

MHBU010011092021



Received on : 18.10.2021

Registered on : 18.10.2021

Decided on : 30.07.2026

Duration : 04 Ys. 09 Ms. 12 Ds.

Exhibit No._____.

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
BULDANA, AT BULDANA.

(Presided over by S. D. Jagmalani, Member, M.A.C.T., Buldana)

Motor Accident Claim Petition No.94 of 2021.

(CNR : MHBU010011092021)

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| <p>1. Smt. Mangala Murlidhar Tambe,
Aged 55 years, Occu. : Household,</p> <p>2. Ramesh Murlidhar Tambe,
Aged 36 years, Occu. : Service,</p> <p>3. Sau. Vaishali Satish Taware,
Aged 32 years, Occu. : Household,
All R/o. Dahigaon,
Tq. Chikhli, Dist. Buldana.</p> | } | <p>...Petitioners
(Claimants)</p> |
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Versus

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| <p>1. Sudhir Nimbaji Yewale,
Aged about 50 years,
Occu.: Agriculturist and Business,
R/o. Mahimal, Post-Dahigaon,
Tq. Chikhli, Dist. Buldana,</p> <p>2. United India Insurance Company Ltd.,
Through its Branch Manager,
Near Balaji Plot, Deoji Khimji Mangal
Karyalaya, Khamgaon,
Tq. Khamgaon, Dist. Buldana.</p> | } | <p>...Respondents
(Opponents)</p> |
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Appearance :

Mr. A. V. Deshmukh, learned Advocate for petitioners,

Mr. J. P. Vinkar, learned Advocate for respondent No.1,

Mr. S. L. Rakhonde, learned Advocate for respondent No.2.

J U D G M E N T

(Delivered on this 30th day of July, 2026)

1] Present petition is filed under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation, on account of death of Murlidhar Gangadhar Tambe (hereinafter referred to as “deceased Murlidhar”), took place in vehicular accident occurred on dated 05.06.2009.

The facts of case, in brief, are as follows :-

2] That, on dated 05.06.2009, deceased Murlidhar travelling by Piaggio Auto bearing No. MH-28/H-3263 was proceeding from Karatwadi to Amdapur. It is alleged that Bharat Gulabrao Rajguru was driving the said vehicle very rashly, due to which, the rear side wheel of said vehicle broke and hence, the said vehicle turned turtle. In the said accident, deceased Murlidhar sustained had grievous injuries. After the accident, deceased Murlidhar was admitted to hospital of Dr. Kale at Chikhli. Then, while shifting the deceased Murlidhar to Aurangabad, on the way, he died. According to petitioners, the accident took place due to rash and negligent act of Bharat Rajguru, the driver of said vehicle, therefore crime came to be registered against him in Amdapur Police Station. The said vehicle was belonged to respondent No.1 and at the relevant time, it was insured with respondent No.2.

3] On the day of accident, deceased Murlidhar was aged about 53 years. He was working as Junior Technician in Maharashtra State Electricity Distribution Co. Ltd., and drawing

salary of Rs.15,809/- per month. He was also an agriculturist and earning Rs.5 to 6 Lakh per annum. Petitioners were dependent upon his earnings, therefore, they have calculated amount towards compensation of Rs.1.5 Crore, however, they restricted their claim to the extent of Rs.1,00,000/- alongwith interest @ 18% per annum from both the respondents jointly and severally.

4] Respondent No.1, though appeared, has failed to file his written statement, therefore, petition came to be proceeded without written statement against him.

5] Respondent No.2 has filed its written statement (Exh.24), thereby denied the claim of the petitioners as well as the involvement of offending vehicle in the said accident. It was submitted that deceased Murlidhar was not sitting properly in the vehicle and he himself was responsible for his own death. It was further submitted that driver of offending vehicle had no valid and effective motor driving licence. Respondent No.1 has breached the terms and conditions of the insurance policy. Therefore, taking all such general and statutory defences, it was submitted that respondent No.2 is not liable to pay compensation to the petitioners and prayed for the dismissal of the petition.

6] In view of rival pleadings of the parties, following issues (Exh.25) were framed and this Tribunal has recorded the findings with reasons thereon as follows :-

<u>Sr. No.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
[1]	Do claimants prove that Murlidhar Gangadhar Tambe succumbed to the injuries sustained by him in a vehicular accident, which took place on dated 05-06-2009 on Mahimal to Dahigaon road in the Shiwar of village Mahimal, due to rash and negligent driving by the driver of Piaggio Auto/Minidor bearing registration No. MH-28-H-3263?	...In affirmative.
[2]	Does opponent No.2 prove that deceased himself was responsible for his death as he was not sitting in the vehicle taking proper care ?	...In negative.
[3]	Does opponent No.2 prove that the driver of Piaggio Auto/Minidor bearing registration No. MH-28-H-3263 was not holding valid & effective driving licence and the said vehicle was not having valid fitness certificate & permit at the time of accident ?	...In negative.
[4]	Whether claimants are entitled for compensation ? If yes, to what extent and from whom ?	...In affirmative. As per final order.
[5]	What order and award ?	...As per final order.

REASONS

As to issue Nos.1 and 2:

7] In order to prove the accidental death of deceased Murlidhar, his son, the petitioner No.2 has examined himself as (PW1) and placed on record his affidavit (Exh.27) in lieu of examination-in-chief, in which he has reiterated the contents of

petition. In support of such contention, he placed reliance upon documents, such as copy of Accidental Death Report (Exh.33), first page of Service Book (Exh.34), Printed F.I.R. along with Oral Report (Exh.35 collectively), Inquest Panchanama (Exh.36), Spot Panchanama (Exh.37), Post-mortem Report (Exh.38), Death Certificate (Exh.39) and three 7/12 extracts (Exh.40 collectively).

8] In the cross-examination, (PW1) admitted that now he is working as Senior Technician in MSEB and receiving Rs.60,000/- per month as salary. His sister, the petitioner No.3 got married and now she is residing at her matrimonial house. Petitioner No.1, his mother is working as an agriculturist and earning Rs.5 to 6 Lakh per annum. He admitted that he has not witnessed the accident. However, he denied that the driver of said offending vehicle was not responsible for the said accident.

9] Petitioners have not examined any eye witnesses to prove the accident and they only relied upon certified copy of police papers. However, in **Bimla Devi Vs. Himachal State Road Transport Corpn.**¹, the Hon'ble Apex Court has held that, a strict proof of an accident caused by a particular vehicle in a particular manner may not be possible to be proved by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.

¹(2009) 13 SCC 530

10] In the present case, it reveals from the record that at the time of accident, deceased Murlidhar was working as Junior Technician in MSEDCL. On that day, he had been to Karatwadi to remove defect in electricity. After completion of his official work, he started proceeding by Piaggio Auto vehicle bearing No. MH-28/H-3263. It is alleged that the driver of offending vehicle was driving very rashly, due to which the rear wheel tyre of the said vehicle broke and hence the vehicle turned turtle. It reveals from the record that First Information Report (Exh.35) has been lodged by Shyam Rutele, the Junior Technician working in MSEDCL, Dahigaon Circle, upon which crime came to be registered against the driver of said vehicle in Amdapur Police Station.

11] In the said accident, deceased Murlidhar had sustained grievous injuries. Initially, he was taken to hospital of Dr. Kale at Chikhli and then, while carrying him to Aurangabad for further treatment, on the way, he died. The Post-mortem Report (Exh.38) reveals that probable cause of death of deceased Murlidhar was due to cardio respiratory arrest due to haemorrhagic shock due to trauma to vital organs of body. The accidental death is not denied by the respondents. The testimony of (PW1) is duly supported by cogent documentary evidence, which reveals that deceased had sustained fatal injuries in the said accident. Nothing is revealed from the record that the deceased Murlidhar had contributed in the accident. Hence, I record findings on issue No.1 in affirmative and issue

No.2 in negative.

As to issue No.3 :-

12] According to respondent No.2, the driver of offending vehicle had no valid and effective motor driving licence, therefore, respondent No.1 has breached the terms and conditions of Insurance Policy. However, petitioners have placed on record the extract copy of driving licence of Bharat Rajguru, the driver of said offending vehicle, below list (Exh.29/9), which reveals that he had obtained Non-Transport Driving Licence on dated 09.01.2004 and it was valid up to 08.01.2024. The accident took place on dated 05.06.2009. Therefore, it appears from the record that on the date of accident, the said driving licence was valid. No cogent evidence has been adduced by respondent No.2 to reveal that respondent No.1 has breached the terms and conditions of Insurance Policy. Hence, I record findings on issue No.3 in negative.

As to issue No.4 :-

13] Petitioners are the legal heirs and depending upon the earning of deceased Murlidhar, therefore, they are entitled to get compensation. Basically three factors need to be proved by the petitioners for assessing just and reasonable compensation in case of death claim : (a) age of the deceased, (b) income of the deceased and (c) the number of dependents.

14] So far as the age of the deceased Murlidhar is concerned, petitioners have placed on record the copy of his

service book (Exh.53), which shows that date of birth of deceased Murlidhar was 09.04.1957. The accident took place on 05.06.2009. Therefore, on the date of accident, deceased Murlidhar was aged about 52 years.

15] So far as the earning of deceased Murlidhar is concerned, petitioners have examined (PW2), Sandip Uttamrao Gaikwad, the Executive Engineer working in MSEDCL, Buldana. He has placed on record copy of Pay Slip (Exh.52) for the month of May 2009 of deceased Murlidhar, which reveals that at the relevant time, deceased Murlidhar was getting salary of Rs.15,809/- per month and after deducting professional tax of Rs.200/-, he was getting net salary of Rs.15,609/- per month. There is no reason to disbelieve the testimony of (PW2), which is supported by cogent documentary evidence.

16] According to the petitioners, deceased Murlidhar was agriculturist and earning Rs.5 to 6 Lakh per annum. In support of such contention, they have placed on record the receipts of goods issued by commission agent. However, 7/12 extracts [Exh.40(1), 40(2) and 40(3)] reveal that agricultural field bearing Gat No.177 stands in the name of petitioner No.2 and the field of Gat No.170 stands in the name of petitioner No.1. They are cultivating the lands. So also (PW1), the son of deceased Murlidhar has categorically admitted in his cross-examination that now his mother, the petitioner No.1 is cultivating the field and earning Rs.5 to 6 Lakh per annum. Thus, it reveals that there is no loss in their earning from the

field.

17] On the day of accident, deceased Murlidhar was aged about 52 years. He was permanent Government employee, therefore, considering the number of dependents and guidelines laid down by the Hon'ble Apex Court in the case of **Smt. Sarla Verma Vs. Delhi Transport Corporation²** and **National Insurance Company Limited Vs. Pranay Sethi³**, multiplier of '11' will be applicable and $1/3^{\text{rd}}$ amount is required to be deducted towards personal living expenses of deceased Murlidhar. So also, 15% towards future prospects is required to be granted to the petitioners.

18] Thus, the total dependency would be Rs.15,609/- minus $1/3^{\text{rd}}$ Rs.5,203/- towards personal living expenses of deceased Murlidhar = Rs.10,406/- X 12 X 11 = Rs.13,73,592/- + 15% towards future prospects i.e. Rs.2,06,039/- = Rs.15,79,631/-. Petitioners are also entitled for loss of estate Rs.16,500/-, funeral expenses Rs.16,500/- and loss of consortium of Rs.44,000/-. Therefore total dependency would be an amount of Rs.16,56,631/-.

19] On the day of accident, said offending vehicle was belonged to respondent No.1 and at the relevant time, it was insured with respondent No.2, therefore, both respondents jointly and severally are liable to pay the compensation along

2. Reported in 2009(4) ALL MR 429.

3. Reported in 2017 (4) T.A.C.673 (S.C.).

with interest @ 7% p.a. to the petitioners from the date of petition till its realization. Accordingly, I record my findings on issue No.4.

As to issue No.5 :-

20] It was submitted that petition is not filed within the period of limitation. It is true that accident took place in the year 2009 and petitioners have filed the petition in the year 2021, after twelve years of the accident. It is pertinent to note that earlier there was no fixed period of limitation provided to file the petition. Therefore only for delay in filing the petition, it can not be dismissed. Thus, in view of the findings recorded above, petition deserves to be allowed. Accordingly, I proceed to pass the following order :-

ORDER

- [1]** Petition is allowed with proportionate costs.
- [2]** Petitioners are entitled to get the compensation amount of Rs.16,56,631/-[Rs. Sixteen Lakhs Fifty Six Thousand Six Hundred and Thirty One only] (inclusive the amount of NFL, payable under Section 140 of the M.V. Act), with interest at the rate of 7% p.a. from the date of presentation of present petition till its actual realization.
- [3]** Both the respondents jointly and severally do pay the aforesaid amount of compensation to petitioners.
- [4]** Respondents are directed to deposit the amount of award by way of NEFT/RTGS in the account of Tribunal, Buldana alongwith prescribed format to the Tribunal and shall send copy of same to the petitioners.
- [5]** Petitioners shall produce their bank account details along with either a certificate of the banker giving all details of the

bank account including IFS Code or a copy of a cancelled cheque of their bank account.

- [6] On depositing the compensation amount, it be disbursed equally amongst the petitioners on their due verification as per rules.
- [7] Award be drawn up accordingly on payment of deficit court fees within one month from the date of order.
- [8] M.A.C.P No. 94/2021 stands disposed of accordingly.

(Dictated, delivered and pronounced in an open Court.)

Date :- 30/07/2026.
Buldana.

(S. D. Jagmalani)
Member,
Motor Accident Claims Tribunal,
Buldana.

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