

MHLA010030942021



Received on : 23/09/2021  
Registered on : 23/09/2021  
Decided on : 02/05/2026  
Duration : YY MM DD  
04 07 09

**IN THE COURT OF ADHOC DISTRICT JUDGE - 2 & EX-  
OFFICIO MEMBER OF MOTOR ACCIDENT CLAIMS TRIBUNAL,  
LATUR, DISTRICT - LATUR.  
(PRESIDED OVER BY PPKESTIKAR)**

**M.A.C.P. No.219/2021**

**Exh.No.48**

Sudhir S/o. Bhagwat Dede,  
Age:- 20 Yrs. Occu.:- prior to the accident,  
driver at present Nil.  
R/o.Gondegaon, Tq. & Dist.Latur.

**....Claimant**

**VERSUS**

1. Shivaji S/o. Balasaheb Deshmukh,  
Age:- 35 Yrs., Occu.:-Driver,  
R/o.Gondegaon Tq. & Dist.Latur.
2. Pandurang S/o. Lala Bhandange,  
Age:- 25 Yrs., Occu.:- Business  
R/o. Chincholi Ballalnath, Tq. & Dist.Latur.
3. The Branch Manager,  
The reliance General Insurance Co.Ltd.  
Unit No.211 & 212, 2<sup>nd</sup> Floor, Yash Plaza, Nagar,  
Shivneri Gate, Kavva Road, Latur,  
Tq. & Dist.Latur.

**...Respondents**

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**CLAIM : U/Section 166 of the Motor Vehicles Act, 1988.**

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Shri M.B.Jadhav, learned advocate for the claimant.  
Shri P.A.Kamble, Learned advocate for respondent Nos.1 and 2.  
Shri S.G.Doijode, learned Advocate for respondent No.3.

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**JUDGMENT**

( Delivered on 02/05/2026)

The claimant has filed this claim petition seeking compensation for the injuries and loss of income sustained by him due to motor vehicle accident under Section 166 of the Motor Vehicle Act. (For short, 'the Act'.),

**2 Case of Claimant: -**

2.1 On 26/07/2021 at about 7.30 p.m. at Ekrgua Pati, on Latur to Gondegaon road, he was waiting for vehicle to proceed towards his village. At that time, one motorcycle bearing No.MH-24-BK-1550 came in high speed and while trying to overtake a truck gave dash to the claimant. Due to the said dash claimant fallen down on the road and sustained grievous injuries.

2.2 After the accident, the claimant was admitted to the Civil Hospital, where examinations diagnosed a fractured right thigh, contusions and abrasions on the right knee, along with other injuries. The claimant was admitted in the hospital as well as he could not walk, therefore, he filed first information on 15/08/2021 at Gategaon Police Station. On receipt of the first information, Crime No.120/2021 was registered and was investigated by the investigating officer. Upon the investigation, it was found that the accident took place due to negligence of the

motorcycle rider i.e. respondent No.1. Hence, final report was filed before the Court.

2.3 It is further case of the claimant that, at the time of accident, his age was 20 years and he was earning Rs.30,000/- by transporting goods from Baheti tiles. Due to the injuries and disability sustained in the accident, the claimant could not walk and stand without help. Therefore, he has lost his occupation and thereby sustained 100% loss of income.

2.4 It is further case of the claimant that at the time of accident the offending motorcycle was owned by respondent No.2 and it is insured with respondent No.3. Therefore, respondent Nos.1 to 3 are liable to pay compensation to the claimant. Accordingly, the claimant has claimed compensation of Rs.1,00,000/- under the head 'Pain and agony', Rs.50,000/- under head 'special diet', Rs.2,00,000/- under the head 'travelling, hospitalization and medical expenses' and Rs.64,80,000/- under the head 'loss of future income'. Accordingly, the claimant has claimed Rs.68,30,000/- by way of compensation.

### **3. Respondents' Case: -**

3.1 Respondent Nos.1 and 2 have contested the claim as per their written statement at Exh.14. These respondents have denied all the averments claimed by the claimant as well as denied that claimant is entitled for compensation as prayed by him. These respondents have admitted that at the relevant time respondent No.1 was driving the motorcycle and respondent No.2 is the owner of motorcycle bearing No. MH-24-BK-1550, which is insured with

respondent No.3. Accordingly, these respondents have prayed to reject the claim petition.

3.2 Respondent No.3 has contested the claim by filing written statement at Exh.39. This respondent has also denied all the averments made in the claim petition. It has denied the fact that the accident took place due to negligence of motorcycle rider. It has denied liability to pay the compensation as well as denied the monthly income, occupation, age and compensation claimed by the claimant. The specific case of this respondent is that respondent No.2 has committed breach of policy and therefore, the insurance company is not liable to pay the compensation.

#### 4. Issues:

Considering the rival pleadings of the parties, my learned predecessor has framed issues below Exh.15. Those issues, my findings, and reasons are as follow.

Sr. No.	ISSUES	FINDINGS
1	Whether the claimant proves that on 26/07/2021 at or about 7.30 p.m. the respondent No.1 drove vehicle motorcycle bearing RTO No.MH-24-BK-1550 in rash and negligent manner and gave dash to the claimant and caused grievous injuries which resulted into permanent disability ?	<b>In the Affirmative.</b>

2	Whether the claimant prove that the offending vehicle was owned by respondent No.2 and it was insured with respondent No.3 ?	<b>In the Affirmative.</b>
2-A	Whether respondent No.3 proves that the vehicle motorcycle bearing RTO No.MH-24-BK-1550 is falsely involved in the alleged accident ?	<b>In the Negative.</b>
2-B	Whether the respondent No.3 proves that the respondent No.2 committed breach of terms and conditions of the insurance policy ?	<b>In the Negative.</b>
3	Is the claimant entitled to get the compensation ? If yes, what is the quantum and from whom ?	<b>In the affirmative, compensation of Rs.7,98,000/-, Respondent Nos.1 to 3 jointly and severally</b>
4	What order and Award?	<b>Petition is partly allowed.</b>

## 5. Evidence

5.1 To prove their claim, the claimants have examined claimant (C.W.No.1) Sudhir Dede at Exh.16, C.W.No.2 Dr.

Sudhakar Gulave at Exh.33.

By way of documentary evidence, the claimants have produced following documents-

5.2 **Documentary evidence:-**

Sr.No.	Exhibits	Description
1.	Exh.19	Copy of FIR
2.	Exh.20	Copy of spot panchnama
3.	Exh.21	Copy of Injury Certificate
4.	Exh.22	Copy Complaint
5.	Exh.23	Copy of MLC
6.	Exh.24	Statement of Abhishek Shinde
7.	Exh.25	Statement of Avinash Dede
8.	Exh.26	Statement of Ravikant Gaikwad
9.	Exh.27	Statement of Bhausahab Dede
10	Exh.28	Statement of Pandurang Bhodange
11.	Exh.29	Copy of RC Book
12.	Exh.30	Copy of Tax Invoice
13	Exh.31	Driving License of Shivaji Deshmukh
14	Exh.34	Disability Certificate
15	Exh.41	Discharge Card

**REASONS****6. As to Issue No.2; -**

While framing the issues my learned predecessor has framed issue No.2 putting the burden on claimant to prove the fact that the offending vehicle was owned by respondent No.2 and it was insured with respondent No.3. With respect to this issue if the pleadings of respondent Nos.1 and 2 as per written statement at Exh.14 are taken into consideration then they have admitted that the respondent No.2 is the owner of motorcycle bearing No. MH-24-BK-1550 and it was insured with respondent No.3. At the same time, if the written statement of respondent No.3 at Exh.39 is considered then it has not specifically denied that the motor cycle bearing No.MH-24-BK-1550 is insured with respondent No.3. Accordingly, as per the pleadings, the fact required to be proved by the claimant is admitted. Therefore, in view of Section 58 of the Evidence Act, the facts admitted does not required to be proved. Even though, if the copy of Registration Certificate produced at Exh.29 is considered then respondent No.2 is the registered owner. Accordingly, I find that the claimant has proved that the motorcycle bearing No.MH-24-BK-1550 is owned by respondent No.2 and insured with respondent No.3. Accordingly, I record my finding to this issue in the affirmative.

**7. As to Issue Nos.1,2A & 2B :-**

7.1 All these issues are connected with each other, therefore, they are considered together.

7.2 It is the basic case of the claimant that, the accident took place due to rash and negligent driving by respondent No.1 who is at the relevant time was riding the motorcycle bearing No.MH-24-BK-1550. To prove this fact, the claimant has examined himself at Exh.16. The testimonial affidavit of claimant shows that on 26/07/2021 at about 7.30 p.m. when he reached at Ekurga Pati he met his friend Abhishek. Both of them were waiting for the vehicle for proceeding towards their village. At that time, one motorcycle bearing No.MH-24-BK-1550, which was driven by respondent No.1 came in high and excessive speed and while trying to overtake a truck it gave forceful dash to him and his friend Abhishek. Due to dash, he sustained grievous injuries and therefore, he was taken to the hospital. In the cross examination he was asked or suggested that by falsely involving respondent Nos.1 and 2 the complaint has been filed after 20 days of the incident. Accordingly, it was tried to suggest that due to filing of information after 20 days there is false implication of the offending vehicle.

7.3 The claimant has produced the copy of FIR at Exh.19, which clearly shows that while giving information the claimant has correctly mentioned the number of offending vehicle as well as names of his rider and owner. The spot panchnama produced at Exh.20 shows that the spot of incident is near to the place Ekurga pati which is a road intersected by Latur to Murud road. The medico legal certificate produced at Exh.21 shows that before

examination the patient has told the alleged history of road traffic accident on 26/07/2021. As well as the discharge card produced at Exh.41 shows that from 27/07/2021 to 10/08/2021 the claimant was hospitalized at Government Medical College and Hospital, Latur. Accordingly, this evidence is sufficient to show that the accident was caused due to rash and negligent driving by the rider of motorcycle bearing No.MH-24-BK-1550, as well as the evidence explains, why the information was lodged after 20 days of the accident.

7.4 On the other hand, though respondent No.3 claimed, false involvement of the offending motorcycle but it has not produced any evidence to rebut the evidence produced by the claimant. As stated herein-above respondent Nos.1 and 2 in written statement have admitted that at the relevant time the said motorcycle was driven by respondent No.1. Therefore, I find that the above discussed evidence proves the fact that the accident took place due to negligence of the rider of motorcycle bearing No.MH-24-BK-1550.

7.5 It is the case of the respondent No.3 that respondent No.2 has committed breach of terms and conditions of insurance policy. Therefore, respondent No.3 is not liable to pay the compensation. This plea is taken on the fact that at the time of the accident respondent No.1 was not holding valid and effective driving license. It is pertinent to note that burden is on respondent No.3 to prove this fact but it has not led any evidence.

7.6 On the other hand, the claimant has produced copy of

driving license of Shivaji Deshmukh i.e. respondent No.1 at Exh.31. It shows that the said license is valid till 01/09/2031. Therefore, I find that respondent No.3 has failed to prove the alleged breach of terms of insurance policy by respondent No.2. Accordingly, I record my findings to issue No. 1 in the affirmative and to issue Nos. 2A & 2B in the negative.

### **8. As to Issue Nos. 3 & 4:-**

8.1 As discussed herein above the claimant has proved that the accident took place due to negligence of respondent No.1 and as per admitted fact the respondent No.2 is owner of the offending motorcycle bearing No.MH-24-BK-1550 and it was insured with respondent No.3 therefore, in view of section 166 of Motor Vehicle Act the respondent no.1 being driver of motorcycle bearing No.MH-24-BK-1550, respondent no.2 being it's owner and respondent no.3 being insurer are jointly and severally liable to pay compensation to claimant for the bodily injuries sustained by him in the accident.

8.2 Now, let us considered what would be the quantum of the compensation. The claimant claims that, at the time of accident his age was 20 years. Undisputedly, there is no direct evidence by way of birth certificate produced on record to prove the age of the claimant. If the age of the claimant as stated in the FIR Exh.19, Medico legal certificate Exh.21 and discharge card Exh.41 is considered then at the relevant time the age of the

claimant was 20 years. Therefore, I find that it is proved that at the time of accident the age of claimant was 20 years.

8.3 It is claimed by the claimant that he was earning Rs.30,000/- per month by way of transporting goods from Baheti tiles. This fact is testified by the claimant as per his testimonial affidavit Exh.16 but no documentary evidence regarding payment of freight and transportation, is produced on record nor any independent witness from whom the claimant was getting the transportation charges is examined by the claimant. Accordingly, there is no conclusive evidence to held that the claimant was earning Rs.30,000/- per month. Therefore, this Court has to consider the notional income drawn from the occupation of the claimant. If the charges of transportation prevailing in the marked and number of trips which would be available in a month are taken into consideration then I find that notionally the claimant was earning Rs.15,000/- per month from his occupation.

8.4 This is an injury claim, therefore, after considering the per month income of the claimant and his occupation, it is necessary to consider the functional disability as held in the case of **Raj Kumar V/S Ajay Kumar (2011)1 SCC 343**.

8.5 To prove the physical disability the claimant has examined C.W.No.2 Dr. Sudhakar Gulve at Exh.33. The deposition of this witness shows that on 16/01/2023 the claimant visited him

to obtain the disability certificate with respect to the accidental injury caused on 26/07/2021. He has further stated that after examining the patient clinically and radiologically, he found fracture of shaft of femur of right side with fracture of tibia and fibula of right side with fracture of transverse process of L-1 vertebra. It is further stated by him that the claimant was having painful with restricted movements with strength of right lower extremity and accordingly, he certified that the patient was estimated to have 70 % permanent disability. This witness also states that due to the disability sustained by the patient he could not drive the vehicle. Now, if the cross examination of this witness is considered then he has admitted that the fractures which were mentioned by him were reunited at the time of issuance of disability certificate and fracture of transverse process of L-1 vertebra can be recovered by traction. Accordingly, if the above admitted facts are considered then, it can not be said that after the healing of injury there is 100% functional disability. So also, there is no evidence on record to show that the movement of right leg of claimant are completely restricted. Accordingly, considering the disability certificate produced at Exh.34, the discharge card produced at Exh.41 and nature of occupation of the claimant, I find that there is 20% functional disability caused to the claimant.

8.6. In view of above discussion, the claimant had notional income of Rs.15,000/- per month and his functional disability is 20%. Therefore, there is loss of earning capacity to the tune of

Rs.3,000/- per month. Accordingly, the loss of yearly income is Rs.3,000/- x 12 = Rs.36,000/- As stated herein-above, at the time of accident, the age of claimant was 20 years and therefore, multiplier 18 is applicable. Accordingly, as the loss of yearly income of Rs.36,000/- x 18 then loss of future income comes to **Rs.6,48,000/-**

8.7 In the petition, the claimant has claimed Rs.50,000/- by way of special diet, but there is no evidence that the claimant was required to take the special diet at the time of hospitalization or continuously required to take it. Hence, in absence of any evidence about requirements of special diet, I find that the claimant is not entitled for compensation against the head special diet.

8.8 The claimant has claimed Rs.1,00,000/- against pain and suffering. Undisputedly, the claimant was admitted or hospitalized for the period from 27/07/2021 to 10/08/2021 and was sustaining fracture injuries. This tribunal can take note that though the fracture is united the injury will cause pain through out the life time. Therefore, I find that the claimant is entitled for **Rs.50,000/-** under the head pain and suffering.

8.9 The claimant has claimed Rs.2,00,000/- against the travelling, hospitalization and medical expenses. Undisputedly, the claimant is hospitalized at Government Medical College and

Hospital and was required to take medicines. It is known that the Government Hospitals provides medicines and treatment free of costs, but the medicines are provided upon the availability. Therefore, certain medicines are required to be purchased. Unfortunately, the claimant has not produced any evidence regarding the purchase of medicines as well as requirements to take medicines during further treatment. But certainly some amount was required by the claimant for the expenses during the hospitalization and further treatment. Accordingly, I find that an amount of **Rs.1,00,000/-** is just and reasonable to compensate against the head hospitalization and medical expenses.

8.10 Accordingly, as per above discussion, the claimant is entitled for compensation which is reproduced in the following tabular form.

<b>Head</b>	<b>Compensation</b>
Loss of future income ( Multiplier 18 )	Rs.36,000 x 18 Total= Rs.6,48,000/-
Pain and suffering	Rs.50,000/-
Medical expenses and hospitalization	Rs.1,00,000/-
<b>Total</b>	<b>Rs.7,98,000/-</b>

8.11 Considering the above discussion, I record my finding to Issue No.3 in the affirmative and total compensation of **Rs.7,98,000/-** from respondent Nos.1 to 3 jointly and severally and record my finding to Issue no. 4 as Petition is Partly allowed

and proceed to pass the following order.

**ORDER**

1. Claim petition is partly allowed with costs.
2. Claimant is entitled to get total compensation of **Rs.7,98,000/-**, (Rupees Seven Lacs, Ninety-Eight Thousand only) with simple interest @ 6.5 % per annum from the date of petition till realization of entire amount.
3. The respondent Nos.1 to 3, shall jointly and severally pay compensation of **Rs.7,98,000/-**, (Rupees Seven Lacs, Ninety-Eight Thousand only), to the claimant, with simple interest @ 6.5 % per annum from the date of petition till realization of entire amount.
4. Respondent Nos.1 to 3 shall make payment of compensation amount by depositing the same alongwith interest in saving account of Tribunal's saving Bank account No.40777681930 IFSC Code SBIN0021055, State Bank of India, Collectorate Branch at Main Road, Latur.
5. The respondent Nos.1 to 3 after depositing the aforesaid amount in the above said account of Tribunal, shall inform Unique Transaction Reference, (UTR) to the Tribunal by separate letter/pursis.
6. After deposit of compensation by the respondent no. 1 to 3 jointly or severally, the said amount be credited in the saving account of Claimant as per rules and without waiting for the further directions of this tribunal.
7. Claimant shall pay deficit court fees, if any.

8. Award be drawn-up accordingly.
9. Pronounced in the open Court.

Date :02/05/2026.

(P. P. Kestikar)  
Adhoc District Judge-2 & Ex-officio  
Member of M.A.C.T.,Latur.