MHGA010007542024

Presented on	..	17.10.2024
Registered on	..	18.10.2024
Decided on	..	13.03.2026
Duration	..	Y M D 01 04 23

BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL, GADCHIROLI

(Presided over by : A. L. Tikle)

M.A.C.P. No.44/2024 **Exhibit No.** .

1. **Smt. Archana wd/o Shrikrushna Nevare**
   Age about 25 years, Occ. : Nil.
2. **Smt. Sheetal wd/o Shrikrushna Nevare,**
   Age about 30 years, Occ. : Household,
3. **Vivek s/o Shrikrushna Neware,**
   Age about 9 years, Occ. : Education,
4. **Anushka Shrikrushna Neware,**
   Age about 5 years, Occ. : Education,
   Applicant Nos. 3 & 4 are minors
   through their natural guardian mother i.e.
   Applicant No.1
5. **Dhondu s/o Ramu Neware,**
   Age about 60 years, Occ. : Nil,
6. **Smt. Shevantabai Dhondu Neware,**
   Age about 55 years, Occ. : Household,
   All Resident of Nimradtola, Tahsil :
   Chamorshi, District : Gadchiroli .. **Claimants (Applicants)**

..**Versus**..

1. **Somnath s/o Babaji Nimdar,**
   Aged about 35 years, Occupation : Business,
   Resident of Nimradtola, Tahsil : Chamorshi,
   District : Gadchiroli
   (Owner cum driver of Tractor bearing No.MH-33/V-9649)

2. Shriram General Insurance Co. Ltd.
through its authorized Manager,
Shraddha House, 3rd floor, 345, Kingsway,
Nagpur, (Insurer of Tractor No.MH-33/V-9649) ... **Non-applicants (Opponents)**

Petition under Section 166 of the Motor Vehicles Act, 1988 for compensation of Rs.2,00,000/-.

Appearances :-

Mr. L. B. Dekate - Ld. Counsel for the claimants.
Mr. D. H. Gayali - Ld. Counsel for Opponent No.1.
Mr. V. M. Linge - Ld. Counsel for Opponent No.2

J U D G M E N T

(Delivered on : March 13, 2026)

By this claim petition under Section 166 of the Motor Vehicles Act, 1988 (M.V. Act), two widows, parents and children of one deceased Shrikrushna Dhondu Neware (the deceased), have prayed compensation worth Rs.2,00,000/- from the opponents, jointly and severally. The compensation has been prayed subjecting the death of the deceased in the vehicular accident in which a Tractor owned and driven by opponent no.1 and insured with opponent no.2 (the tractor) was involved.

2] The claimants have come with the case, that the deceased was working as a labour. The accident took place on 18.9.2024 at village Nimradtola, Taluka : Chamorshi, District : Gadchiroli. At the time of the accident, the deceased was '35' years of age. His monthly income was Rs. 9000/-. The deceased was working as a labour with opponent no.1 on his tractor. On 18.9.2024 at about 10.00 a.m., the deceased loaded metal-stone in the tractor from the courtyard of the house of one Vijay Nimrad. The metal-stone was to be unloaded in the agriculture land of Vijay Nimrad. The deceased was sitting on the tractor. Opponent no.1 was driving the said tractor in rash and negligent manner. Opponent no.1 suddenly applied the brakes and due to the same, the deceased lost balance and fell on the ground and came under the tyres of the tractor. Due to the head injury, the deceased died on the spot.

3] For the accident, crime no.281/2024 was registered against opponent no.1 at the Police Station, Chamorshi for the offences punishable under Sections 106(1), 281 of the Bharatiya Nyaya Sanhita, 2023 (BNS). The FIR was lodged by the father of the deceased i.e. claimant no.5. The claimants have come with the case, that because of the death of the deceased, they are made to suffer huge financial as well as emotional loss. The claimants were dependents on the income of the deceased. The claimants have suffered loss towards spousal, parental and filial consortium. Hence, on all the counts, the claimants have prayed for the compensation of Rs.2,00,000/- alongwith the interest at the rate of 12% per annum from the opponents jointly and severally. They have also craved liberty to pay additional Court-fees, if the Tribunal comes to a conclusion for grant of more compensation.

The Defence

4] Opponent no.1 did not file his written statement. By a written statement below Exh.16, opponent no.2 has opposed the claim petition in toto. It has denied age, occupation, income of the deceased and consequential loss of income to the claimants. It has also denied rash and negligent driving by opponent no.1. That apart, opponent no.2 has raised some statutory and contractual defences in the nature of absence of a valid driving license to opponent no.1 and breach of terms and conditions of the insurance policy. Further, it has been specifically contended, that the deceased was sitting on the mudguard of the tractor. The tractor is only for a driver. It does not provide any seat for any other person. Thus, opponent no.2 has prayed for its exoneration and accordingly dismissal of the claim petition against it.

5] On the basis of the rival pleadings of the parties, my learned Predecessor was pleased to frame as many as four issues at Exh.17. The issues together with my findings for the reasons thereto, are reproduced as below.

Sr. No.	**Issues**		**Findings**
1.	Whether the applicants/claimants prove that deceased Shrikrushna Dhondu Neware succumbed to the injuries in vehicular accident occurred on 18.9.2024 at about 10.00 a.m. at mouza Nimradtola, Taluka : Chamorshi, District : Gadchiroli due to the rash or negligent driving of driver of vehicle Tractor bearing No.MH-33/V-9649 ?	..	**Affirmative**
2.	Whether opponent no.2 prove that opponent no.1 did not possess valid and effective driving license, so also permit and fitness certificate of the tractor at the time of the accident and thereby he committed breach of terms and conditions of the policy?	..	**Affirmative. But with 'pay & recover'.**
3.	Whether the applicants/claimants are entitled to the compensation? If yes, to what extent and from whom?	..	**Affirmative. Rs.20,27,700/- from both the opponents**.
4.	What order and award ?	..	**As per final order.**

REASONS

About Evidence

6] As oral evidence for the claimants, claimant no.1

Archana Neware has examined herself as P.W.1 at Exh.22. As documentary evidence, the claimants have relied on the copies of the first information report (FIR), crime details form, inquest panchanama, postmortem report (dated 18.9.2024), registration particulars of the Tractor bearing No.MH-33/V-9649 (dated 17.10.2024), the school leaving certificate of the deceased (dated 9.2.2012) and Aadhar-cards of the claimants (Exh.23 to Exh.33 respectively). In addition to that, the claimants have also relied on marriage-card of the deceased for his marriage with claimant no.2 and a certificate of the Grampanchayat, Visora.

7] In rebuttal, opponent no.2 has examined one Anant Bhalchandra Gaikwad, an Assistant Motor Vehicle Inspector, Gadchiroli as D.W.1. Opponent no.2 has relied on extract of driving license of opponent no.1 (Exh.42), insurance policy of the tractor (Exh.49). The photo-copies of the driving license and insurance policy were also placed on record by opponent no.1.

As to Issue No.1 : **About accident and death**

8] This issue pertains to the factum of the accident, death, rash and negligent driving and involvement of the tractor in question. Opponent no.2 has not seriously disputed about the death of the deceased, involvement of the Tractor and also about the factum of the accident. That apart, claimant no.1 has adduced the oral evidence, to that effect. Further, she has also proved the police investigation papers. The FIR (Exh.23) was lodged on the very same date of the accident i.e. on 18.9.2024 showing the involvement of the tractor and rash and negligent driving by opponent no.1. The panchanama of scene of offence definitely corroborates the same. On the basis of the inquest panchanama and postmortem report (Exh.25

and Exh.26 respectively), that death of the deceased due to a head injury and injuries to vital organs due to the road traffic accident can be concluded. From the oral evidence as well as the police investigation papers, it can be concluded, that as opponent no.1 applied sudden brakes to the tractor, the deceased lost control and fell on the ground and came under the tyres of the tractor. Thus, Issue no.1 is answered in affirmative.

As to Issues No.2 : (**About liability of opponent no.2**)

9] As I have answered Issue no.1 in the affirmative, definitely there is liability of opponent no.1 to pay the compensation as deduced below. The question is about liability of opponent no.2. Opponent no.2 has come with the case, that opponent no.1 did not have a valid driving license. He was not competent rather licensed to drive a tractor with a trolley. Further, the tractor was used to transport metal-stone. This was not for an agriculture use. Again, opponent no.2 has come with the case, that the deceased was travelling on the mudguard of the tractor. Hence, opponent no.2 has come with the case, that opponent no.1 committed many statutory and contractual breaches. Those are fundamental in nature. Hence, opponent no.2 has prayed its exoneration.

10] By examining Anant Gaikwad (DW1), opponent no.2 has substantially proved the above facts. Even Anant has denied suggestion by the claimants, that a tractor owner can transport any material for construction of his own farmhouse. So, I conclude, that opponent no.2 has proved that opponent no.1 did not have a driving license to drive a transport vehicle. The permission for the tractor was not to transport any commodity. Thirdly, and most importantly, the deceased was travelling on the mudguard of the tractor. Even the claimants have not disputed the above facts. Only dispute is about the application of law and consequences, which may flow from the above facts.

11] In support of his submissions and contentions, Mr. Dekate, the learned counsel for the claimants has relied on the following judgments filed alongwith the list (Exh.47) :

i] **National Insurance Company Ltd. vs. Seems Ramdas Telhande and others, 2013 A.C. 429 (Bom);**
ii] **Mahendra Kumar Kesharwani vs. Itwarabai and Others, 2019 (2) T.A.C. 958 (Chhattis.);**
iii] **V. Renganathan and Another vs. Branch Manager, United India Insurance Company Ltd. and Another, 2022 (4) T.A.C. 736 (S.C.);**
iv] **Shaikh Sadik Shaikh Rafique vs. Reliance General Insurance Company Ltd. and Others, 2025 (2) T.A.C. 709 (S.C.);**
v] **Sanju and Others vs. ICICI Lombard Insurance Co. Ltd., 2025 (1) T.A.C. 802 (S.C.) and**
vi] **Sunita & Ors. vs. United India Insurance Co. Ltd. & Ors., Civil Appeal No. 9538 of 2025, Supreme Court of India, delivered on July 17, 2025.**

12] Mr. Linge, the learned counsel for Opponent No.2, has relied on the following judgments filed alongwith the lists (Exh.48 and Exh.50) :

i] **Swapnil vs. Branch Manager & Ors., 2019 CJ(Bom)2724;**
ii] **The Branch Manager Vs. Chinnapillai (Died) and Others, 2021 Gojuris (MAD) 12628;**
iii] **The Branch Manager, HDFC Ergo General Insurance Company Ltd. vs. Kannamma, 2020 Gojuris (MAD) 12076;**
iv] **National Insurance Company Ltd. vs. Smt. Ram Murti Bai and Others, 2019 Gojuris (MP) 12742;**
v] **Branch Manager, United India Insurance Company Ltd. Vs. V. Renganathan, 2018 Gojuris (MAD) 15750; and**
vi] **Amudhavalli & Ors. vs. HDFC Ergo General Insurance Company Ltd. & Ors., Special Leave Petition (C) No. 6117 of 2020, Supreme Court of India, delivered on September 26, 2025.**

13] As per the judgment in the matter of **V. Renganathan and Another vs. Branch Manager, United India Insurance Company Ltd.** (supra), the Honourable Apex Court resorted to “pay and recovery” modality. The facts of the said judgment are almost identical to the facts of the present case. In that matter, the deceased was travelling in the tractor by sitting on the mudguard. The Honourable Apex Court, even after following the judgment in the matter of **New India Assurance Co. Ltd. vs. Asha Rani and Ors, [2003(2) S.C.C. 223]**, followed the principle of "pay and recover". For ready reference and better appreciation, paragraphs no.2 and 5 to 8 of the said judgment, are extracted as below :-

> ***2****. The appellants are the son and daughter of the deceased who was traveling in the Tractor by sitting on the Mudguard which met with an accident. The claimants therefore, filed claim petition and claimed a compensation of Rs.7,00,000/- before the Motor Accidents Claims Tribunal (‘the Tribunal’). The claim petition was allowed. The learned Tribunal held that the owner of the tractor as well as the insurer are jointly and severally liable to pay compensation of Rs.6,62,000.- with interest @ 7.5% per annum from the date of filing of the claim petition as against Reason: the claim of Rs.7,00,000/-.*
>
> ***5****. We find no fault with the finding of the High Court that the Insurance Company could not be held liable for the payment of compensation in view of the judgment of 3-Judges’ Bench of this Court in the case of New India Assurance Co. Ltd. vs. Asha Rani & Ors. reported in 2003 (2) SCC 223. However, at the same time, we find that in view of the settled position, the High Court ought to have partly allowed the appeal. We may gainfully refer to the observations of this Court in similar facts at paragraph Nos.10 and 11 of the Judgment of this Court in Shivaraj vs. Rajendra and Anr. reported in 2018(10) SCC 432 : 2018 (4) T.A.C. 1.*
>
> ***6.*** *As already observed, the facts in the present case are similar to the facts in the case of Shivaraj vs. Rajendra and Anr. (supra).*
>
> ***7.*** *In the present case also, the High Court ought to have partly allowed the appeal preferred by the Insurance Company and ought to have directed it to pay the amount of compensation to the appellants and granted liberty to recover the same from the tractor owner.*

> ***8.*** *We are, therefore, inclined to allow the appeal. We uphold the finding of the High Court that the Respondent No.1-Insurance Company cannot be held liable for payment of compensation. At the same time, we direct the Respondent No.1-Insurance Company to pay the compensation to the appellants-claimants as determined by the learned Tribunal with interest as specified in the order within three months from today with liberty to recover the said amount from the owner of the vehicle.*

14] In view of the above judgment, now there can not be dispute, that even though there was a breach of terms and conditions of the insurance policy, rather there was statutory breach, still the principle of "pay and recover" has to be followed.

15] The judgment in the matter of **V. Renganathan and Another vs. Branch Manager, United India Insurance Company Ltd.** (supra) being earlier in point of time, in view of the law laid down in the matter of **Central Board Of Dawoodi Bohra Community and Anr. vs. State Of Maharashtra & Anr, 2005(2) SCC 673**, is binding on me. For the very same reason, the judgment in the matter of **Amudhavalli & Ors. vs. HDFC** (supra) relied by Mr. Linge, being subsequent and by a Bench of equal strength, is not binding. Even the facts of the later judgment are different. For the very same reason, the judgment in the matter of **Branch Manager vs. Chinnapillai (Died) and Others (supra)**, **Branch Manager, HDFC Ergo General Insurance Company Ltd. vs. Kannamma** (supra) and the judgment in the matter of **National Insurance Company Ltd. vs. Smt. Ram Murti Bai** (supra), so also the judgment in the matter of **Branch Manager, United India Insurance Company Ltd. vs. Renganathan** (supra) are not applicable. In fact, the judgment in the matter of **V. Renganathan and Another Vs. Branch Manager** (supra) by the Honourable Apex Court was an appeal against the judgment in the matter of **Branch Manager, United India Insurance Company Ltd. vs. Renganathan** (supra).

16] In view of the above discussion, even though the deceased was travelling in that tractor on the mudguard, there has to be adherence to the principle of "pay and recover".

17] Now the next question is about the driving license of opponent no.1. The driving license of opponent no.1 was for 'tractor'. As per the evidence by Anant (DW1), opponent no.1 was not authorized to drive a tractor with trolley. If a tractor is shunted with a trolley, then it becomes a 'transport vehicle'. However, the judgment in the matter of **Mahendra Kumar Kesharwani vs. Itwarabai** (supra) is quite helpful to the claimants. In that matter, the tractor was found carrying sand for domestic use i.e. for a construction of a farmhouse of the owner himself in his own agriculture land. It was concluded that, that does not mean that the tractor was used for commercial purpose. Again, in the matter of **Sunita & Ors. vs. United India Insurance Co. Ltd.** (supra), the Honourable Apex Court laid down, that a license to drive a light motor vehicle does not require endorsement as license to drive commercial vehicle of the type in question. Though the judgment in the matter of **Sunita vs. United India Insurance Co. Ltd.** (supra) is not strictly applicable to the present matter but in principle, it may apply. But the judgment in the matter of **National Insurance Company Ltd. vs. Seems Ramdas Telhande and others** (supra) is helpful to the claimants. In this matter, opponent no.2 has not adduced any evidence, that because of the shunting of the trolley to the tractor, the accident took place. The Honourable Bombay High Court observed that, *"as a matter of fact, where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid license by the driver or his qualification to drive during the relevant period, the insurer company would not be allowed to avoid its liability towards the insured unless* ***<u>the said breach or breaches of the condition of driving license is/are so</u>***

fundamental and bound to have contribute to the cause of the accident".

18] Again, unfortunately, for opponent no.2, the facts of the matter of **Branch Manager, United India Insurance Company Ltd. vs. V. Renganathan** (supra) were, that the deceased in that matter travelled as a labour after unloading the bricks, by sitting near to the driver of the tractor. Thus, in that matter also, there was trolley attached to the tractor. The very same matter was carried to the Honourable Apex Court as noted above. In the matter of **V. Renganathan and Another vs. Branch Manager, United India Insurance Company Ltd.** (supra), there was order of "pay and recover". In that matter also, a defence was raised, that the driver did not have a valid driving license. Hence, I find, that in this matter also there can not be an exception to the adherence to the principle of "pay and recover". Hence, though opponent no.2 has proved Issue no.2, it can not deny its liability towards the claimants. Thus, I answer Issue no.2 in the affirmative, but with "pay and recover".

As to Issue No.3 : Quantum of the compensation

19] Having concluded, Issue no.1 and 2 accordingly, there has to be co-extensive liability of opponent no.2 with opponent no.1, but with "pay and recover". Now, the question is about the quantum of the compensation. The claimants have come with the case, that the deceased was 35 years of age. Apart from the oral evidence of claimant no.1, there is evidence in the nature of a verified school leaving certificate of the deceased (Exh.28). As per that certificate (Exh.28), the deceased was born on 7.9.1989. The accident took place on 18.9.2024. Hence, on the date of the accident, the deceased was more than 35 years of age. There is ample evidence on record about his occupation. The deceased was working as a labour and undisputedly on the tractor. The said aspect has not been seriously disputed. The claimants have come with the case of the income of the deceased as "Rs.9000/-" per month which is reasonable and almost at par with the notional income. Hence, the same is accepted.

About ultimate Multiplicand and Multiplier

20] As the deceased was working on a fixed salary and was '35' years of age, there has to be 40% addition towards the income, as per the judgment in the matter of **National Insurance Company Limited vs. Pranay Sethi & Ors, [2017 (16) S.C.C. 680].** Again, as per the said judgment as there are, six dependents on the deceased, there has to be deduction of 1/4th towards the personal expenses of the deceased. (Though claimants no.1 and 2 are the widows of the deceased, they were dependent on the income of the deceased. Hence, the question of legality of marriage of either one cannot be gone into. Further, even if one widow is discarded, there will no change in the multiplier). Hence, the ultimate multiplicand of Rs.9450/- is arrived (9000 X 40 ÷ 100 = 3600/- + 9000/- = 12600/-. 12600 X 3 ÷ 4 = 9450/-. As the deceased was more than '35' years of age, the appropriate multiplier shall be "15" (the deceased had completed '35'). Hence, on account of loss of dependency, the claimants are entitled to Rs.9450 X 15 X 12 (= Rs.17,01,000/-) .

21] Under the head of non-pecuniary damages/conventional heads, as per the judgment in the matter of **Sunita vs. United India Insurance Co. Ltd.** (supra), each claimant is entitled to Rs.48,400/- towards loss of spousal, parental and filial consortium. The claimants are entitled to Rs.18,150/- towards loss of estate. They are entitled to equal amount i.e. Rs.18,150/- towards the loss of funeral expenses. Hence, the total entitlement of the claimants is as Rs.20,27,700/-, which is the liability of the opponents, jointly and severally. The claimants are entitled for the above amounts of the compensation from the opponents. But opponent no.2 can recover the amount of compensation, if it is paid by it, from opponent no.1. Thus, Issue no.3 is answered in the affirmative, to the tune of Rs.20,27,700/- and from both the opponents.

22] It is matter of record, that the claimants have prosecuted the proceeding diligently. Hence, they are entitled for the interest at the rate of 9% per annum from 17.10.2024 till the realization of entire amount of the compensation. The payment of proportionate costs shall be a consequence. As there deficit payment towards the Court-fees, the claimants are required to make the said payment.

23] In view of the above discussion, I am inclined to allow the claim petition. The apportionment is made, considering the relations of the claimants with the deceased and also their ages.

Thus, I proceed to pass the following order.

O R D E R

1] Motor Accident Claims Petition No.44/2024 is hereby allowed with the costs.

2] The opponents are directed to pay the compensation of **Rs.20,27,700/-** (Rupees Twenty Lac Twenty Seven Thousand Seven Hundred only) along with the interest at the rate of 9% per annum from the date of application i.e. 17.10.2024 together with the payment of costs (including any compensation paid by them under Section 140 of the Motor Vehicles Act, 1988 till the realization of the entire amount of the compensation.

3] Upon receipt of the above the compensation, **60%** compensation shall be granted to Claimant no.1 Smt. Archana herself and for Claimant no.3 Vivek and Claimant no.4 Anushka. **20%** compensation shall be granted to Claimant no.2 Smt. Sheetal. **10% each** compensation shall be granted to Claimant no.5 Dhondu and Claimant no.6 Smt. Shevantabai, respectively.

4] If the amount of the compensation as above, is paid by Opponent no.2, it can recover from Opponent no.1 by filing an Execution Application of this Award without resorting to any other legal proceeding. (The compensation amount includes the payment of interest and costs).

5] The Claimants to make the payment of the deficit of Court-fees, within a period of one month from today. If the payment of the deficit Court-fees is made, then an Award shall be drawn up for the above entire amount of compensation. If the payment is not made, an Award shall be drawn only for Rs.2,00,000/- along with the interest and costs, on the said amount.

6] The opponents may directly to deposit the amount of the compensation (alongwith the interest and costs), in the Bank Account maintained by the Tribunal bearing Account No.40780232739, IFSC Code No.SBIN0000298.

7] An award be drawn up accordingly.

DISTRICT COURTS MAHARASHTRA

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Date: 2026.03.23 18:59:32 +0530

Gadchiroli
13th March, 2026

(**A. L. Tikle**)
Chairman,
Motor Accident Claims Tribunal,
Gadchiroli