

MHKO080003552024



Presented on : 03/05/2024
Registered on : 04/05/2024
Decided on : 23/03/2026
Duration : Ys M Ds
01 10 16

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT GADHINGLAJ,
DIST-KOLHAPUR.**

(Before Shri. M.A. Shinde, Member)

**MOTOR ACCIDENT CLAIM PETITION NO. 05/2024
Exh.No. 29/A**

1. **Premika Dattatray Govekar**
Age – 19 Years, Occu. - Education,
 2. **Pranav Dattatray Govekar**
Age – 15 Years, Occu. - Education,
M.G. of Applicant No. 2 through Applicant No.1
All are R/o. Haloli, Post – Gavase, Tal.
Ajara, Dist. Kolhapur.
- .. Claimants**

Versus

1. **Khajjal Mehbub Mulla**
Age – Major, Occu. - Vehicle owner,
R/o. Momin Galli, Rajgoli Khurd, Tal.
Chandgad, Dist. Kolhapur.
 2. **Mahadev Manohar Kumbhar**
Age – Major, Occu. - Driver,
R/o. Vinayakwadi Dev kandgaon, Tal.
Ajara, Dist. Kolhapur
 3. **Royal Sundaram Gen Insu. Co.**
R/o. 3rd Floor, Vasant Prestige, Opp. HDFC
Bank panch Bunglow, Shahupuri, Kolhapur.
 4. **Shantabai Annappa Rathod,**
Age – Major, Occu. Owner of vehicle,
R/o. Sutar Galli, Tal. Ajara, Dist. Kolhapur.
- .. Opponents.**

5. **Ganesh Annappa Rathod,**
Age – Major, Occu. Driver of vehicle,
R/o. Sutar Galli, Tal. Ajara, Dist. Kolhapur.
6. **Reliance General Insurance Company,**
R/o. 3rd floor, Nucleus building, Tarabai
Park, Kolhapur

*Petition u/sec.166 of the Motor
Vehicles Act for grant of just
compensation.*

<i>Appearance :-</i>
- Mr. O. S. Parab, Ld. Advocate for petitioners.
- Mr. D. B. Nagonda, Ld. Advocate for opponent Nos.1 and 2
- Mr. P. D. Alawekar, Ld. Advocate for opponent No.3.
- Opponent No.4 - Ex-partee
- Mr. S. B. Desai, Ld. Advocate for opponent No.5.
- Mr. S. M. Gurav, Ld. Advocate for opponent No.6.

J U D G M E N T
(Delivered on 23rd March, 2026)

1. The claimants have filed this claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “M.V. Act” for short) claiming compensation on account of death of Dattatray Balu Govekar in a motor accident. The claimants are children of the deceased.
2. The case of the claimants that, on 03/01/2024 at about 6.30 pm while the deceased Dattatray Balu Govekar was traveling by his Splendor Motorcycle No. MH-07-N-3528 (hereinafter referred to as “the motorcycle” for short) and proceeding towards Ajara to Amboli Road, within local limits of village Parewadi, Tal. Ajara, Dist. Kolhapur. At that time, he was riding his motorcycle slowly, cautiously and correct side of the road.

(2.1) When he reached near the spot of accident i.e. on Ajara to Amboli Road, in front of the Hotel Sarkar within limits of village Parewadi, Tal. Ajara, Dist. Kolhapur, at that time, one offending Maruti Suzuki Eco No. MH-09-BX-2816 (hereinafter referred to as “the Eco car” for short) which was driven by the opponent No.5 in high speed, rash and negligent manner to overtake one vehicle, came from wrong side of the road and gave tremendous dash to the motorcycle.

(2.2) Due to the impact of the accident, deceased was dashed against the Cruiser Vehicle No. MH-06-W-9782 (hereinafter referred to as “the cruiser” for short) and fell down on road and sustained grievous and fatal injury to his head, leg and all over the body. Due to this accidental injuries deceased died on the spot.

(2.3) The accident occurred due to sole, rash and negligent driving of the Eco car driver i.e. opponent No.5. Police of Ajara Police Station have registered Crime No. 05/2024 against the Opponent No.5.

(2.4) At the time of accidental death, the deceased Dattatray Balu Govekar was healthy and strong person of 44 years of age. He was doing Mason work with M/s. Vijaykumar Patil, Engineers & Contractors which is located at Ajara, Dist. Kolhapur and he was earning Rs. 15,000/- per month.

(2.5) The opponent No.4 was owner and opponent No.5 was Driver and opponent No.6 was the insurance company of the Eco car. The said insurance was in force at the time of accident. The Opponent No. 1 and 3 were also involved in the said accident and the vehicle of opponent No. 1 was insured with the opponent No.3. Hence, opponent No.1 to 6 are jointly and severally, liable to pay amount of Rs. 26,50,000/- as compensation to the claimants.

3. The matter is proceeded no W.S. against opponent Nos. 1, 2

and 4.

4. The opponent No.3 appeared in the matter and filed its written statement at Exh.33 and denied all the allegations made in the claim petition. It is submitted that, there is no role, negligence and involvement of the Cruiser in alleged accident. The driver of the Cruiser was driving on his correct side and following traffic rules. Hence, prayed to dismiss the claim as against this opponent No.3.

(4.1) The alleged accident is caused due to negligence on the part of driver of the Eco Car and accordingly crime is registered against him. Hence, claim is not maintainable against present opponent.

5. The opponent No. 5 appeared in the matter and filed his written statement at Exh.25 and submitted that, at the time of accident he was driving the Eco car which was owned by opponent No.4 and insured with opponent No.6.

(5.1) He was driving the Eco car towards Ajara side slowly, cautiously and following all the traffic rules. He was overtaking one vehicle going ahead of him by giving proper indication and showing light. But as the deceased Dattatray Balu Govekar came from the opposite side riding his motorcycle in a very high speed, rashly, negligently and without heeding to the indication and signal given by this opponent, came and brushed to the cleaner side of vehicle of opponent No.5 and further dashed to the Cruiser which was also proceeding towards Ajara side in high speed.

(5.2) This accident has taken place as the deceased was riding his motorcycle in a very high speed which he could not control and brushed to the left side of vehicle driven by this opponent and further dashed to the

Cruiser. Hence, as the deceased himself was riding his motorcycle rashly and accident took place due to his own negligence, this claim petition is not tenable against this opponent.

6. On the basis of these rival contentions my Ld. Predecessor has framed following issues and I record my findings thereon are recorded as under :-

ISSUES		FINDINGS
1)	Whether the deceased Dattatraya Balu Govekar died due to the rash and negligent driving of Maruti Suzuki Eco No. MH-09-BX-2816 ?	In the affirmative.
2)	Whether there was breach to the policy ?	In the affirmative.
3)	Whether the petitioners are entitled to get compensation ? If yes, what should be the compensation ? And whom should pay the compensation ?	In the affirmative. As per final order.
4)	What order and award ?	Petition is partly allowed.

REASONS

7. In order to substantiate the claim, claimants filed affidavit of examination-in-chief (Exh.31) of Premika (CW-1) and also examined Mahadev (CW-2) at Exh.51 and Vijaykumar (CW-3) at Exh.52. Besides this, claimants have produced on record following documents -

<u>Sr. No.</u>	<u>Particulars</u>	<u>Exhibits</u>
1.	F.I.R.	34
2.	Printed F.I.R.	35
3.	Spot panchanama	36
3.	Postmortem report.	37
4.	Report forwarded with dead body	38

5.	Inquest panchanama	39
6.	Advance certificate of death	40
7.	Driving license of opponent No. 2 (driver of the Cruiser)	41
8.	Registration certificate of Cruiser	42
9.	Insurance policy of Cruiser and Eco car.	43 & 44
10.	Income certificate of the deceased issued by Vijaykumar (CW-3)	53

8. Thereafter, the claimants have closed their evidence by a pursis (Exh.55). The claimants have filed their written notes of arguments at Exh.27. The opponent No.3 has filed his affidavit of examination-in-chief at Exh.60/C. The opponent No.3 has filed copy of charge-sheet at Exh.61 and Insurance policy of the Cruiser at Exh.62. Thereafter, the opponent No.3 has closed his evidence by a pursis (Exh.63). The opponent No.3 has filed his written notes of arguments at Exh.28. Thereafter, the opponent No.5 has closed his evidence by a pursis (Exh.57).

As to Issue No.1 :-

9. On the point of negligence Premika (CW-1) has filed her affidavit of examination-in-chief at Exh.31 and submitted that, the accident took place on 03/01/2024 at about 6.30 pm to 6.40 pm while her father – deceased Dattatray Balu Govekar was traveling by his motorcycle towards Amboli from Ajara and the accident took place within the jurisdiction of Parewadi when the Eco car tried to overtake one another vehicle in rash and negligent manner, came wrong and middle side of the road without observing traffic rules and gave dash to her father. She has relied on the Police papers in support of her claim.

10. In her cross-examination, she admitted that, she has not witnessed to the accident. F.I.R. is lodged by Mahadev Manohar Kadam.

On perusal of the FIR lodged by Mahadev Manohar Kadam, the opponent No. 2, it reflects that, on the day of accident he was driving Cruiser and was proceeding towards Devkandgaon from Ajara and when he came within the jurisdiction of Parewadi village in front of Sarkar Hotel, the Eco car drove in a rash and negligent manner and in attempt to overtake a vehicle dashed to the motorcycle. Therefore, the Police have registered the FIR vide its C.R. No. 05/2024 against the opponent No.5 for the offence punishable under sections 304, 279, 337, 338 of the IPC along with section 184 of M. V. Act.

11. The spot panchnama (Exh.36) shows that, the incident took place in the middle of the road. There are skid marks. Mahadev, the opponent No.2 deposed in support of the claimants as CW-2 at Exh. 51 and submitted that, at the relevant time of the accident, the rider of the motorcycle came in a high speed and dashed to the cleaner side of the Eco car and thereafter motorcycle dashed to his Cruiser. He admitted the FIR (Exh.34) lodged by him.

12. However, in his cross-examination he admitted that, the accident took place due to the fault of Eco car driver i.e. the opponent No. 5 when his cross-examination was conducted by Ld. Counsel Shri. Bamane for opponent No. 3. But, in his cross-examination conducted by Ld. Counsel Shri. S. B. Desai for opponent No. 5, he has given loose admissions stating that, the driver of the Eco car was driving according to the rules and regulations. At the time of overtake he had given indicator and again stated that, the accident took place due to the fault of the rider of the motorcycle.

13. Thus, his testimony does not inspire confidence on the point of negligence. But overall copies of police papers including the charge-

sheet disclose that, the accident took place due to negligence on the part of the opponent No. 5 and therefore, charge-sheet came to be filed against him only. Therefore, there is room to hold that, it is the opponent No. 5 who had driven the Eco car in rash and negligent manner and therefore responsible for the said accident.

14. Though, the driver, owner and insurer of the Cruiser are made parties to the present claim petition but apparently, the driver of the Cruiser is not at fault, rather he reported the matter at the earliest to the Police. So far as, negligence of the deceased is concerned apart from the loose admissions given by Mahadev (PW-2), there is absolutely no material to show that, the deceased was in any way responsible for the accident and has contributed the accident.

15. Thus, I hold that, the accident took place due to sole negligence on the part of driver of Eco car i.e. the opponent No. 5. Thus, I answer the issue No.1 in the affirmative.

As to Issue No.2 :-

16. The record shows that, the Eco car was duly insured with the opponent No. 6 as per insurance policy (Exh.44) which covers the date of the accident. However, the opponent No. 6 has come up with a case that, there is breach of condition of insurance policy as the opponent No.5 was not holding the valid license at the time of accident. The copy of charge-sheet filed on record, discloses that, the opponent No.5 was driving the Eco car without holding the driving license. Therefore, the Police have applied Section 3(1) read with section 181 of the M. V. Act to the charge-sheet. The opponent No. 4 and 5 did not produce copy of driving license of the opponent No. 5 though sufficient opportunity was given to them. Therefore, I hold that, there is breach of condition of the insurance policy

by the opponent No. 4. Thus, I answer this issue in the affirmative.

As to Issue No.3 :-

17. The copy of postmortem report filed at Exh.37 and advance certificate of death filed at Exh.40 discloses that, the deceased Dattatray Balu Govekar died due to acute cardiopulmonary failure due to hypovolemic shock due to multiple injuries and fractures. He was 42 years old at the time of his death.

18. So far as income part of the deceased is concerned, claimants have examined Vijaykumar (CW-3) at Exh.52 who deposed that, the deceased was working with him as a mason and was earning Rs. 700/- per day and thus, he issued income certificate at Exh.53. But in his cross-examination he admitted that, he has no documentary evidence to show that, deceased was earning 700/- per day. He has not obtained any receipt for payment of salary from the deceased. He has no evidence to show that, deceased was a skilled worker and doing the job of mason. He has 50 to 60 labours, but their names are not recorded for PPF. So also their names are not recorded with labour commissioner.

19. Therefore, it is not proper to rely on the evidence of this witness on the point of income. Therefore, notional income of Rs. 10,000/- needs to be adopted considering the market situation prevailing in the year 2024. As the deceased was 42 years old, therefore multiplier of 14 is to be applied. Both the claimants being his children were depending on his income. Therefore, deduction of one third is required to be considered for his personal expenses. He was of 42 years and was not holding any permanent job therefore, 25% of future prospects is required to be added to the annual income of the deceased.

Accordingly, the compensation amount is calculated as under:-

S.No.	Heads	Calculation
(i)	Yearly income (Rs. 10,000 per month X 12)	Rs. 1,20,000/-
	Future Prospect of 25% (Rs.1,20,000/- + Rs.30,000/-)	Rs. 1,50,000/-
(iii)	1/3rd Amount deducted as personal expenses (Rs. 1,50,000/- Less Rs. 50,000/- = Rs.1,00,000/-).	Rs.1,00,000/-
(iv)	Loss of dependency after considering multiplier of 14 (Age of deceased is 42 years) (Rs. 1,00,000/- x 14 = Rs.35,77,500/-).	Rs.14,00,000/-
(vii)	Loss of Consortium 2 x 48,000/- including 20% enhanced.	Rs. 96,000
(viii)	Loss of Estate.	Rs.18,000/-
(ix)	Funeral Expenses.	Rs.18,000/-
Total compensation awarded-		Rs.15,32,000 /-

20. So far as apportionment of the amount is concerned, claimants are only legal heirs of the deceased, therefore, they are entitled for compensation. The opponent No.4 being the owner of the Eco car, which was insured with opponent No.6 at the relevant time of accident, however as there was breach of condition of policy therefore the opponent No.6 shall pay the compensation to the claimants and recover it from opponent No. 4 in view of principle of pay and recover.

21. So far as, the opponent No. 1 to 3 are concerned, they are absolved from any liability to pay compensation to claimants as the accident took place due to sole negligence on the part of the opponent No.5, who was driving the Eco car in rash and negligent manner and therefore, it is the opponent No. 4 who is liable to pay compensation in

the matter but initially the opponent No.6 to pay the amount of compensation on the basis of the principle of pay and recover and subsequently recover it from the opponent No. 4. Thus, I answer issue No. 3 accordingly.

22. Hence, in answer to Issue No.4, I proceed to pass the following order :-

ORDER

- 1] Petition is partly allowed with proportionate costs.
- 2] The opponent Nos. 6 shall pay compensation of **Rs.15,32,000 /-** (**Rupees Fifteen Lakhs Thirty Two Thousand only**) to the claimants inclusive of N.F.L. amount along with interest @ 9 % per annum from the date of this petition till realization of entire awarded amount.
- 3] On realization of compensation amount -
 - (i) **an amount of Rs.5,32,000/- (Rupees Five Lakhs Thirty Two Thousand Only)** be deposited in the name of claimant No.1 in any Nationalized Bank by RTGS or NEFT; and
 - (ii) **an amount of Rs. 5,00,000/- (Rupees Five Lakhs)** be kept in fixed deposit in the name of claimant No. 1 for the period of three years in any Nationalized Bank by RTGS or NEFT.
 - (iii) **an amount of Rs. 5,00,000/- (Rupees Five Lakhs)** be kept in fixed deposit in the name of claimant No. 2 till he attends majority in any Nationalized Bank by RTGS or NEFT.
- 4] The opponent No.6 the Insurance Company shall pay the compensation amount to the claimants and thereafter is entitled to recover it from the opponent No.4 i.e. the owner of the Eco car.
- 5] Opponents shall pay the amount either through **RTGS** or **NEFT** in the bank account maintained by the Tribunal.

The details of the bank account are as under:-

Account Name	:	Member, M.A.C.T. Gadhinglaj.
Account Number	:	40777675788
Bank Name & Branch	:	State Bank of India, Branch-Gadhinglaj
IFSC Code	:	SBIIN0000517
		'0' indicates Zero.

- 6] The claimants shall produce their Savings bank account details of any Nationalized bank along with either a certificate of the banker giving all details of their bank account including IFS Code, or a copy of a cancelled cheque of the bank account.
- 7] The claimants are directed to pay deficit Court Fee, if any.
- 8] The copy of award be sent to the Insurance Company by E-Mail. After depositing the compensation amount into the above-mentioned bank account, the Insurance Company shall inform the Tribunal by sending E-mail accordingly.
- 9] Award be drawn accordingly.

Date : 23/03/2026

(M.A. Shinde)
Member, MACT,
Gadhinglaj.