

MHBI180018712023



Presented on :- 27/06/2022
Registered on :- 27/06/2022
Decided on :- 18/03/2026
Duration :- Yrs. Ms. Ds.
03 08 19

Exhibit No.67/A

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT KAIJ,
DIST. BEED.**

(Presided over by Shri. Sudhir B. Bhajipale, Member)

**MACP No. 135 OF 2023
(Old MACP No. 13/2022)**

- 1] Nasimabee Usman Shaikh, Age:- 49 years,
Occu:- Household, R/o. Moha,
Taluka Parali-V, Dist. Beed.
- 2] Sajed Usman Shaikh, Age:- 25 years,
Occu:- Labour, R/o. Moha,
Taluka Parali-V, Dist. Beed.
- 3] Wajed Usman Shaikh, Age:- 28 years,
Occu:- Labour, R/o. Moha,
Taluka Parali-V, Dist. Beed.
- 4] Nargisbegum Mohammad Sharif Shaikh,
Age:- 34 years, Occu:-Household,
R/o. Azad Nagar, Parali-V, Dist. Beed.
- 5] Shaha Sayara Sameer, Age:- 30 years,
Occu:- Household, R/o. Jahangir Moha,
Taluka Kille-Dharur, Dist. Beed.

..Claimants.

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VERSUS

1] Sameer Dastgir Shaha, Age:- 37 years, Occu:-
Vehicle owner, R/o. Jahangir Moha, Post Chondi,
Taluka Kille-Dharur, Dist. Beed.

2] Cholamandalam MS General Insurance
Company Ltd. 2nd Floor, Dare House, 2 NSC
Bose road, Chennai 600001
Through Divisional Manager Cholamandalam MS
General Insurance Company Ltd. Wellesely
Court, Dr. Babasaheb Ambedkar Marg, above
BMW Office, Pune.

...Respondents.

Claim:- Under Section 166 of the Motor Vehicles Act.

Appearance :

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Learned Advocate Shri. A. B. Kawade for claimants.
Learned Advocate Shri. S. N. Shingare, for respondent No. 1
Learned Advocate Shri. U. B. Deogaonkar, for respondent no. 2
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JUDGMENT

(Delivered on 18th Day of March 2026)

The claim petition is filed under Section 166 of the Motor Vehicles Act, for grant of compensation for accidental death of deceased Shaikh Usman Shaikh Rahim in motor vehicular accident on 29/07/2020.

2. As per contention of claimants, on 29/07/2020, the husband of the claimant no. 1 and one Sadek Husen were proceeding to village Sirsala by motorcycle bearing no. MH-44 W-8171 which is owned by

respondent no. 1. At that time, deceased was pillion rider and said Sadek Husen was driving the said motorcycle in rash and negligent manner and in high speed and when the motorcycle reached near the spot of incident, at that time, Sadek Husen lost his control and said motorcycle was slipped due to that the deceased was fallen on the ground and sustained serious head injuries and also sustained injuries on his body. Thereafter, the deceased was shifted to SRTRMCH Ambajogai, but during the treatment the deceased succumbed to death.

3. As per claimants, one Ismail Shaikh gave information of accident to Police Station Sirsala. Accordingly after inquiry Police registered Crime No.229/2020 U/sec. 304-A, 279 of IPC against the driver of respondent no. 1. The claimants further submitted that deceased was 49 years of age. The deceased was meson and earning Rs. 15,000/- per month, on all counts claimants claimed compensation of Rs. 25,44,000/-.

4. Respondent No.1 appeared. He filed written statement. He contended that the deceased himself fallen down from the motorcycle. There is no negligence of respondent no. 1 in the said accident. The said Sadek was driving the said motorcycle in slow and moderate speed. Hence, he prayed to dismiss the claim petition.

5. Respondent No.2 Insurance company appeared. They filed written statement. They submitted that the driver of the offending vehicle contravention the terms and conditions of the policy. They further submitted that the driver of the offending vehicle was not holding valid licence at the time of incident, therefore, there is a breach of policy. They submitted that, deceased is not covered under the alleged policy of motorcycle no. MH-44 W-8171. They denied age and earning of the deceased and prayed to dismiss the claim petition.

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6. In the light of rival pleading of parties to the proceeding, my Ld. Predecessor have framed the issued vide Exh. 21, I have recorded my findings thereon for the reason stated therein below.

	<u>ISSUES</u>		<u>FINDINGS</u>
1]	Whether claimants proved that the deceased namely Shaikh Usman Shaikh Rahim died in a motor vehicle accident on 29/07/2020 on Kanhapur to Sirsala road ?	...	In affirmative.
2]	Whether the claimants proved that rider of motorcycle no. MH-44 W-8171 was rash and negligent in driving the said vehicle and thereby caused accident ?	...	In affirmative.
3]	Whether the claimants are entitled for compensation, if yes, to what extent and from whom ?	...	According to discussion.
4]	What order ?	...	As per final order.

REASONS

AS TO ISSUE No. 1 AND 2 :-

7. The claimant No. 1 adduced her evidence at Exh.14. She reiterated the contentions of her pleading. She was cross-examined she denied that the said accident occurred due to negligence of her husband. She further denied that at the time of accident, her husband did not wear the helmet and the deceased was the responsible for the said accident. She further denied that at the time of incident, her husband did not possess valid and effective driving licence. She denied other adverse contentions.

8. The respondent did not adduce any oral or documentary evidence.

9. Admittedly accident happened on 29/07/2020. Complaint was given on 29/07/2020. Spot panchanama was done thereafter. Thereafter, deceased was shifted to Rural Hospital Dharur for conducting postmortem on his body. As per postmortem report filed on record, the deceased died due to head injury. During investigation, statement of witnesses were recorded. Charge-sheet was filed. DAR report was filed on record.

10. In this case, accident happened on 29/07/2020. Deceased died in the hospital and in the intervening time complaint was filed against the driver of offending vehicle. Spot panchanama was done on 27/08/2020. Thus, considering the material on record, evidence and investigation done by Investigating Officer and statement recorded by him, filing of charge-sheet and DAR report, and after considering entire material on record, on the basis of principles of preponderance of probabilities the claimants have proved their case. Hence, I answer issue No.1 and 2 in affirmative.

AS TO ISSUE NO. 3:-

11. Since deceased died in vehicular accident caused by rash and negligent driving of offending vehicle, claimants are entitled for compensation. It has been argued by insurance company respondent no. 2 that the insurance policy of motorcycle bearing no. MH-44 W-8171 does not cover the liability of pillion rider and there is no evidence that the death is caused due to injury sustained in the accident.

12. After going through the evidence came on record it appears that involvement of the motorcycle is not disputed. The policy of the

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motorcycle is also not disputed. After going through the insurance policy, it appears that the premium has been paid for personal accident cover as well as the premium for liability also. Payment of premium for liability includes the liability of person other than policy holder, therefore, the pillion rider is also covered in the said policy. Thus, the deceased who caused death in accident in which the insured motorcycle is involved is entitled for compensation. As far as death of the deceased is concerned, the postmortem report Exh. 48, specifically shows that the death is caused due to head injury and as per Police investigation, deceased Usman sustained head injury in the road accident. Considering the said evidence, I have not found much force in the argument of the insurance company in order to disentitle the claimants from receiving compensation.

13. Ld. Advocate for respondent no. 2 Insurance Company placed reliance on the Judgments of the Hon'ble Apex Court in ***Petition for Special Leave to Appeal © No. 16262/2018 (Arising out of impugned final judgment and order dated 09/05/2018 in SBCMA No. 1148/2018 passed by the Hon'ble High Court of Judicature for Rajasthan at Jaipur) Badami Devi and others V/s. Cholamandalam General Insurance Company Ltd. And others and the judgment of the Hon'ble High Court of Judicature at Bombay Bench at Aurangabad in First Appeal No. 1366/2012 M/s. ICICI Lombard Insurance Company Ltd V/s. Hajratbee Abdul Razak and others.***

14. After perusal of the said judgments of the Hon'ble Apex Court and the Hon'ble Bombay High Court, it appears that the facts of that case and facts in the case in hand are different, therefore, with due respect the said judgments are not helpful to the respondent no. 2 Insurance Company.

15. As per claimants, at the time of accident, deceased was 49 years of old and doing the meson work. However, the evidence of Shaikh Alim Shaikh Yusuf is not appears to be trustworthy, because he has not filed any documentary record to show that the deceased was working with him as meson. The claimants have not filed any document to show income of deceased and in absence of any cogent and reliable evidence, notional income of deceased is considered of Rs.10,500/-.

16. As per postmortem notes, deceased was of 49 years of age, multiplier 13 is to be considered. As there are 04 dependents, one-fourth (1/4th) amount is to be deducted towards personal expenses of deceased. As deceased was 49 years of age, 30% amount is to be added towards future prospect.

17. The claimants are also entitled for Rs.16,500/- towards loss of estate, Rs.16,500/- towards funeral and Rs.44,000/- towards loss of consortium. Thus, the claimants are entitled total compensation as under;

Sr. No.	Head	:-	Amount
	Pecuniary head:-		
1]	Monthly income	:-	Rs. 10,500/-
2]	Add 30% towards future prospects	(+)	Rs.3150/-
		=	Rs.13,650/-
3]	Less 1/4th towards personal expenses.	(-)	Rs.10,237/-
	(13,650-3413= 10,237/-)		
4]	Per annum income 10,237 x 12		Rs. 1,22,844/-
5]	Loss occurred after applying multiplier. Rs.1,22,844 x 13	:-	Rs. 15,96,972/-
	Non-pecuniary head:-		
6]	Loss of estate	:-	Rs.16,500/-

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7]	Consortium	:-	Rs.44,000/-
8]	Funeral expenses	:-	Rs.16,500/-
	Total	:-	Rs.16,73,972/-

18. The claimants are claiming interest at the rate of 15% per annum. However, the rate of interest so claimed is exorbitant. If interest is awarded at the rate of 7 % per annum for past and future then would be appropriate. In the light of discussion in foregoing paras, I answer issue No. 3 as per discussion.

AS TO ISSUE NO. 4 :-

19. Considering the findings given on issues No.1 to 3, I accordingly pass the following order;

ORDER

- 1] The petition is partly allowed with cost.
- 2] The respondent No. 1 and 3 are jointly and severally directed to pay **Rs.16,73,972/-** (Rs. Sixteen Lakhs Seventy Three Thousand Nine Hundred Seventy Two Only) including 'NFL' amount, towards compensation regarding Motor Accidental death of deceased in the accident under reference alongwith interest @ 7 % per annum, since from the date of petition till actual payment of aforesaid compensation amount.
- 3] Respondent No.2 Cholamandalam MS General Insurance Company Ltd. is directed to deposit aforesaid amount as directed, in Bank Account No. 42197953658, **State Bank of India, Branch Roja Mohalla, Market Yard, Kaij, Tq. Kaij, Dist. Beed, IFSC Code No. SBIN0020034, in the name of Ex-Officio Member, M.A.C.T. Kaij**, for further disbursement to claimants in respect of aforesaid award.

- 4] After depositing amount, it be paid to claimants equally by RTGS.
- 5] Award be drawn accordingly after recovering deficit Court fees, if any.

Kaij,
Dt.18/03/2026

(Sudhir B. Bhajipale)
Member
MOTOR ACCIDENT CLAIMS TRIBUNAL
KAIJ.

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Dictated on : 18/03/2026
Transcribed on : 18/03/2026
Checked & signed on : 18/03/2026

I affirm that the contents of this PDF file are word to word as per original Judgment / order.

Name of Steno : G. N. Ghayal
Name of Court : Addl. Sessions Court, Kaij,

Sd/-
(G. N. Ghayal)
Stenographer Grade-I