Exh.61

MHJG040009282015

Received on	:	04.04.2015
Registered on	:	29.04.2015
Decided on	:	31.07.2026
Duration	:	11Y-03M-27D

BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, JALGAON AT JALGAON

(Presided over by R.N. Joshi, Member, M.A.C.T., Jalgaon)

MOTOR ACCIDENT CLAIM PETITION NO.136 OF 2015.

1) Ratnakar Rajaram Mane (Deleted in view of order below Exh.35)

2) Namrata Ratnakar Mane.
Age: 18 years, Occ: Education

3) Priyanka Ratnakar Mane.
Age: 16 years, Occ: Education

4) Shubham Ratnakar Mane
Age: 15 years, Occ: Education

5) Swayam Ratnakar Mane.
Age: 6 years, Occ: Education

All R/o Laxminagar, Chalisgaon,
District- Jalgaon

6) Shweta alias Shital Sunil Thakare.
Age: 24 years, Occ: Household work
Through Sunil Ashok Thakare,
Shirsoli Naka, Jalgaon.

7) Archana Gajanan Baviskar.
Age: 22 years, Occ: Household work,
R/o Takarkheda, Tal. Jamner, Dist. Jalgaon.

8) Sau. Puja Jibhau Rawate.
Age: 20 years, Occ: Household work,
R/o Ganeshpur, Pimpri, Tal. Chalisgaon,
District- Jalgaon. ...**Claimants**

VERSUS

1) Shri. Prakash Rambhau Khope.
Age: 39 years, Occ: PMPML Bus Driver
R/o Gurudatta Housing Society, Triveni Nagar,

Talawade, Pune.

2) Shri. Bhalchandra Eknath Khotkar.
Age: 49 years, Occ: PMPML Bus Conductor
R/o Sainagar, Behind Jagdamba Sweets,
Pimpri Gaon, Pune.

3) Mahalaxmi Transport
Address: Veer Savarkar Nagar, Jangali
Maharaj Road, Pune

4) United India Insurance Company Ltd.
Through Branch Manager
Address: Mansing Market, Railway Station
Road, Jalgaon. ...**Opponents**

Shri. S.T. Pawar : Advocate for Claimants.
Petition proceeded *ex parte* against Opponent Nos.1 to 3.
Shri. S.B. Agrawal : Advocate for Opponent No.4.

<u>JUDGMENT</u>

(Delivered on this 31st day of July, 2026)

01. The claimants, being the husband (claimant No.1, now deceased), five daughters, and two sons of deceased Latabai Ratnakar Mane, have filed the present petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.10,00,000/- on account of her death in a motor vehicular accident arising out of the use of PMPML Bus No. MH-14/CW-1871 (hereinafter referred to as the 'offending bus').

Claimant No.1, Ratnakar Rajaram Mane, the husband of the deceased, expired during the pendency of the petition. Hence, in view of the order passed below Exh.35, his name is deleted from the array of claimants.

02. It is claimed that on 03.09.2014 at about 06:45 a.m., the deceased was travelling in PMPML Bus No.MH-14/CW-1871 from

Pune Station to Nigdi. When the bus stopped near Mafatlal Bungalow in front of E-Square Talkies and she was alighting from the bus, the conductor negligently gave the bell signal and the driver started the bus without ensuring that all passengers had safely alighted. As a result, the deceased fell from the bus, sustained serious head injuries and was admitted to Ratna Hospital and thereafter to Sassoon Hospital, Pune, where she succumbed to the injuries on 06.09.2014.

03. It is claimed that the accident occurred solely due to the rash and negligent driving of opponent No.1 and the negligent conduct of opponent No.2. Had the bus been driven carefully and the conductor ensured the safety of passengers before giving the signal, the accident would not have occurred. After investigation, the police filed charge-sheet against opponent No.1.

04. It is claimed that at the time of the accident the deceased was 40 years old and was working as a caretaker of elderly women at Athashri Pratishthan, Baner, Pune, and earning Rs.10,000/- per month. All the claimants were dependent upon her income. Claimant No.1 (since deceased) was suffering from thyroid and cancer-related ailments and was unable to work, whereas claimant Nos.3 to 5 were minors. Claimants Nos.6 to 8 are married daughters and are joined as legal heirs.

05. It is claimed that the claimants spent about Rs.20,000/- towards medical treatment and Rs.25,000/- towards funeral and ambulance expenses. Due to the untimely death of the deceased, the claimants suffered financial and emotional loss. Opponent Nos.1 to 4 are driver, conductor, owner and insurer of the PMPML Bus respectively. Hence,

all the opponents are jointly and severally liable to pay compensation to the claimants. Therefore, the claimants prayed for compensation of Rs.10,00,000/- with interest at the rate of 18% per annum from the date of the claim petition till realization, along with costs.

06. Despite due service of notices on opponent Nos.1 and 2 and paper publication against opponent No.3, they failed to appear before the Tribunal. Hence, the claim petition proceeded *ex parte* against them.

07. Opponent No.4–Insurance Company contested the claim by filing written statement at Exh.21 and denied all the averments made in the claim petition. It is contended that the insurance certificate produced by the claimants pertains to vehicle No.MH-14/CW-1813, whereas the offending vehicle is PMPML Bus No.MH-14/CW-1871. The claimants have not submitted any particulars nor produced any documentary evidence on record showing that vehicle registration No.MH-14/CW-1871 was insured with the said Insurance Company hence, the said Insurance Company is not liable to pay any amount to the claimants regarding the accident involving vehicle registration No.MH-14/CW-1871.

08. It is further contended that claimants Nos.6 to 8 are married daughters residing at their matrimonial homes and, therefore, they cannot be treated as dependents of the deceased. Opponent No. 4 has denied the mode and manner of the accident as pleaded by the claimants. On the contrary, it is claimed that the deceased failed to alight at the designated bus stop and, after the bus had started moving, she jumped from the front door without informing the driver or

conductor. Therefore, the accident occurred solely due to the negligence of the deceased and there is no negligence on the part of the driver or conductor of the bus. The age, occupation, and income of the deceased, as well as the dependency of the claimants, are denied. It is contended that the deceased was more than 51 years of age and not 40 years as alleged. It is also denied that she was employed at Athashri Pratishthan or earning Rs.10,000/- per month. The claimants deliberately suppressed the true age of the deceased and falsely projected her occupation and income to claim higher compensation. The expenditure claimed towards medical treatment, funeral and ambulance charges, is also denied contending that the deceased was treated in a Government Hospital where treatment was free of cost. Hence, prayed to dismiss the claim.

09. The then learned Member framed the Issues at Exh.32. To prove the claim, the claimants examined claimant No.6, Shweta alias Shital Sunil Thakare, the daughter of deceased, as CW-1 at Exh.38 and closed their evidence by filing pursis at Exh.57. The claimants also relied upon the documents viz., FIR at Exh.45, spot panchanama at Exh.46, RC book of the offending bus at Exh.47, inquest panchanama at Exh.48, reort of police for postmortem at Exh.49, Accident Report Form at Exh.50, AA Form at Exh.51, death certificate of the deceased at Exh.52, insurance policy of offending bus at Exh.53, statement of Ishwar Mhatardeo Andhale at Exh.56 and insurance policy of the offending bus at Exh.55.

10. Opponent No.4 Insurance Company did not adduce any evidence on its behalf and closed its evidence by filing pursis at Exh.58.

11. Heard learned Advocate Shri. S.T. Pawar for claimants and learned Advocate Shri. S.B. Agrawal for opponent No.4 at length.

12. In view of rival submissions, and upon perusal of the record, the evidence adduced, and the documents produced, I have answered the Issues for the reasons stated thereunder.

Sr. Nos.	ISSUES	FINDINGS
1)	Do petitioners prove that accident occurred on 3.9.2014 at about 6.45 a.m. on Pune-Nigdi road, in front of E-Square Talkies, near Mafatlal Bangalow, due to rash and negligent driving of driver of PMPL bus no. MH-14-CW-1871 (offending vehicle)?	**.In the Affirmative.**
2)	Do petitioners prove that the said accident resulted into death of Latabai Ratnakar Mane?	**.In the Affirmative.**
3)	Do respondent Nos.1 to 3 prove that accident occurred due to rash and negligent act of the deceased Latabai Ratnakar Mane?	**.In the Negative.**
4)	Does respondent No.4 prove that there is breach of terms and conditions of the Insurance Policy of offending vehicle?	**.In the Negative.**
5)	Does respondent No.4 prove that at the relevant time of alleged accident, driver of offending vehicle was not holding valid and effective driving licence?	**.In the Negative.**
6)	Whether petitioners are entitled for compensation? If yes, from whom and what amount?	**.In the Affirmative, as per final order.**
7)	What order/award?	**..As per final order.**

REASONS

As to Issues No.1 to 7 :-

13. When fate tests patience, facts like those in the present case evolve. Post death, if no one is present, or the person present is neither sound nor educated, the facts are twisted and changed. The present case is the best example of the strange behaviour of the people dealing with the public at large. A lady, troubled by her fortune, having total seven children and an ailing husband to take care of, residing in a small village like Ganeshpur Pimpri, Taluka Chalisgaon, District Jalgaon, is forced to leave her children and ailing husband to earn a livelihood so that her husband could be treated and her minor dependent children could survive and take education. The unfortunate lady, showing courage to face her fortune, travelled a long distance up to Pune so that she could earn something. She started taking care of old aged women at Athashri Pratishthan, situated at Baner, Pune, residing there alone without her family members or children, and from those earnings she fed her children, took care of their existence, and provided treatment to her husband, who was bedridden.

14. On 03.09.2014 at about 06:45 a.m., as per the claimants, who are the unfortunate children of the deceased, Latabai Ratnakar Mane, the deceased, being the wife of original claimant No.1 and the mother of claimant Nos.2 to 8, was proceeding from the railway station by PMPML Bus No.MH-14/CW-1871. While she was at E-Square Talkies, in front of Mafatlal Bungalow, within the jurisdiction of Deccan Police Station, as there was a bus stop near Mafatlal Bungalow, she was alighting from the bus. At that time, the conductor of the bus did not verify whether all the passengers had alighted and boarded. He negligently gave the bell, and the bus driver, without taking care of the actual situation and without verifying whether the

passengers had alighted and boarded, started the bus in a high speed and proceeded ahead, due to which Latabai fell down from the bus and sustained injury to her head.

15. Initially, she was taken to Ratna Hospital for treatment and thereafter to Sassoon Hospital, where she was admitted. During the treatment, she died on 06.09.2014. It is contended that during the above period of treatment, there was expenditure of Rs.20,000/-. It is further contended that, after enquiry, the police registered crime against the driver of the PMPML bus and thereafter filed charge-sheet against him.

16. Opponent No.1 is the driver of the bus at the relevant time. Opponent No.2 is the conductor of the bus. Opponent No.3 is the owner of the bus. Opponent No.4 is the insurance company with which the bus was insured under valid insurance policy at the relevant time. Therefore, opponent Nos.1 and 2 are directly responsible for their negligence, opponent No.3 is vicariously liable, and opponent No.4 is contractually liable.

17. On the point of accident, involvement, and negligence, both sides vehemently argued. On one hand, it is the claim of the claimants that the deceased, a poor lady, was working at Pune. She was alighting from the bus at the bus stop. The conductor and the driver, without considering the situation that Latabai had not yet alighted, proceeded further with the bus, due to which she fell down and sustained injuries. Due to those accidental injuries, she was treated and, during the treatment, she died. Therefore, there is negligence on the part of both the conductor as well as the driver of the PMPML bus.

18. On the other hand, the learned Advocate for opponent No.4, Insurance Company, on the point of negligence, argued that the police papers are relied upon. It is the case that the deceased jumped from the running bus. For that purpose, he relied upon the documents produced by the claimants themselves, more particularly Exh.48, the inquest panchanama, wherein it is mentioned that near E-Square Talkies bus stop, the deceased jumped from the bus and sustained injuries. He further relied upon the statement of one Ishwar Mhatardeo Andhale at Exh.56, which was referred in the cross-examination, wherein the said witness, who is a Police Constable, referred in his statement to the statements of driver Prakash Rambhau Khope (opponent No.1), conductor Bhalchandra Eknath Khotkar (opponent No.2), and one passenger, Shashikumar Sunil Kulkarni, that on 03.09.2014 at about 06:25 a.m., the bus departed from Pune Station and was proceeding towards Ganeshkhind road. At that time at about 06:45 a.m., when the bus was in front of Mafatlal Bungalow and was proceeding on the road, suddenly the lady, without informing the conductor and the driver, jumped from the front door of the bus and sustained injury to her head.

19. Thereafter, the driver and conductor, along with the passengers, carried her to Ratna Hospital, Pune, and thereafter she was referred to Sassoon Hospital as per MLC No.18297/2014, where she was under treatment. On the basis of such statement, Station Diary Entry No.31/2014 was taken on 03.09.2014 at 19:30 hours. The name of the deceased, then injured, was informed by her husband, Ratnakar Rajaram Mane. He also informed that she was working and serving at

Atashri Pratishthan, Baner, Pashan Link road, Pune, and was taking care of old women.

20. However, if the very statement which is relied upon by the learned Advocate Shri. Agrawal for the Insurance Company is perused, it shows that this witness, Ishwar Mhatardeo Andhale, who is a Police Head Constable of Chatushringi Police Station, Pune, conducted the enquiry and, after the enquiry of the accident, finally concluded in the concluding paragraph. It is his conclusion that on 03.09.2014 at about 06:45 a.m., in front of E-Square Talkies, in front of Mafatlal Bungalow, on Ganeshkhind road, Pune, the lady, now deceased, Latabai Ratnakar Mane, aged 45 years, resident of Athashri Pratisthan, Baner, Pashan Link road, Pune, was travelling in PMPML Bus No.MH-14/CW-1871. At that time, the driver of the bus, Prakash Rambhau Khope, while carrying passengers, was negligent, due to which she fell down from the front door on the road and sustained injury to her head. Therefore, as the bus driver had driven the bus negligently without considering the traffic and rules, he was responsible for the accident and the death of Latabai, and therefore, he lodged the report by office enquiry for the offences punishable under Sections 279, 338 and 304-A of the Indian Penal Code read with Sections 184 and 119/177 of the Motor Vehicles Act.

21. Further, the learned Advocate for the Insurance Company argued that the A.A. Form does not prove negligence, but only mentions who was the driver of the bus, who was the owner of the bus, and the insurance of the bus. Negligence cannot be proved on the basis of the A.A. Form.

22. He further attacked Exh.61, produced by the claimants on record, which is a report dated 06.09.2014 submitted by Shri C.S. Sonawane, Police Head Constable of Chatushringi Police Station, Pune, wherein he stated that on that day at about 05:30 a.m., P.S.O. Police Naik B.No.2494 Nikam of Chatushringi Police Station was informed by Police Head Constable Ghuge from Sassoon Hospital, along with papers, that the patient, namely Latabai Ratnakar Mane, was admitted on 03.09.2014 at about 06:45 a.m. as she jumped from PMPML Bus No.MH-14/CW-1871 at E-Square Talkies Bus Stop, therefore sustained injuries, and during treatment she died at 07:00 a.m. at Sassoon Hospital. Thereupon, MLC No.18297/2014 was registered upon receiving such report. Thereafter, the body was forwarded for postmortem examination to the Medical Officer, Hospital, Pune. M.L.P.M. No.3976/2014 is the postmortem report, which states that the cause of death of the deceased was "complications following head injury." Thereafter, the body was handed over to her husband for funeral. On the basis of this report, it was contended that the deceased jumped from the bus. In this case, the death certificate at Exh.62 is also available on record, which shows that the deceased died on 06.09.2014 at Sassoon Hospital, Pune.

23. Considering the above submissions it is necessary to consider the testimony of the witness, the only witness examined on behalf of the claimants, namely Shweta alias Sheetal Sunil Thakre, claimant No.6, in her evidence testified as per the claim contentions. She was cross-examined on behalf of the Insurance Company on the point of negligence. In the cross-examination, the learned Advocate for the Insurance Company referred to the statement at Exh.56, considered in

detail above, and suggested whether she had enquired from the witness. She denied the same. She also denied the suggestion that her mother jumped from the bus. There was no question for her to have lodged report against the said witness. All the adverse suggestions were denied by her.

24. It was argued that negligence is to be proved by leading evidence. In this case, the claimants relied upon the police papers. However, one stray statement mentioned in the police papers cannot be held against the claimants. If the police papers are properly scrutinised, it is clear that the FIR at Exh.45 shows that, in respect of the incident which occurred on 03.09.2014 at about 06:45 a.m., the information/report was received on 09.09.2014 at 09:40 hours as per Station Diary Entry No.11/14. The report was submitted by Ishwar Mhatardeo Andhale, upon enquiry in M.L.C.A.D. He is a Police Head Constable at Chatushringi Police Station. If his report is perused, the contention and argument of the Insurance Company through learned Advocate Shri. Agrawal become a smokescreen, as the said document is produced on record by the claimants at Exh.56. What has been picked up by the learned Advocate Shri. Agrawal is the portion of statements given to the enquiry officer, who lodged a report on behalf of the State, namely Police Head Constable Ishwar Mhatardeo Andhale. The driver and the conductor gave him a statement that the deceased jumped from the front door without informing the conductor or the driver.

25. However, upon the complete enquiry conducted by him, the concluding paragraph in the very document Exh.56 is altogether different, which, in the vernacular Marathi, reads as under:

"तरी झाले स्टेशन डायरीचे अपघाताचे एकंदरीत तपासवारुन असे निष्पन्न होते की दि.०३/०९/२०१४ रोजी ०६/४५ वा सुमारास ई स्वेअर टॉकीज समोर मफतलाल बंगल्यासमोर पुणे औंध गणेशखींड रोड पुणे येथे महीला नामे लताबाई रत्नाकर माने वय ४५ रा. अथश्री प्रतीष्ठाण बाणेर पाषाण लिंक रोड पुणे ही पि.एम.पी.एम.एल बस क्र.एम.च.१४.सी.डब्लु.१८७१ मध्ये प्रवास करत असताना बस चालक नामे प्रकाश रामभाउ खोपे वय ३९ व्यवसाय ड्रायव्हर रा. रा. गुरुदत्त हाउसींग सोसा. त्रीवेनीनगर तळवडे पुणे याने सदर महीलेचे बस स्टॉपवर उतरत असताना दुर्लक्ष केलेने महीला चालु बसमधुन बसचे समोरील दरवाज्यातुन रोडवर पडलेने डोक्यास गंभीर दुखापत झालेने व बस चालकाने बस ही हयगयीने निष्काळजीपणे रहदारीचे नियमाकडे दुर्लक्ष करुन बस चालवुन महीलेस गंभीर जखमी होणस तसेच मरनास कारनीभुत झालेने माझी बस चालकाविरुदध भा.दं.वि.कलम २७९, ३३८, ३०४(अ) मो. व्हे. अॅक्ट १८४, ११९/१७७ प्रमाणे कायदेशिर तक्रार आहे.

हा जबाब माझे समक्ष संगणकावर टंकलीखीत केला असुन माझे सांगणे प्रमाणे बरोबर आहे. समक्ष,

समक्ष, हा जबाब लिहुन दिला स.ता.म."

26. Therefore, it is crystal clear that the Police Head Constable, who conducted the enquiry into MLC No.18297/2014, after completing the enquiry, came to the conclusion that it was the driver and conductor who were negligent in driving the bus before allowing the deceased to alight from the bus. Merely because the statements given by the driver and the conductor are reflected in Exh.56, in the enquiry report given by the Police Head Constable, on the basis of which the complainant lodged the FIR, it cannot be ignored that the report categorically came to the conclusion that it was the driver of the PMPML bus, namely Prakash Rambhau Khope, opponent No.1, due to whose negligence the accident occurred. The police papers clearly revealed that the deceased was travelling in the bus bearing No.MH-14/CW-1871. The spot of the incident is also clearly brought on record. Merely because, in the spot panchanama, the very line appears

which is picked up from the statement of the driver and the conductor, it cannot be accepted that, in fact, the deceased jumped from the bus. Had it been so, neither could a crime have been registered against the driver. The spot panchanama is, in fact, prepared for the purpose of the situation of the spot and not to record statements. Furthermore, these statements by driver and conductor are to save themselves from responsibility and are interested statements. They changed and twisted facts saying that the poor lady was far away from her native place and they did not enter themselves for cross-examination and kept away from witness box, to avoid revealing the truth thinking that the truth will not surface. But, by removing chaff from grain, it is clear that version of poor claimants and Enquiry Officer is true and that of driver and conductor of the offending vehicle is false and not reliable.

27. The statements in the spot panchanama are otherwise not admissible in view of **Krishna Vishnu Belur v. State of Maharashtra, 1974 SCC OnLine Bom 61 : (1974) 76 Bom L.R. 627**. Therefore, the argument on behalf of the Insurance Company that the accident occurred due to the negligence of the deceased cannot be accepted and is rejected.

28. It is the duty of the driver of the bus and the conductor of the bus first to verify whether all the passengers who are boarding have boarded and whether the passengers who are alighting have alighted, and then only to proceed further. As claimed by the claimants, there is, in fact, a bus stop at the spot in front of Mafatlal Bungalow, and the deceased was to alight there. However, before she could alight, the bus proceeded further, which resulted in the deceased losing her balance, due to which she fell down and sustained injury to her head.

29. As regards the occurrence of the accident, there is no dispute that, in fact, the deceased was travelling in the bus at the relevant time of the accident on 03.09.2014 at about 06:45 a.m. at E-Square Talkies, in front of Mufatlal Bungalow, where there is a bus stop. The spot panchanama of the incident is produced by the claimants. Though the claimants are not witnesses, they can very well rely upon the police papers.

30. The Insurance Company did not examine any witness, neither the driver nor the conductor. The contention in the cross-examination that claimant No.6 should have filed a complaint against the informant who lodged the report cannot be accepted. The report was lodged not by a layman but by a Police Head Constable, who conducted the enquiry in the A.D. and lodged the report after three days of the death of the deceased.

31 Therefore, after due enquiry, the report is lodged against the driver of the PMPML bus. If the report is false and reflects that the deceased had jumped, the Insurance Company did not place on record if any report was lodged by the Insurance Company against the Police Officer, as was attempted to be put to the witness, of claimants in cross-examination. Neither the driver, nor the conductor lodged any report against the Police Head Constable for falsely registering the crime against the driver, when such suggestion was put by Insurance Company to the claimant No.6 then same theory would apply to the Insurance Company, owner and driver and conductor of the offending vehicle.

32. Therefore, the Insurance Company cannot blow hot and cold together. In view of the above, the portion of statements referred in the enquiry report, to reflect what enquiry was conducted, will not affect the actual conclusion of the enquiry, on the basis of which crime is registered, which is reflected in the FIR at Exh.45.

33. It was argued that it is a doubtful and false story because there is no postmortem report filed on record. Even this submission cannot be considered for the reason that, the very First Information Report at Exh.45 clearly shows the situation, if read with Exh.56, the very statement also relied upon by the Insurance Company, which shows how the accident occurred on 03.09.2014. What proceeded ahead and how it culminated in the registration of the crime after the deceased succumbed during treatment is also reflected therein. Therefore, and as in this very statement itself, it is mentioned that M.L.P.M. No.3976/2014 pertains to the postmortem conducted at Sassoon Hospital Dead House, and the advance cause of death certified is "complications following head injury."

34. In view of above, the non-filing of the postmortem report in this case is of no consequence, for the reason that the fact that the deceased was in the bus, moments before the accident and that she sustained injury to her head as she fell down from the bus is clear from the police papers, and that she was under treatment from 03.09.2014 to 06.09.2014 as reflected in the A.D. registered in the matter, as reflected from the various statements. At Exh.56, the conclusion of the enquiry reveals that the deceased died due to the head injury sustained by her, as the driver negligently proceeded with the bus before she could alight, and the conductor rang the bell

without ensuring that she had safely alighted from the bus. Therefore, there is negligence on the part of opponent No.1 as well as opponent No.2. Opponent Nos.1 and 2 are the tortfeasors.

35. Exh.55-A is the certified copy of the Advance Postmortem Report, stating the probable cause of death, which corroborates the claimants' case that the deceased died due to complications following a head injury. Exh.55 is the insurance policy, filed along with the document list.

36. In view of the above, the contention of the Insurance Company that the deceased had jumped from the bus cannot be accepted, as the statement relied upon in support of the defence by Insurance Company as discussed above, does not inspire confidence and cannot be relied upon. The claimants can rely upon the investigation papers prepared by the investigating machinery, which is an independent investigating machinery.

37. The deceased was resident of a village in Taluka Chalisgaon and suffered the accident at Pune. There was no reason for the police personnel to falsely implicate this poor deceased. Rather, the police personnel acted fairly in this case, and the Investigating Officer merely recorded what the driver as well as the conductor stated before him. Yet, after investigation of the A.D., the conclusion he reached was that it was the driver who was negligent, as he did not allow the deceased to alight from the vehicle and proceeded further before she could do so. Therefore, the negligence of opponent No.1 stands established. Hence, I reject the arguments advanced on behalf of the Insurance Company. The nature of the claim is categorically

established from the independent police papers, which show that the deceased died an accidental death due to the accident caused by the negligence of opponent No.1, who was driving the offending PMPML bus bearing No.MH-14/CW-1871. Having said so, I answer the Issue Nos.1 and 2 in the affirmative and issue No.3 in the negative.

38. As regards the alleged breach of terms and conditions of the insurance policy of the offending vehicle by opponent Nos.4 and 5 in respect of the driver not holding valid and effective driving licence, no evidence has been led on behalf of the insurance company. The only material available on record is the investigation papers, which include the Accident Information Report (AA Form). The said report shows the involvement of PMPML Bus No.MH-14/CW-1871. The AA Form at Exh.51 further shows that, at the relevant time, opponent No.1 was the driver of the said bus and the bus was owned by opponent No.3 - Mahalaxmi Transport. Exh.53 is the insurance policy, which shows that it was issued in favour of opponent No.3 for vehicle No.MH-14/CW-1871 for the period from 10:00 hours of 13.01.2014 to midnight of 12.01.2015. The accident occurred on 03.09.2014. Therefore, the said vehicle was covered under a valid insurance policy at the time of the accident by opponent No.4 is proved.

39. The AA Form on record contains the licence number and badge number of the driver. Exh.51 shows that opponent No.1, Prakash Rambhau Khope, was holding driving licence No.MH-14/19980010897, which was valid up to 23.12.2015, and he was also having badge No.682.

40. Proving the breach in respect of the driving licence was the responsibility of the Insurance Company. It was for the Insurance Company to have examined a proper witness and led evidence to establish such breach. As is regularly argued by the Advocate for the claimants, this argument has been accepted by the Hon'ble Supreme Court in number of judgments. Further reference to one of such judgments is not called for to burden the judgment further.

41. Hence, I hold that the Insurance Company failed to prove breach on any of the counts, either regarding the terms and conditions of the insurance policy or on the ground of validity of the driving licence of driver opponent No.1, as the said licence was valid till 23.12.2015. In view of above discussion, I answer Issue Nos.4 and 5 in the negative.

42. Having answered Issue Nos.1 and 2 in the affirmative and Issue Nos.3, 4 and 5 in the negative, I hold that the claimants are entitled to compensation from opponent Nos.1, 3 and 4. Opponent No.1 was negligent in driving the bus at the relevant time of the accident. Opponent No.3 is the owner of the bus and is vicariously liable for the negligence of the driver of the bus. Opponent No.4 is the Insurance Company, which has indemnified the owner. Hence, Opponent Nos.1, 3 and 4 are jointly and severally liable to pay the compensation claimed.

43. It was argued that there is no evidence to show that the deceased was working as claimed with Athashri Prathisthan. However, in this case, fortunately for the poor claimants, there is evidence in the form

of statement and enquiry report conducted by the independent police machinery.

44. In the FIR itself, it is mentioned what the deceased was doing word at Athashri Pratishthan. Not only in the FIR, but also in Exh.56, which is admitted on record in the cross-examination by the Insurance Company of the claimant No.6. It is reflected in Exh.56 that the deceased Latabai Ratnakar Mane was serving at Athashri Pratishthan, Baner, Pashan Link road, Pune, and was taking care of old age women.

45. This is reflected on the sixth day of the accident and third day of the death in the police papers during police enquiry. In the spot panchnama Exh.46, the address of deceased is mentioned as Pashan. Further, if the printed FIR Exh.45 is perused, it also reflects that Latabai Ratnakar Mane was shown as, 45 years of age and she was a resident of <u>Athashri Pratishthan</u>, Baner, Pashan Link road, Pune.

46. It is absolutely clear that the deceased was in fact working at Athashri Pratishthan, Baner, which is reflected from the police papers, prepared by the independent investigating machinery on the very day of the accident as well as on the day of death. As per the MLC reflected in Exh.56, which is the enquiry report on the basis of which the crime is registered, it is established that the deceased was serving at Athashri Pratishthan and was taking care of poor women. Such document can not be expected to be manipulated by claimants who are residents of village Ganeshpur Pimpri of Taluka Chalisgaon, District-Jalgaon by going to Pune.

47. The question now is what was her income. The claimants claimed that she was earning Rs.10,000/- per month. The claimants fairly conceded that they have no document to show her income. However, in the year 2014, in a mega metro city like Pune, a middle-aged lady taking care of old women, having six children and a husband to take care of, could not have been working there without a proper salary. Considering the nature of evidence, I hold that her income cannot be less than Rs.9,000/- per month (@ Rs.300/- per day), if not Rs.10,000/-.

48. In view of above, I hold that the income of the deceased has to be considered as Rs.9,000/- per month, as she was working in a mega metro city where Rs.300/- per day was the bare minimum wages at the relevant time. In view of above, her annual income would be Rs.1,08,000/- (Rs.9,000/- x 12).

49. The deceased left behind her husband, four unmarried children (claimant Nos.2 to 5), and three married daughters (claimant Nos.6 to 8). Claimant No.2 Namrata was aged 18 years, claimant No.3 Priyanka was aged 16 years, claimant No.4 Shubham was aged 15 years, and claimant No.5 Swayam was aged 6 years.

50. The married daughters cannot be treated to be totally dependent upon the income of the deceased. There is no evidence led by the claimants that the daughters are not residing with their respective husbands. Therefore, they cannot be stated to be dependents of the deceased for the purpose of compensation. However, they would be entitled for loss of consortium in view of the judgment of the Hon'ble

Supreme Court in **United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur & Others, (2021) 11 SCC 780**.

51. However, for the purpose of dependency, the personal expenditure to be deducted will be on the basis of the remaining dependents, i.e., the husband who is now no more and the children who were unmarried, claimant Nos.2, 3, 4 and 5. Therefore, for five dependents, the deduction would be only 1/4th. Rs.1,08,000 ÷ 4 = Rs.27,000/-. Therefore, Rs.1,08,000 – Rs.27,000 = Rs.81,000/- which is the loss of dependency per annum.

52. As regards the age of the deceased, admittedly, there is no documentary evidence produced on record. However, in view of above, what remains available is the age mentioned in the police papers. In the post-examination advance report, the age of the deceased is shown as 40 years. In the evidence, the claimant No.6 has stated that the age of the deceased was 40 years. However, in the police report prepared after enquiry, the age of the deceased is shown as 45 years.

53. Having no other document available on record, it is held that the deceased was aged 45 years on the date of the accident, because this age is mentioned by a person who had actually enquired into the death of the deceased, as per Exh.56, which is brought on record in the cross-examination of claimant No.6 on behalf of the insurance company.

54. Therefore, considering the age of the deceased to be 45 years, the applicable multiplier would be ‘**14**’. Therefore, the annual loss of

dependency of Rs.81,000/- multiplied by 14 comes to Rs.11,34,000/-, which is the loss of dependency.

55. Apart from above, the deceased is entitled for future prospects, though she was not in permanent employment by way of salary, but in view of the fact that even the wager would have increased his wages due to inflation existing in the competitive world, considering the inflation in the market. Therefore, even a wager would be entitled for future prospects, not equivalent to the percentages applicable to a salaried person, but as mentioned in the Constitution Bench judgment in the matter of **National Insurance Company Ltd. Vs. Pranay Sethi and others (2017) 16 SCC 680,** at the rate of 25%. Therefore, on account of future prospects, 25% of Rs.11,34,000/- would be Rs.2,83,500/-.

56. Apart from above, the claimants would be entitled for loss of estate, funeral rites and loss of consortium. The claimant Nos. 2 to 8 are entitled for consortium. Though claimant Nos.6, 7 and 8 are not dependents for the purpose of loss of dependency, but for loss of love and affection, as they lost their mother, they are entitled for parental consortium. Therefore, they are <u>each</u> entitled to Rs.48,400/- towards parental consortium after 10% increase for two spans, and Rs.18,150/- on account of loss of estate and Rs.18,150/- on account of funeral rites.

57. Apart from the above, the claimants claim that they incurred Rs.20,000/- on account of treatment charges for the period when the deceased was under treatment from 03.09.2014 to 06.09.2014. For about four days, bare minimum treatment charges, even in a Government Hospital where other treatment is free, would not be less

than Rs.5,000/- per day, which would include the attendance of relatives, transportation, travelling, bringing the body back, etc., and other boarding and lodging charges.

58. Merely because these poor claimants do not have the receipts in their possession, they cannot be denied these minimum charges, which are but natural in a case of the present nature. Therefore, I hold that they are entitled for Rs.20,000/- as claimed by them on account of the above charges.

59. Needless to mention that the claim is filed for only Rs.10 lakhs and no enhancement is made by application. However, if the claimants are legally entitled for benefit in a beneficial legislation of the present nature, having lost their mother, which can never be compensated in terms of money, and if in such a case the legally entitled compensation is not allowed, then the main purpose and object of the Act itself would be put at shelf, which cannot be allowed by this Tribunal at any cost. Hence, as it is expected, the enhanced claim to which the poor claimants are legally entitled can be granted to them by directing them to pay the deficit fee as per the amount granted.

60. In view of the above, I hold that the claimants are entitled for the following amounts:

Head of Compensation	Amount (₹)
Loss of dependency	11,34,000/-
Future prospects	2,83,500/-
Funeral charges	18,150/-
Loss of estate	18,150/-
Loss of consortium (Rs.48,400 × 7)	3,38,800/-
Medical charges, transportation,	20,000/-

lodging, boarding, etc.	
Total	**18,12,600/-**

61. Though the claimants claimed interest at the rate of 18% per annum, they are entitled for interest at the rate of 7% per annum, which is the maximum bank rate on the fixed deposits. Therefore, from the date of actual realisation, interest at the rate of 7% per annum is awarded. In view of above, I proceed to pass following order.

ORDER

1. The claim petition is allowed with enhanced compensation.
2. The opponent Nos. 1, 3 and 4 shall jointly and severally pay an amount of **Rs.18,12,600/-** (Rupees Eighteen Lakh Twelve Thousand Six Hundred only) (including the amount under 'No Fault Liability', if any), towards compensation to the claimants alongwith interest at the rate of 7% (seven) per annum from the date of claim till actual realization of the above amount.
3. The opponent Nos.1, 3 and 4 are directed to deposit the award sum to the credit of the bank account of the Claims Tribunal in State Bank of India, Main Branch, Jalgaon bearing Account No.40778937461 (IFSC No.SBIN0000393), directly by NEFT or RTGS mode.
4. On such deposit being made, the opponent Nos.1, 3 and 4 shall submit a letter to the Registry of the Claims Tribunal enclosing a copy of the said bank advice, in prescribed format as above, whereof the deposit was made to the bank account of the Claims Tribunal, to enable the Claims Tribunal to keep tab on the deposit made and the MCOPs for which they were made.
5. The opponent Nos.1, 3 and 4 shall send a copy of the payment advice to the Claims Tribunal and serve a copy of the same on the claimants or their Advocate.
6. Upon deposit of the compensation amount, Rs.48,400/- each, along with the accrued interest thereon, shall be paid to

claimant Nos. 6, 7 and 8 towards parental consortium.

7. The amount payable to claimant Nos.6, 7 and 8, as per this order, be disbursed directly to their respective bank accounts through NEFT or RTGS.

8. The balance compensation amount, along with the accrued interest thereon, shall be distributed equally amongst claimant Nos.2, 3, 4 and 5.

9. Considering the ages of claimant Nos.2, 3, 4 and 5, Fifty percent (50%) of <u>each</u> of their respective shares shall be deposited in a fixed deposit in any nationalized bank of their choice for a period of five years, so that the amount would be useful for them in future.

10. The amount payable to claimant Nos.2, 3, 4 and 5, as per this order, be disbursed directly to their respective bank accounts through NEFT or RTGS after making necessary investment in fixed deposit as directed above.

11. The opponent Nos.1, 3 and 4 do pay proportionate costs of the petition to the claimants and bear their own.

12. The claimants are directed to pay the deficit Court Fees as per rules, if any.

13. No disbursement of the amount shall be made unless the deficit Court Fees, if any, is paid.

14. Award be drawn up accordingly.

The judgment is dictated and pronounced in the open Tribunal.

Upon transcription, correction, if any, and signature, same be uploaded forthwith.

RAJESH NARENDRA JOSHI

Digitally signed by RAJESH NARENDRA JOSHI
Date: 2026.07.31 15:04:44 +0530

(R.N. Joshi)

Date : 31.07.2026.

Member,
Motor Accident Claims Tribunal,
Jalgaon.