

CNR NO. MHBU11-000214-2021



Presented on	: 27/07/2016
Registered on	: 27/07/2016
Decided on	: 12/03/2026
Duration	: Yr. Ms. Ds.
	09 07 16

**BEFORE MEMBER, MOTOR ACCIDENT CLAIM TRIBUNAL,
MALKAPUR, DISTRICT- BULDHANA**
(Presided over by Purushottam B. Jadhav, Member)

Motor Accident Claim Petition No. 100/2021 **Exhibit No.65**
Old M.A.C.P No. 115/2016

Baburao Laxman Bawaskar,
Age – 46 years, Occu. – Nil.,
Resident of Dhamangaon Badhe,
Taluka Motala, District Buldhana.

... APPLICANT.

--Versus--

- Dilip Jaysing Jadhao,**
Age – Major, Occu. - Agriculturist,
Resident of Nalkund, Post Rohinkhed,
Taluka Motala, District Buldhana.
(Owner of Motorcycle No. MH 28 –
AD 5722)
- ICICI Lombard General Insurance
Company Limited, Through its Branch
Manager.**

... RESPON-
DENTS.

**Claim petition under Section 163A of the Motor
Vehicles Act, 1988**

Judge

M.A.C.P No. 100/2021
(Old M.A.C.P NO. 115/2016)
Baburao Bawaskar X Dilip + 1
JUDGMENT (EXH. 65)

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Appearances :- Ld. Advocate Mr. M.Y. Pathan for applicant.

Ex-parte against respondent No. 1

Ld. Advocate Mr. N.H. Pachpor for Resp. No.2.

JUDGMENT

(Delivered on 12th Mach, 2026.)

This is a petition, under Section 163A of the Motor Vehicle Act, 1989, filed by the injured person in the motor vehicle accident, for the compensation.

Brief facts of the petitioner's case are as under:-

2) On 07/06/2014, the injured was going to Buldhana from Dhamangaon Badhe by motorcycle No. MH 28 – AC 1713. The injured was himself driving the motorcycle slowly by the left side of the road, while passing through the area of village Kinhola. By that time, opponent No. 1 came from the opposite side with motorcycle No. MH 28 – AD 5722 was being driven rashly and negligently in high speed and gave forceful dash to the injured. In an

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accident the petitioner sustained communicated displaced fracture upper end of tibia (left), displaced fracture lower shaft of tibia, segmental displaced fracture of midshaft of left fibula along with other grievous injuries. The injured was shifted to Shashwat Accident Hospital, Buldhana and took medical treatment from 07/06/2014 to 10/06/2014; then he was shifted to Seth Nandalal Dhoot Hospital, Aurangabad and treated there from 11/06/2014 to 18/06/2014. During the said period, he undergone major surgery. The injuries have resulted into permanent disability.

3) It is further case of the injured/petitioner that he is Diploma holder in Dairy Farm Management and Animal Husbandry; and was providing guidance, supervision and maintenance of cows and she-buffalos of other farmers in the vicinity and thereby earning Rs. 40,000/- per annum as net income. He was only earning member of his family and providing financial help to the family members. Due to the permanent disability, the injured is now unable to walk and perform day to day work as promptly as previously and also

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cannot carry on his business. He has suffered mental pains, agonies and expectancy of life.

4) It is further case of the injured/petitioner that opponent No. 1 is also the owner of the motorcycle No. MH 28 – AD 5722. Other motorcycle i.e. motorcycle bearing No. 28 – AC 1713 was owned by the injured and was insured with opponent No. 2 vide comprehensive policy. Therefore, both opponents are liable to pay compensation to the petitioner under Section 163A of the Motor Vehicle Act, 1889. He sought compensation of Rs. 4,00,000/-.

5) Opponent No. 1 duly served with notice Exh. 16, but failed to appear, therefore, vide order dated 01/08/2017 below Exh. 1, the petition proceeded ex-parte against him.

6) Opponent No. 1 resisted the petition by filing its written statement at Exh. 13. It denied the claim totally. In further plea, it stated that, the policy of the motorcycle No. MH 28 – AG 1713 is yet to be confirmed, therefore, it denied it. It stated that, at the time of alleged accident, the

Judge

injured was not holding a valid and effective driving license, therefore there was fundamental breach on the part of the insured of the vehicle. It stated that, the injured is not third party, but one of the contracting party, therefore, the Tribunal has no jurisdiction to try and decided the petition. It stated that the accident was taken place due to the sole negligent act of the rider of motorcycle No. MH 28 – AD 5722, therefore the police registered crime against Dilip Jaysing Jadhav, who was rider of the said motorcycle. It contended that, in the police papers, everywhere the number of the injured vehicle is shown as MH 28 – C 1713; and not MH 28 – AG 1713, therefore, either the injured pleaded wrongly or produced fake documents of registration number. There is possibility of involvement of different vehicle. No accident was occurred by the injured vehicle. Opponent No. 1 denied the age, income, medical treatment and expenses mentioned in the petition and prayed for dismissal of the petition.

7) My learned predecessor framed the issues at Exh.17 in Marathi Language. The translated issues are

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stated as under along with their findings for the reasons stated thereunder :-

Sr. No.	Issues	Findings
1.	Whether the petitioner proved that the rider of the motorcycle No. MH 28 – AD 5722 drove the motorcycle rashly and negligently and thereby caused the accident resulting injuries to the petitioner?	... In the affirmative.
2.	Whether the petitioner suffered permanent disability? If yes to what extent?	... In the negative.
3.	Whether the petitioner is entitled to the compensation? If yes, how much and from whom?	... In the negative.
4.	What order?	Petition is dismissed.

REASONS

8) In order to prove his claim, the injured examined himself as PW-1 at Exh. 19 and PW-2 Purushottam

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Dongarjkar (Exh.30). He relied on the documents (Exh. 21 to 25, 33 to 44). He has not led further evidence, therefore, my learned predecessor closed the petitioner's evidence, vide order dated 28/08/2024 below Exh. 1.

9) Opponent No. 1 proceeded ex-parte. Opponent No.2 examined its Senior Manager namely DW-1 Krishnakant Samtani (Exh.62) and relied on the copy of insurance policy (Exh. 63). It closed evidence by filing pursis at Exh. 64.

10) Despite the chances, the petitioner failed to argue the matter, therefore, it is proceeded without his argument vide order 21/01/2016. I have heard Mr. N.H. Pachpor, learned Advocate for opponent No.2.

AS TO POINT NO. 1 :-

11) So far as this point is concerned, the evidence of the petitioner himself is to be seen first. He testified at Exh.19. He just reproduced his case in his examination-in-chief. So far the accident is concerned, he deposed that on

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07/06/2014, he was going to Buldhana from Dhamangaon Badhe by motorcycle No. MH 28 – AC 1713 and he was himself driving the motorcycle slowly by the left side of the road, while passing through the area of village Khinhola. He further deposed that, by that time; opponent No. 1 came from the opposite side with motorcycle No. MH 28 – AD 5722 was being driven rashly and negligently in high speed and gave forceful dash to the injured. He further deposed that in the said accident he sustained communicated displaced fracture upper end of tibia (left), displaced fracture lower shaft of tibia, segmental displaced fracture of midshaft of left fibula along with other grievous injuries. He further deposed that, he was shifted to Shashwat Accident Hospital, Buldhana and took medical treatment from 07/06/2014 to 10/06/2014; then he was shifted to Seth Nandalal Dhoot Hospital, Aurangabad and treated there from 11/06/2014 to 18/06/2014. During the said period, he undergone major surgery.

12) Perusal of the case and the evidence of the petitioner shows that he specifically claimed that the

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accident took place because opponent No. 1 was driving motorcycle No. MH 28 – AD 5722 rashly and negligent. This fact is not challenged by opponent No. 1 by filing written statement and by taking cross-examination of the petitioner. It may be noted that opponent No. 1 was duly served with notice (Exh. 16), but he failed to appear in the petition, therefore, the matter proceeded ex-parte against him. Opponent No. 2 cross-examined the petitioner. But, the evidence as to the rash and negligent driving of opponent No.1 is also not challenged by opponent No.2. Moreover, the police papers namely the copy of the First Information Report (Exh.21), the copy of the spot panchanama (Exh.22), the copy of the police report (Exh. 25) support the evidence of the petitioner. These documents show that one Dilip Jaysing Jadhav was the rider of motorcycle No. MH 28 – AD 5722, Crime No. 31 of 2014 was registered against him for the offences punishable under Section 279, 337 and 338 of the Indian Penal Code, 1860 and Section 184 of the Motor Vehicle Act, 1988 alleging that, he drove his motorcycle rashly and

Judge

negligently and caused injuries to the petitioner. Considering the unchallenged evidence of the petitioner supported by the aforesaid documents, it is proved that, the rider of the motorcycle No. MH 28 – AD 5722 drove the motorcycle rashly and negligently and thereby caused the accident resulting injuries to the petitioner. Therefore, I record affirmative finding on this point.

AS TO POINT NO. 2 :-

13) According to the petitioner, in an accident the petitioner sustained communicated displaced fracture upper end of tibia (left), displaced fracture lower shaft of tibia, segmental displaced fracture of midshaft of left fibula along with other grievous injuries, after the accident, he was shifted to Shashwat Accident Hospital, Buldhana and took medical treatment from 07/06/2014 to 10/06/2014; then he was shifted to Seth Nandalal Dhoot Hospital, Aurangabad and treated there from 11/06/2014 to 18/06/2014. It is also his case, that during the said period, he undergone major surgery and the injuries have resulted

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into permanent disability. He reproduced this case in his evidence at Exh.19.

14) It is true that, opponent No. 1 has not challenged the evidence adduced by the petitioner. But the evidence as to the injuries and the permanent disability is challenged by opponent No. 2 in the cross-examination. The evidence of PW-2 Purushottam Dongarajkar (Exh.30) is in respect of the medical bills. He is Account Officer of the Sheth Nandlal Dhoot Hospital. The petitioner produced the discharge card (Exh. 45), which states about the fractures. The discharge summary (Exh. 45) is regarding the treatment given to the petitioner. The bills at Exh. 34 to 44 are in respect of the hospital bills. All these documents proves that, the injured was hospitalized in the said hospital and paid the medical bills regarding his medical treatment in respect of the fracture. But there is no medical evidence on record to show that the petitioner has suffered permanent disability. In absence of the medical evidence, it cannot be proved that the petitioner has suffered permanent disability. The petitioner could have examined

Judge

himself by the doctor and produced such evidence on record. But it is not his case that any doctor examined him and certified that he suffered permanent disability. His mere words are not sufficient to prove the permanent disability. Therefore, I hold that he failed to prove his permanent disability. Accordingly, I record negative finding on this point.

AS TO POINT NOS. 3 AND 4 :-

15) According to the petitioner, he spent medical expenses of Rs. 1,50,000/-. By examining PW-2 Purushottam Dongarajkar (Exh.30), the petitioner proved the medicals bills at Exh. 34 to 44, which shows that the petitioner paid amount of Rs. 41,714 and Rs. 15,530/- i.e. total amount of Rs. 57,244/-. His evidence shows that he was hospitalized for considerable period. Considering these facts and injuries sustained to the petitioner, the compensation on the count of pain and suffering can be estimated to tune of Rs. 50,000/- and diet, transportation expenses and other expenses to tune of of Rs. 50,000/-.

Judge

The total compensation can be estimated to the tune of Rs.1,60,000/- (rounded of).

16) However, he filed this petition under Section 163A of the Motor Vehicles Act, 1988. The compensation is payable only in the case of death or permanent disablement due to accident arising out of the use of motor vehicle. According to the petitioner, he suffered permanent disablement, but he failed to prove his permanent disablement. Therefore, he is not entitled to any compensation in this case.

17) According to the petitioner himself, he was riding on motorcycle bearing No. MH 28 – AG 1713 and it was insured with opponent No. 2 at the relevant time. He himself admitted in cross–examination that no motorcycle of such number is mentioned in the police papers. The number of the motorcycle, which was being rode by him mentioned in the police paper is MH 28 – C 1713. In cross–examination, he explained that the words “AC” are written instead of “AG” in the police papers. The explanation appears plausible. The registration certificate (Exh. 23)

Judge

shows that motorcycle No. MH 28 – AG 1713 is owned by the petitioner. The insurance policy (Exh. 24) does not show such registration number, but it states chassis number and engine number, which are appearing in the registration certificate. Therefore, the said insurance policy is in respect of the said motorcycle. It shows that the said motorcycle was insured with opponent No. 2 at the relevant time. It is true that, for getting compensation under Section 163 A of Motor Vehicles Act, 1988, the claimant is not required to prove the fault of the driver of the vehicle.

18) However, the vehicle must of third party. In this case, though it is proved that motorcycle No. MH 28 – AG 1713 was involved in the accident, it is owned by the petitioner himself. So far as the insurance contract with opponent No. 2 is concerned, the petitioner is one of the contracting parties; and not third party, so far as the motorcycle owned by himself is concerned. Therefore, he cannot claim the compensation from opponent No. 2. Moreover, the petitioner failed to prove his permanent disability.

Judge

19) In view of the aforesaid discussion, I hold that the petitioner is not entitled to any compensation from any opponent and his petition deserves to be dismissed with cost. Accordingly, I record findings on this points and pass the following order:-

ORDER

1. M.A.C.P No. 100 of 2021 is hereby dismissed with costs.
2. The award shall be drawn up accordingly.

Malkapur.
Date – 12/03/2026.

(Purushottam B. Jadhav)
Member,
Motor Accident Claim Tribunal,
Malkapur.

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M.A.C.P No. 100/2021
(Old M.A.C.P NO. 115/2016)
Baburao Bawaskar X Dilip + 1
JUDGMENT (EXH. 65)

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CERTIFICATE

I certify that this judgment's P.D.F. file uploaded is a true and correct copy as per original signed judgment.

Name of Court	:	Motor Accident Claims Tribunal, Malkapur.
Name of Stenographer	:	Miss H.D Chaudhari, Stenographer Grade I.
Date of order	:	12/03/2026.
Date of Uploading	:	13/03/2026.