

MHJN110006382024

Presented on	29.01.2022
Registered on	29.01.2022
Decided on	23.03.2026
Duration	04 01 25 : Y : M : D.

**BEFORE THE DISTRICT JUDGE-1 and MEMBER,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
AMBAD, DIST. JALNA
(Presided over by S. B. Gaidhani)**

**Motor Accident Claim Petition No. 108 of 2024.
(Old M.A.C.P No.37/2022)**

Exh. No.72

- 1] Surekha Surendra Thorat,
Age- 30 years, Occu- Labour work,
- 2] Aniket Surendra Thorat,
Age- 7 years, Occu- Nil,
- 3] Pranav Surendra Thorat,
Age- 5 years, Occu- Nil,
- 4] Pranali Surendra Thorat,
Age- 4 years, Occu- Nil,
1 to 4 R/o: Mandki, Tq. & Dist,
Aurangabad
At present Golapangri, Tq& Dist. Jalna

- 5] Janardhan Namdev Thorat,
Age-50 Yrs, Occu-Agri,
- 6] Sumanbai Janardhan Thorat,
Age-45 Yrs, Occu-Agri,
5 & 6 R/o: Mandki, Tq. & Dist,
Aurangabad

....Petitioners

Versus

- 1] Sagar Anil Kamble,
Age: 20 Yrs, Occu- Driver,
R.o: Sadesavangi, Tq. Ambad,
Dist: Jalna
- 2] Pandurang Pralhad Sangle,
Age: 30 Yrs, Occu: Agri,
R.o: Sadesavangi, Tq. Ambad,
Dist: Jalna
- 3] Shahrukh Pathan Yunus Pathan,
Age: 38 Yrs, Occu: Agri,
R/o: Pirkalyan, Tq. & Dist. Jalna
- 4] Branch Manager, The New India Insurance Co. Ltd.
K. K. Nivas, Lakkad Kot, Jalna, Tq & Dist: Jalna

.... Respondents

Appearance

Ld. Adv. Shri. K. R. Dabhadkar for the petitioners

The matter is proceeded ex-parte against respondent Nos. 1 & 2

Ld. Adv. Shri. G. N. More for the respondent No.3

Ld. Adv. Shri. R. U. Banchhod for the respondent No.4

JUDGMENT

Delivered on this 23rd day of March, 2026)

This application is filed u/s. 166 of Motor Vehicles Act for grant of compensation of Rs.25,00,000/- on account of death of Surendra Janardhan Thorat who was husband of petitioner No.1, father of petitioner Nos. 2 to 4 & Son of petitioner Nos. 5 & 6.

Facts in nutshell:

2] On 18.05.2021 at About 8.30 to 9 am deceased Surendra along with pillion rider Shaikh Ramzan @ Baba Shaikh Maheboob were proceeding on motorcycle numbering MH-20-CC-0350. At that time, one tractor numbering MH-21-D-1785 attached with trolley numbering MH-21-BF-8565 were standing on the road near Haratkheda board. The motorcycle of the deceased dashed on the trolley from behind. Because of that deceased Surendra sustained severe injuries to his head. He was taken to Government Hospital, but died while undergoing treatment.

3] As per the petitioners, the driver of the tractor negligently stopped the tractor attached with trolley on the road in the night without putting on indicators or the reflector. Because of said negligence of the driver of the tractor, the accident took place and therefore, the respondent No.1 driver of the tractor is being prosecuted for the offences punishable U/sections 304 & 279 of IPC.

4] The respondent No.1 was driving the tractor owned by respondent No.2. The Insurance police of the tractor is in the name of respondent No.3 and said tractor is insured with respondent No.4. As per the petitioners, deceased Surendra was 34 years old and was doing labour work and earning Rs.12000/- to 15000/- per month. All the petitioners were depending upon deceased Surendra. The petitioners lastly prayed for allowing their petition.

5] The respondent Nos.1 & 2 though duly served with notices, did not appear and hence the petition has proceeded ex-parte against them.

6] The respondent No.3 has filed his written statement below Exh-12. He has contended that, he had sold the tractor and trolley to the respondent No.2 before the accident. The registration papers of the tractor and trolley are already made in the name of respondent No.2. He has further contended that, before selling the tractor and trolley, he had insured the tractor with respondent No.4. He lastly prayed for dismissing the petition.

7] The respondent No.4 the Insurance Company has resisted the claim petition by filing its written statement below Exh-14. It has denied the contentions raised in the petition. It is contended that the tractor numbering MH-21-D-1785 is not involved in the accident and the same is subsequently planted. It has further contended that, the accident has taken place because of sole negligence of the deceased, the trolley was not insured

and only the tractor was insured with it. It is further contended that, the respondent No.1 was not holding valid and effective driving license. The respondent NO.4 lastly prayed for dismissing the petition.

8] My learned predecessor Member of Motor Accident Claim Tribunal, Jalna has framed issues at Exh-15. I reproduce them as they are given my findings along with reasons discussed hereinafter :

	<i>ISSUES</i>	<i>FINDINGS</i>
1]	Whether the claimants prove that, late Surendra Janardhan Thorat died in motor vehicle accident on 18-05-2021 in which vehicle Tractor No. MH-21-D-1785 and Trolley No.MH-21-B.F-8565 on the date of incident owned by opponent No.2, driven by opponent No.1 was involved??	...In the affirmative.
2]	Whether the claimants prove that the said accident took place because of rash and negligent driving of driver-Sagar s/o. Anil Kamble (opponent No.1), driving vehicle Tractor bearing No.MH-21-D-1785 and Trolley No. MH-21-B.F-8565? ?	...In the affirmative.
3]	Whether the petitioners are entitled for compensation ?	..In the affirmative.
4]	What order and award ?	...As per final order

-: REASONS :-

9] In order to prove their claim petition, the petitioners examined as witness No.1 Surekha Surendra Thorat, at Exh-19, witness No.2 Shaikh Ramjan @ Baba Shaikh Maheboob, At Exh-46. The certified copy of information report, at Exh-22, certified copy of FORM Comp AA, at Exh-20, certified copy of Charge sheet report form, At Exh-21, certified copy of Spot Panchnama at Exh-23, certified copy of Inquest Panchnama, at Exh-24, certified copy of PM report, at Exh-25, certified copy of Ad report, at Exh-26, certified copy of license of tractor driver, certified copy of certified copy of Adhar card of Sagar Kamble, at Exh-30, certified copy of R.C Book of offending vehicle, certified copy of Insurance Policy, at Exh-32, certified copy of vehicle particulars at Exh-33, certified copy of Panchnama at Exh-34, certified copy of death certificate of Surendra Janardhan Thorate (deceased), at Exh-36, certified copy of Adhar-cards of petitioner Nos. 1 to 6 at Exh-37 to 42, certified copy of 7/12 extract of petitioners at Exh-43, certified copy of Police report, at Exh-29, certified copy of P.M. Report, at Exh-30, certified copy of AA, at Exh-31, certified copy of R. C. Vehicle Particulars, at Exh-45.

10] Heard Adv. Shri. K. R. Dabhadkar for the petitioners and Adv. G. N. More for the respondent No.3 & Adv. R. V. Banchhod for the respondent No.4.

As to issue Nos. 1 and 2:-

11] As per the petitioners, the accident in which deceased Surendra has died has taken place because of rash and negligent

act of the driver of the tractor numbering MH-21-D-1785 attached with trolley numbering MH-21-BF-8565. The petitioner No.1 has examined herself below Exh-19. She has deposed as per the contentions made in the petition. She has deposed that, the respondent No.1 negligently and without taking any precaution kept the tractor and trolley standing in the night on the road and because of that, motorcycle of her husband dashed on the standing trolley. She is cross-examined by ld advocate for respondent No.4 Insurance Company. Nothing is brought in her cross-examination.

12] The petitioners have examined witness No.2 Shaikh Ramjan @ Baba Shaikh Maheboob. He is the eye witness to the accident as he was travelling as a pillion rider on the motorcycle along with deceased Surendra. He has deposed that, the driver of the tractor made the tractor attached with trolley standing on the road in the night without keeping on the parking light or tale lamps and because of that, their motorcycle dashed on the trolley. He is also cross-examined by ld adv. Respondent NO.4 Insurance Company but nothing is elicited to create doubt about his veracity.

13] Thus, the evidence of witness No.2 Shaikh Ramjan @ Baba Shaikh Maheboob who was travelling on the motoryclce along with deceased Surendra clearly makes out that, the respondent No.1 kept the tractor attached with trolley standing on the road in the night without keeping on the parking lights or tale lamps. The rough sketch in the certified copy of the spot

panchnama at Exh-23 clearly makes out that the spot of the accident in the center of the road. This aspect also makes out the sole negligence of driver of the tractor i.e. respondent No.1. The driver of the tractor is also prosecuted as same reveals from the copy of the charge sheet filed at Exh-21.

14] Foregoing discussion leads to conclude that the petitioners have proved that the accident because which deceased Surendra died has taken place because of rash and negligent act of the driver of tractor numbering MH-21-D-1785 attached with trolley numbering MH-21-BF-8565. The accident has taken place because of sole negligence of driver of the tractor i.e. respondent No.1 & the deceased has not contributed any sort of negligence. It was duty of the respondent No.1 to keep the parking lights or tale lamps on while making the tractor standing on the road in the night. Not only that, the respondent No.1 has made the tractor and trolley standing on the center of the road which is very much clear from the rough sketch drawn in the spot panchnama at Exh-21.

15] Ld adv for petitioners has relied upon the decision of *Hon'ble Bombay High Court, Bench at Aurangabad, in the case of Mohini Mohanrao Salunke & Ors Vs. Ramdas Hanumnat Jadhav & Ors [2022 BHCCO 1393]* in which *Hon'ble Bombay High Court, Bench at Aurangabad, held in Para No. 9 & 12.*

“Para No.9”

“ I am unable to understand findings given by the Tribunal regarding contributory negligence of the deceased when it has come

on record that, no tail lamps or the indicators of offending tempo were put on or no proper precautions were taken by the driver of the offending tempo, to give signal to the other vehicles to show that, the offending tempo was stationed on the road”.

“Para No.12”

“ It has come on record that, no such parking lights were put on the offending tempo, so liability of contributory accident cannot be fastened on the deceased by holding that, he should have seen the stationed tempo under the headlight of motorcycle. When there is specific rule in respect of taking precautions by stationary vehicle, if such precautions are not taken by the driver/owner of stationary vehicle then liability cannot be shifted on motorcycle rider. Hence, I am setting aside the observations of the Tribunal that, there was 50% contributory negligence of the deceased in the said accident and I am holding that, driver of the offending tempo is sole responsible for the occurred accident ”.

Said decision of Hon’ble Bombay High Court comes to the help of petitioners in view of similar facts of the the case in hand. Accordingly, I answer issue Nos.1 & 2 in the affirmative.

As to issue No.3:-

16] In view of my findings as to issue Nos. 1 & 2, the petitioners are entitled to compensation. The only question which remains for determination is what shall be just and fare

compensation.

Future Loss of Pecuniary dependency:-

17] First the age of deceased Satish will have to be decided. As per the petitioners, deceased Surendra at the time of accident was 34 years old. P. M. notes, at Exh-25 makes out age of deceased Surendra as 35 years. No other documentary evidence is produced by the petitioners, in support of their contention of age of deceased Satish. Hence, in my considered opinion, it will be proper to held, the age of the deceased Surendra was 35 years old at the time of accident.

18] As per the petitioners, deceased Surendra was doing labour work and earning Rs.12,000/- to 15000/- per month. The petitioners apart from their pleading or oral evidence of petitioner No.1 have not produced any documentary evidence to prove the monthly income of deceased Surendra. Hence the monthly income of deceased Surendra will have to be fixed on notional basis. Deceased Surendra was doing labour work. The accident has taken place in the year 2021. Considering the rate of inflation, at that time, it will be proper to held monthly notional income of Rs. 8000/-.

Future Prospect:-

19] The monthly income of deceased Surendra is fixed on notional basis. He was doing labour work. Thus, he can be said to be self employed. By passing of time, his monthly income certainly could have increased thereby making hike in his monthly income. Age of deceased Surendra at the time of

accident was 35 years. Thus, he was below the age of 40 years. Hence, he is entitled to future prospect @ 40% as held by Hon'ble Supreme Court in cases of *National Insurance Co. Ltd. Vs. Pranay Sethi [(2017) 16 SCC 680]* and *Kirti and others Vs. Oriental Insurance Company (2021 ACJ 1)*, By adding the future prospects, the monthly income of deceased Satish comes to Rs.11200/- (8000+3200=11200/-).

Deduction of self expenses:-

20] Deceased Surendra was married. He has left behind six dependents consisting of his widow, four minor children and old parents. Considering the number of dependents, it will be proper to deduct 1/5th of his monthly income towards the self expenses of deceased. After deducting 1/5th amount of self expenses, the monthly income of deceased Surendra comes to Rs.8960/- (11200-2240= 8960).

Multiplier:-

21] Deceased Surendra at the time of accident was 35 years old. Thus, he falls in the age group of 31 to 35 years and multiplier of 16 will be applicable to him. *Sarla Verma V/s. Delhi Transport Corporation [(2009) 6 SCC 121]*. Thus, the petitioners are entitled to **Rs.1720320/-** towards the loss of future pecuniary dependency. (8960 x 12 x 16=1720320/-).

Conventional Heads:

22] The petitioner No.1 is widow of deceased Surendra. She is entitled to spousal consortium of Rs.40000/-. Petitioner

Nos. 2 to 4 minor children of deceased Surendra have lost their father at their very young ages. Thus, each of the petitioner Nos. 2 to 4 are entitled of Rs. 20,000/- each towards parental consortium. Petitioners Nos. 5 and 6 have lost their son. Each of them are entitled to Rs.20000/- each towards filial consortium. ***Magma General Insurance Company Vs. Nanu Ram Alias Chuhru Ram, [2019 (4) Mh.L.J. SC 1]***. They are also entitled to Rs.15,000/- funeral expenses.

Conclusion:-

23] Thus, the petitioners are entitled to total compensation of Rs.18,75,320/- (Rs.17,20,320 + 40,000 + 20,000 + 20,000 + 20,000 + 20,000 + 20,000 + 15,000 =Rs.18,75,320) as compensation on all counts along with simple interest @ 7 percent per annum from the date of filing of the claim petition.

Liability on whom :-

24] The respondent No.1 was was driving the the tractor at the time of accident. The respondent NO.2 is the registered owner of the tractor and trolley. Respondent No.3 before the accident had sold the tractor and trolley to the respondent No.2. Before selling it, the respondent No.3 had insured the tractor with respondent No.4 Insurance company. The ld adv for

respondent No.4 submitted that, as the trolley was not insured, they are not liable to pay the compensation. Ld adv for petitioners has relied upon the decision of ***“Hon’ble Supreme Court, in the case of Royal Sundaram Alliance Insurance Company Limited Vs. Honnamma & Ors [2025 Gojuris (SC) 528]*** in which Hon’ble Supreme Court held that,

“Motor Accident Compensation- Root cause liability principle-when an insured tractor causes an accident through an attached trailer, insurer of the tractor is liable, even if trailer is not separately insured”.

25] Thus, in view of the said decision of Hon’ble Supreme Court there is no substance in the submission of ld advocate for respondent No.4.

26] The copy of driving license of respondent No.1 is filed at Exh-29. The copy of R.C. Book of the tractor is filed at Exh-31. The copy of vehicle particulars of the trolley is filed at Exh-33. The registered owner of said tractor and trolley in said Exh-31 and 33 is shown as respondent No.2. The Insurance Policy of the tractor is filed at Exh-32. Said policy is standing in the name of respondent No.3. The period of policy from 29-07-2020 to 28-07-2021. The accident has taken place on 18-05-2021. Thus, the policy of the tractor was in existence at the time of accident.

27] Hence, respondents No. 1 to 4 are jointly and severally liable to pay the amount of compensation of **Rs.18,75,320/-** to the petitioners along with simple interest @ 7 % p.a. from the date of filing of the petition till actual realization.

Hence, I pass following order.

ORDER

- 1] The claim petition is partly allowed with proportionate costs.
- 2] The respondents Nos.1 to 4, shall jointly and severally pay of **Rs.18,75,320/- (Rupees Eighteen Lack, Seventy Five Thousand, Three Hundred, Twenty only)** inclusive of no fault liability to the petitioners by way of compensation, with simple interest thereon at the rate of 7% per annum from the date of filing of petition u/s. 166 of the Motor Vehicle Act till actual realization of said amount.
- 3] Upon deposit of amount of compensation and on payment of deficit court fees if any, the said amount of compensation be disbursed as follows.

Petitioner No.1	-	Rs. 8,75,320/-
Petitioner No.2	-	Rs. 2,00,000/-
Petitioner No.3	-	Rs. 2,00,000/-
Petitioner No.4	-	Rs. 2,00,000/-
Petitioner No.5	-	Rs. 2,00,000/-
Petitioner No.6	-	Rs. 2,00,000/-

- 4] The amounts payable to petitioner No. 2] Aniket Surendra Thorat, 3] Pranav Surendra Thorat & 4] Pranali Surendra Thorat **Rs.2,00,000/-each** (in words Rs. Two Lack each only) be deposited in the fixed deposit in any Nationalized Bank as per

their choice till attending the age of majority i.e.18 years. Petitioner No.1 is at liberty to withdraw the quarterly interest accrued on the said fixed deposit amount, if desired.

5] Award be drawn up accordingly.

Date- 23.03.2026

(S.B.Gaidhani)
District Judge-1 &
Member, MACT, Ambad

CERTIFICATE

“I affirm that the contents of this P.D.F file Judgment / order are same, word to word, as per the original Judgment.

Name of the Stenographer	:	Navnath D. Sahane
Name of the Court	:	District Judge-1 and Addl. Sessions Court, Ambad (S. B. Gaidhani)
Date of Judgment /Order	:	23.03.2026
Judgment signed by the presiding officer on	:	23.03.2026
Judgment uploaded on	:	23.03.2026

sd/-
Signature of Stenographer