinion that some greater hardship is caused to the claimant than the actual disability sustained by him. Therefore, in my considered opinion, considering his nature of the work, the functional disability needs to be treated as 25%. Therefore, for the said reason, I have no hesitation to hold that the claimant has sustained 25% functional disability and considering the same the

actual loss of earnings needs determined.

14] As per the contention of claimant he used to earn Rs.10,000/- per month from his job of office Attendant. But, there is no any concrete and convincing evidence on the record to prove the said fact. It cannot be ignored that the said accident is occurred in the year of 2013 and therefore it is highly indigestible that he was earning Rs.10,000/- per month by working as Office Attendant. Therefore, in such situation the rate of daily wages provided by State Government and the principle of notional income needs to be applied. Therefore, for the same, I have no hesitation to hold that the claimant was earning Rs.8,000/- per month at the time of accident. Therefore, in such situation his annual income would be Rs. 96,000/-. As the functional disability is 25%, the actual annual loss earning would be Rs. 24,000/-.

15] It is not disputed that, at the time of alleged accident, the claimant was of 29 years old. Therefore, as per the ratio laid down in the case of *“Sarla Verma and others Vs. Delhi Transport Corporation,”* [AIR 2009(1) S.C. 3104], the multiplier of 17 needs to be applied while calculating the compensation. The claimant has proved that, his annual income was of Rs.96,000/- and therefore loss of earning due to 25% disability would be Rs. 24,000/- per annum. Therefore, by applying multiplier of 17 the loss of income / further earnings would be (Rs. 24,000/- X 17) **Rs. 4,08,000/-**.

16] In view of ratio laid down by Hon'ble Apex Court in the case of *“National Insurance Company Vs. Pranay Sethi & Ors”* [2017

ACJ (S.C.) 1226], the claimant being fixed salaried employee of the age less than 40 years, he is entitled for 40% addition towards future prospects of his established income. Thus, the calculation would be of Rs.9,600/- (40% of annual loss of income of Rs. 24,000/-) and by applying multiplier of 17, it comes to Rs. **1,63,200/-** towards future prospects.

17] As per the guidelines issued by Hon'ble Apex Court in the case of *"Rajkumar Vrs. Ajaykumar"* [2011(1) S.C.C. 343] compensation is to be granted to claimant toward loss of income, special diet allowance, attendance charges, conveyance allowance and reimbursement of medical and hospital bill as well as for pain and sufferings.

18] From the record, it transpires that, the claimant was admitted to Khan Hospital and Lilawati Hospital. He has filed medical bills which shows that, he has expended **Rs.2,16,543/-** against medical treatment. Therefore, he is entitled for said amount. From the record, it transpires that, the claimant was hospitalized from 23.03.2013 to 04.04.2013 and also from 20.04.2013 to 02.05.2013 for causing bed sores. Therefore, it will be just and proper to grant attendance charges of Rs. 250/- per day and special diet allowance of Rs.250/- per day for said period of admission of 26 days. Therefore, the claimant is also entitled for the amount of **Rs.13,000/-** against attendance charges and diet allowance. The claimant is the resident of village Wadegaon, Dist. Akola and she was admitted to hospital at Akola and later on at Mumbai. Therefore, it

would be proper to grant him **Rs. 20,000/-** on account of conveyance charges. There is nothing on the record to prove that the claimant will require continuous medical treatment and therefore he is not entitled for any amount for future medical treatment.

19] With regard to compensation against pain and suffering, it is pertinent to note here that the claimant has sustained locomotive disability. His one leg is shortened and he is unable to walk properly. Therefore, considering the said fact as well as considering the nature of injuries and it's effect on his life, I have no hesitation to hold that, the claimant is entitled for compensation of **Rs.1,00,000/-** against pain and sufferings. It cannot be ignored that due to shortening of the leg and fracture to the acetabulum the claimant cannot cross his leg and cannot drive the motorcycle properly. Therefore, for the same as there is loss of amenities to the claimant, he is entitled for compensation of **Rs. 50,000/-** for the same.

20] Hence, in view of above discussion, ratio laid down in the cases as referred supra and calculations made as above, I am of the considered opinion that the claimant is entitled for compensation as under:-

Sr. No.	Head of Claims	Amount (in Rs.)
1.	Loss of earnings / income	4,08,000/-
2.	Future prospects	1,63,200/-
3.	Medical Expenses	2,16,543/-
5.	Attendance Charges during treatment in hospital	6,500/-

6.	Special Diet	6,500/-
7.	Conveyance	20,000/-
8.	Pain and Sufferings	1,00,000/-
9.	Loss of amenities in life	50,000/-
	Total Compensation Payable :-	9,70,743/-

21] In such way, I hold that the claimant is entitled for total compensation of **Rs.9,70,743/-** towards pecuniary as well as non-pecuniary damages.

22] Therefore, I have no hesitation to hold that, the respondent nos.1 to 3 are jointly and severally liable to pay the compensation of **Rs. 9,70,743/-** to claimant. At the same time, the respondent nos.1 to 3 are also jointly and severally liable to pay interest @ 6% per annum on the said amount. Hence, for the said reason, I answer *issue No.01 in the Affirmative*, *issue no. 02 in the partly affirmative* and in answer to issue no.3 I proceed to pass following order:-

- ORDER -

1] The claim petition is partly allowed with proportionate cost as under:-

A] The respondent nos.1 to 3 shall jointly and severally pay to the claimant the amount of **Rs. 9,70,743/-** (Nine Lac Seventy Thousand Seven Hundred Forty Three rupees only) towards compensation with interest @ 6% per annum from the date of petition till deposit of said amount in the court under Section 166 of Motor Vehicle Act.

- B]** The respondents are directed to deposit the amount of compensation within 90 days from the date of award, failing which the amount shall carry interest at the rate of 9% (Nine Percent) per annum from the date of this order till it's realization.
- 2]** The respondents are directed to pay aforesaid amount of compensation to the claimant by account payee cheque or demand draft drawn in the name of claimant, and deposit the cheque / demand draft in the court for handing over the same to the claimants or by RTGS / NEFT mode in the current account no. 40777855206 having IFS Code SBIN0008020 of Member of Motor Accident Claim Tribunal, Akola maintained with the State Bank of India, Treasury Branch, Amankha Plot, Akola for paying the same to the claimants.
- 3]** The claimant shall produce her PAN Card and her Nationalized Bank Account details for withdrawal of the compensation amount.
- 4]** The claimant to pay deficit court fee, if any, withing 15 days from the date of this order.
- 5]** Award be drawn up accordingly.

(Rahul A. Shinde)

Member,

Motor Accident Claims Tribunal,
Akola, Dist. Akola.

Date : 07.03.2026.
Akola.

Certificate.

I hereby certify that the contents of this PDF File are same word for word as per original order.

Name of Steno	:	S. D. Tekade (Steno.-Gr.II)
Court's name	:	District Judge-3, Akola.
Date of dictation	:	07.03.2026
Signed by Presiding		
Officer on	:	10.03.2026
Uploaded on	:	10.03.2026