



Presented on : 15/02/2022
 Registered on: 23/02/2022
 Decided on : 22/04/2026
 Duration : 04y/01m/30days

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, GONDIA
 (Presided over by M. T. Asim, Member)

M.A.C.P No.75/2022
CNR No. MHGO010002822022
Exh. No.35

1.	Lalita w/o Raju Mendhe Aged-40 years, Occ. Housewife	
2.	Raju s/o Urkuda Mendhe Aged-45 years, Occ. Nil Both R/o- Khamari, Tah. & Dist. Gondia	...Claimants.
-Vs-		
1.	Ganesh s/o Tilakchand Lavhare Aged 44 years, Occ. Driver R/o- Nilagondi, Post Ratnara Tah and Dist. Gondia.	
2.	Amit s/o Dhyaneshwar Jha Aged 45 years, Occ. Owner R/o Shashtri Ward, Panchayat Samiti Colony, N/R Sanganak Bhawan, Tah. Dist. Gondia.	..Respondents.
3.	Branch Manager Reliance General Insurance Co. Ltd. Branch Office, Nagpur 1 st Floor, 119 Ayodhya Building Central Bajar Rd, Behind Akruiti, Furniture Bajaj Nagar Nagpur	

<u>Appearance :</u>		
Adv. Mrs. Timande	:	For claimants
Adv. Mr. P T. Tolani	:	For respondent No.1
Exparte	:	For respondent No.2
Adv. Mr. Ramteke	:	For respondent No.3

**Petition under section 166 of The
Motor Vehicles Act, 1988 for the
compensation.**

- :J U D G M E N T:-

(Delivered on 22/04/2026)

The petition has been filed under section 166 of the Motor Vehicles Act for grant of compensation on account of death of Kalyani Raju Mendhe in motor vehicular accident which has taken place on 20-06-2021 at 11.00 am near Manav Satsang Ruhani Center Chullod, within the jurisdiction of Police Station, Gondia Rural arisen out of use of Tipper bearing registration No.MH-35-AJ-2771.

2. The brief facts of the case are as under:

It is the contention of petitioners that on 20-06-2021 at about 11.00 am Kalyani Raju Mendhe was going on motorcycle bearing registration No.MH-35-AD-7471 with neighbours Kanta Uikey and her son Yugant to Mohgaon to attend marriage of her relative from Khamari. She was riding her Scooty in moderate speed. When they reached near Manav Satsang Ruhani Center on Chulod-Asholi road tipper bearing registration No.MH-35-AJ-2771

came from opposite direction being driven in rash and negligent manner and gave dash to Scooty of Kalyani Raju Mendhe. She fell down on the road in front of wheel of tipper and wheel of said tipper roled over her body and head. Due to that her head was completely smashed and brain came out on the road. She died on the spot. Driver of tipper fled from the spot of incident. Deceased Kalyani was referred to KTS hospital, Gondia where postmortem was conducted on her dead body. Said accident occurred due to rash and negligent driving of driver of tipper. Offence was registered against the driver of tipper under sections 279, 304-A of IPC and sections 184, 134(B) of M.V. Act vide Crime No.238/2021 with police station Gondia Rural. They further contended that at the time of accident deceased Kalyani was 19 years old and she was DMLT Pathology Technician and was earning Rs.15,000/- per month. She was sole earning member of her family and her family members were dependent upon her. Petitioners have calculated their claim to the tune of Rs.23,81,000/-. However, they have restricted their claim to the extent of Rs.1,00,000/-. It is further contended that non-applicant No.1 is driver of tipper bearing registration No.MH-35-AJ-2771 and non-applicant No.2 is owner of said tipper and it is insured with respondent No.3. So, they are jointly and severally liable to pay compensation amount to claimants. Accordingly, made prayer in that regard.

3. Petition proceeded without written statement against respondent No.1 vide order dated 04-01-2023 passed below Exh.1.

4. Petition proceeded exparte against respondent No.2 vide order dated 16-11-2022 passed below Exh.1.
5. Petition proceeded without written statement against respondent No.3 vide order dated 15-04-2026 passed below Exh.1.
6. Issues are framed at Exh.15 by my predecessor Member of the Tribunal and I reproduced the same with my findings and reasons to follow as under:

ISSUES

FINDINGS

- | | |
|--|---|
| 1. Do the claimants/petitioners prove that deceased Kalyani D/o Raju Mendhe died in an accident involving the vehicle Tipper bearing registration No.MH-35-AJ-2771 and two wheeler bearing registration No.MH-35-AD-7471 ? | ** Due negligent driving of tipper by respondent No.1. |
| 2. Whether the claimants/petitioners are entitled for compensation ? If yes, from whom and to what extent ? | ** Yes.
Respondent Nos.1 to 3 jointly and severally,
Rs.12,86,600/- |
| 3. What order and award? | As per final order. |

REASONS

7. In support of claim petition, the petitioners have filed evidence affidavit of petitioner No.1 Lalita Raju Mendhe at Exh.16 and petitioner No.2 Raju Urkuda Mendhe is examined at Exh.27 and placed reliance upon police papers and documents of

educational qualification of deceased Kalyani. They closed their side by filing pursis at Exh.33. While respondent No.1 closed his side vide pursis Exh.34. Side of respondent No.3 is closed in pursuance of order dated 15-04-2026 passed below Exh.1. Heard learned Advocate for petitioners and learned Advocate for respondent Nos.1 and 3.

AS TO ISSUE NO.1:

8. Petitioner No.1 Lalita Mendhe in her evidence affidavit reiterated facts mentioned in claim petition. She deposed that on 20-06-2021 at about 11.00 am Kalyani Raju Mendhe was going on Scooty bearing registration No.MH-35-AD-7471 from Khamari to Mohgaon. Accident had occurred due to dash given by driver of tipper bearing registration No.MH-35-AJ-2771 being driven in rash and negligent manner and in said accident she sustained serious injury and she died. Postmortem was conducted on the dead body of Kalyani. Offence was registered under sections 279 and 304-A of IPC and section 184, 134(B) of M.V. Act vide Crime No.238/2021 against the driver of offending tipper. She placed reliance upon police papers. Form AA Exh.17 shows that Kalyani Raju Mendhe met with an accident on 20-06-2021 at about 10.30 am on Chulod to Asoli Road, within the jurisdiction of police station Gondia Rural due to involvement of tipper bearing registration No. MH-35-AJ-2771 being driven by respondent No.1. True copy of FIR Exh.18 shows that offence under sections 279, 304-A and 337 of IPC and sections 184 and 134-B of M.V. Act has

been registered vide Crime No.238/2021 with police station Gondia Rural against the driver of tipper bearing No. MH-35-AJ-2771. True copy of spot panchnama Exh.19 shows the place where said accident occurred. From sketch in Exh.19 it can be gathered that said accident occurred on the left side of Chulod-Asoli road. It reveals from true copy of FIR Exh.18 that tipper bearing No. MH-35-AJ-2771 came from the direction of Asoli and gave dash to the Scooty being driving by deceased Kalyani. It also reveals from FIR that wheel of the tipper roled over face and head of deceased Kalyani. Thus, in the light of these recitals in FIR, sketch in Exh.19 is considered then it can be gathered that deceased Kalyani was driving Scooty vehicle by her correct side and offending tipper bearing No. MH-35-AJ-2771 came to wrong side and gave dash to the Scooty. It seems that there is turning on the road at the spot of accident. That being so respondent No.1 who was driver of offending vehicle at the relevant time ough to have driven said vehicle with due care and caution. However, it can be gathered that respondent No.1 was driving the offending vehicle in rash and negligent manner and lost control over it and gave dash to the Scooty being driven by deceased Kalyani. Thus, said accident was occurred due to rash and negligent driving of tipper bearing No. MH-35-AJ-2771. True copy of inquest panchnama Exh.20 shows that injuries found on the person of deceased Kalyani. True copy of death certificate Exh.21 shows that Kalyani Raju Mendhe died on 20-06-2021. True copy of postmortem report Exh.31 shows that death of Kalyani was caused due to head injury and so also she

sustained crushed injury to head. Considering oral evidence of petitioner No.1 Lalita coupled with documents as discussed above, I have no hesitation to hold that petitioners have established that death of deceased Kalyani occurred in an accident which had taken place on 20-06-2021 at about 11.00 am near Manav Satsang Ruhani Center Chulod due to use of tipper bearing registration No. MH-35-AJ-2771 being driven in rash and negligent manner by respondent No.1. Hence, I answer issue No.1 accordingly.

AS TO ISSUE NO.2 :-

9. Claimant No.1 has stated that deceased Kalyani was their daughter and she would have been a support for them in future. Deceased Kalyani was earning member of their family and she was bearing expenses for food, medicine and other expenses. They suffered mentally, physically and financially due to death of Kalyani. There is no reason to disbelieve her version in that regard. They being parents of deceased Kalyani and were also dependent upon her in some respect so they are entitled for compensation. Hence, I answer first part of issue No.2 in affirmative.

10. Now I assess the amount of compensation. Petitioner No.2 Lalita has stated that deceased Kalyani was 19 years old at the time of accident. She was working as DMLT Pathology Technician and was earning Rs.15000/- per month. Petitioner No.2 Raju Mendhe stated that deceased Kalyani was taking education in final year of DMLT. He has also filed on record mark-sheet of

deceased Kalyani of 10th standard and DMLT examination at Exh.28 and 29 respectively. He has also filed school leaving certificate of deceased Kalyani at Exh.30. From copy of school leaving certificate Exh.30 it is clear that date of birth of deceased Kalyani was 28-02-2002. She died on 20-06-2021. Thus, she was 19 years old at the time of her death. That being so multiplier of 18 is applicable in the present case.

11. I have gone through Mark-sheet of standard 10 at Exh.28 of deceased Kalyani it shows that deceased Kalyani has secured 55.04 % in said examination. While Exh.29 shows that deceased Kalyani has not cleared diploma course Medical Lab Technician. Even P.W.2 Raju Mendhe has admitted that his daughter was unsuccessful in DMLT exam. Petitioners have not brought any documentary evidence to show that deceased Kalyani was working as Lab Technician and earning Rs.15000/-per month. In the facts of matter notion income of deceased Kalyani is to be considered. I consider notional income of deceased Kalyani as Rs.8000/- per month which comes to Rs.96,000/- per annum. In view of judgment in the case of *National Insurance Co. Ltd vs Pranay Sethi AIR 2017 SUPREME COURT 5157*, I add 40% of her income towards future prospects considering that deceased Kalyani was 19 years old at the time of her death. Thus, annual income of deceased Kalyani with future prospect comes to Rs. 96,000 + 38,400/- (future prospects) = Rs. 1,34,400/-.

12. To determine multiplicand amount towards personal and living expenses of deceased Kalyani which she would have spent had she been alive is to be deducted from the said income. P.W.1 Lalita Mendhe in cross-examination admitted that deceased Kalyani was unmarried. That being so 50% of her income is to be deducted towards personal and living expenses which she would have spent had she been alive. Thus, multiplicand comes to $\text{Rs.}1,34,400 \div 2 = \text{Rs.}67,200$ /-.

13. To determine loss of dependency, multiplicand is to be multiplied by appropriate multiplier. Thus, $\text{Rs.}67,200 \times 18 = \text{Rs.}12,09,600$ /-. This is loss of dependency to the petitioners. They are entitled to said amount towards loss of dependency. Besides that, they are also entitled to amount under conventional head i.e. $\text{Rs.}16,500$ /- towards loss of estate, $\text{Rs.}16,500$ /- towards funeral expenses and $\text{Rs.}44,000$ /- towards loss of consortium. Petitioners are entitled to total compensation of $\text{Rs.}12,86,600$ /-.

14. As per petitioner No.1 Lalita has stated that respondent Nos.1 to 3 being driver, owner and insurer of the offending vehicle are jointly and severally liable to pay compensation amount to petitioners. Petitioners have filed on record Form AA which shows that at the relevant time respondent No.1 was driver of offending tipper, it is owned by respondent No.2 and it was insured with respondent No.3. True copy of vehicle particulars of offending tipper Exh.22 shows that it stands in the name of respondent No.2.

Exh.23 shows that offending tipper was insured with respondent No.3 from 19-03-2021 to 18-03-2022. Accident occurred on 20-06-2021. Thus, on the date of accident offending tipper was insured with respondent No.3. Respondent Nos.1 to 3 being driver, owner and insurer of offending tipper at the relevant time are jointly and severally liable to pay compensation to the petitioners. Hence, I answer second part of issue No.2 accordingly.

15. Although petitioners have restricted their claim to the extent of Rs.1,00,000/- but it is settled law that Tribunal can award just and fair compensation to claimants. Therefore, I hold that claimants are entitled to compensation as determined above. Therefore, claim petition deserves to be allowed with cost. Hence, this order.

ORDER

1. Petition is allowed with costs.
2. Petitioners are entitled to total compensation of **Rs.12,86,600/-(Twelve Lakhs Eighty Six Thousand Six Hundred only)** under section 166 of the Motor Vehicles Act with future interest @7% p.a. from the date of filing of petition till realization of said amount.
3. Respondents Nos. 1 to 3 do pay jointly and severally **Rs.12,86,600/-(Twelve Lakhs Eighty Six Thousand Six Hundred only)** with future interest @7% p.a. from the date of filing of petition till realization of said amount to the petitioners.
4. Amount of compensation be apportioned amongst petitioners equally.

5. Respondents Nos.1 to 3 do bear their own costs and pay costs to the petitioners.
6. The petitioners have to pay the deficit court fees if any.
7. An award be drawn up accordingly.

Date : 22-04-2026

(M. T. Asim)
Member,
Motor Accident Claims Tribunal,
Gondia.