

Presented on : 07.06.2018

Decided on : 18.04.2026

Duration : 7 Y/ 10M/ 11D

Exh.

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MUMBAI**

(Presided over by Smt. Monica I. Arland)

**Motor Accident Claims Petition No.926 of 2018**

Mr. Mohammed Rizwan Badruddin Khan  
Aged 28 years,

Residing at:

229, Shivaji Kutir Mandal,  
2<sup>nd</sup> Lane, L. B. S. Marg,  
Opp. Jivraj Niwas,  
Kurla (W), Mumbai -400070

... Applicant

**-Versus-**

Mr. Suresh Bhimrao Gaikwad  
Residing at : House No.1911,  
Nandanwan Nagar,  
Laslgaon, Taluka – Niphad,  
Dist. Nashik -422001  
(owner of M/Truck NoMH-15-BJ-8476)

... Opposite party

**- And -**

HDFC Ergo General Insurance Co. Ltd.  
6<sup>th</sup> floor, Leela Business Park,  
Andheri-Kurla Road,  
Andheri (E), Mumbai -400059.  
(Policy No.2317 2019 0955 8400 000)  
(Valid from : 18.09.2017 to 17.09.2018)

... Insurer

**Petition for compensation amount Rs.1,00,000/-**

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Shri.V. S. Adsul - Advocate for the applicant.  
Opposite party - Ex-parte.  
Smt. Bhavna Bhatt - Advocate for the Insurer  
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**JUDGMENT**  
(Delivered on this 18<sup>th</sup> April 2026)

1. This petition has been filed by the applicant under Section 166 of the Motor Vehicles Act for grant of compensation of Rs.1,00,000/- from the opposite party and its insurer.
  
2. According to the applicant, on 07.03.2018 at about 14:25 hrs., he was riding Motorcycle No.MH-01-BN-6312 and proceeding on Dapoda road from Anjurphata towards Mankoli direction, with due care and caution and at moderate speed. When he reached near Sarwana Hotel, Bhiwandi, Dist. Thane, at that time, offending Truck bearing No.MH-15-BJ-8476 came with fast speed, in rash and negligent manner and dashed against applicant's motorcycle from behind and the front left tyre of the offending truck ran over his left leg thereby he sustained serious injuries i.e. fracture Lt. Femur shaft, abrasion over left leg and right leg and other multiple injuries. He was taken to Fauziya Hospital, Kurla wherein he was treated as indoor patient from 07.03.2018 to 12.03.2018. However, again admitted in the same hospital from 12.03.2018 to 19.03.2018. He incurred Rs.1,50,000/- on medical treatment, special and conveyance.

3. The Police Station, Narpoli, Dist. Thane, registered an offence vide FIR No.I-127/2018 against the driver of offending vehicle No.MH-15-BJ-8476, namely, Santosh Suresh Gaikwad, under Section 279, 337 and 338 of the Indian Penal Code read with Sections 134 (A)(B) and 184 of the Motor Vehicles Act.

4. At the time of accident, the applicant was working with Maria Internal, Kurla and was earning Rs.30,000/- per month. According to the applicant, the opposite party was the owner of offending vehicle and it was insured with the insurer, at the time of accident. Therefore, the applicant has claimed compensation of Rs.1,00,000/- from the opposite party and its insurer.

5. The Opposite Party though duly served through Newspaper Publication vide Exh.16 but failed to appear in the matter. Therefore, my learned predecessor has passed an order below Exh.1 on 21.12.2022 and the matter was proceeded ex-parte as against the opposite party.

6. The Insurer has filed written statement vide Exh.12 and resisted the claim of the applicant. It is contended that the the owner and driver of offending vehicle No.MH-15-BJ-8476 was not holding valid and effective P.U.C. Certificate, Permit, Fitness and Driving licence respectively, at the time of accident. It is also contended that the accident occurred due to sole negligence of the applicant. Hence, prayed for dismissal of the petition.

7. My learned predecessor framed the Issues vide Exh.17. I reproduce the same. I record my finding thereon for the reasons given below.

<b><u>Sr.No.</u></b>	<b><u>Issues</u></b>	<b><u>Findings</u></b>
1)	Does the applicant prove that on 07.03.2018 at about 14:25 hrs., on Dapoda Road, Anjur Phata to Mankoli Road, opposite Sarwana Hotel, Bhiwandi, Dist. Thane, he sustained injuries in an accident which occurred due to rash and negligent driving on the part of driver of Motor Truck bearing No.MH-15-BJ-8476 ?	<b>Affirmative</b>
2)	Does the insurer prove the defences raised and particularly that owner of offending vehicle committed breach of terms and conditions of insurance policy, at the time of accident, so insurer is not liable to pay any compensation ?	<b>Negative</b>
3)	Is the applicant entitled to compensation ? If yes, to what extent and from whom ?	<b>Yes, to the extent of Rs.3,08,484/- from the opposite party and the insurer</b>
4)	What order ?	<b>As per final order</b>

### **REASONS**

#### **As to Issue No.1 :-**

8. In order to prove the contentions made in the

petition, the applicant has examined himself vide Exh.22 who proved the documents vide Exh.25 to 37.

9. Applicant has further further examined Dr. Naresh Khanna (AW2) vide Ex.39 who proved Disability Certificate vide Exh.40. The applicant has also examined Dr. Abdul Rahim Shaikh (AW3), Fauzjya Hospital, Kurla vide Exh.44 who proved the Authority Letter vide Exh.47, his identity Card vide Exh.48 and his Adhar Card vide Exh.49.

10. On the other hand, the Insurer has not examined any witness to prove its defence.

11. Perused the record. Heard learned counsel Smt. D. V. Adsul for the applicant and learned counsel Smt. Bhavna Bhatt for the Insurer so also perused the written notes of arguments filed by the Insurer vide Exh.19.

12. It is argued by learned counsel for the applicant that the injured applicant sustained injuries in the accident which took place on 07.03.2018 at about 14:25 hrs., p.m. However, he was hospitalized twice and the same is mentioned in the medical documents.

13. Mohd. Rizwan (AW1) has testified vide Exh.22 and reiterated about the incident. According to him, on 07.03.2018 at about 14:25 a.m., he was riding Motorcycle No.MH-01-BN-6312 and proceeding on Dapoda road from Anjurphata towards Mankoli direction, with due care and caution and moderate

speed. When he reached near Sarwana Hotel, Bhiwandi, Dist. Thane, at that time, offending Truck bearing No.MH-15-BJ-8476 came with fast speed, in rash and negligent manner and dashed against applicant's motorcycle from behind and the front left tyre of the offending truck ran over his left leg thereby he sustained serious injuries i.e. fracture Lt. Femur shaft, abrasion over left leg and right leg and other multiple injuries.

14. He deposed that accident occurred due to rash and negligent driving of the driver of offending vehicle No.MH-15-BJ-8476.

15. It is his evidence that he was taken to Fauzia Hospital, Kurla wherein she was treated as indoor patient from 07.03.2018 to 12.03.2018. However, again admitted in the same hospital from 12.03.2018 to 19.03.2018.

16. It is his evidence that The Police Station, Narpoli, Dist. Thane, registered an offence vide FIR No.I-127/2018 against the driver of offending vehicle No.MH-15-BJ-8476, namely, Santosh Suresh Gaikwad, under Section 279, 337 and 338 of the Indian Penal Code read with Sections 134 (A)(B) and 184 of the Motor Vehicles Act.

17. He was cross examined from the side of Insurer. He was asked as to whether the FIR dtd.14.03.2018 is afterthought wherein he replied in the negative. He denied that the accident occurred due to his fault. He also denied that he was riding the vehicle in zig zag manner. He admitted that the

truck came from behind therefore he could not see the speed of the truck.

18. At the outset, it is to be seen as to whether the applicant sustained grievous injuries/permanent disability in the accident which took place on 07.03.2018 at about 14:25 hrs., while he was riding motorcycle No.MH-01-BN-5394 in motor car bearing No.MH-02-BQ-9539. In this respect, the police papers are required to be scrutinized. On perusal of the FIR at Exh.25, it discloses that an offence was registered against Santosh Suresh Gaikwad, the driver of Motor Truck No.MH-15-BJ-8476 for the offence punishable under Section 279, 337 and 338 of the Indian Penal Code read with Section 134 (A)(B) and 184 of the Motor Vehicles Act. The Crime Details Form at Exh.26 discloses that it was prepared by the police wherein they conducted the Spot Panchanama in presence of the Panchas namely Sanjay Salvi and Vicky Mhatre. The Arrest Memo vide Exh.27 discloses that the driver of the offending vehicle namely Satish Gaikwad was arrested on 21.03.2018.

19. On going through the evidence, documents filed on record and the submissions of applicant, it appears that the accident took place on 07.03.2018, at about 14:25 hrs., on Dapoda Road, Anjur Phata to Mankoli Road, opposite Sarwana Hotel, Bhiwandi, Dist. Thane, due to rash and negligent driving of the driver of the Motor Truck bearing registration No.MH-15-BJ-8476.

20. All these documents duly corroborate the evidence adduced by the applicant to show that on 07.03.2018 due to involvement of Motor Truck No.MH-15-BJ-8476 owned by the opposite party, the applicant sustained injuries. Therefore, I answer Issue No. 1 in the affirmative.

**As to Issue No.2 :-**

21. The insurer has raised the defence that the owner and driver of the offending vehicle was not holding valid and effective P.U.C. Certificate, Permit, Fitness and Driving licence respectively, at the time of accident. Therefore there is a breach of terms and conditions of the Insurance policy, so insurer is not liable to pay any compensation to the applicant.

22. The applicant has filed and proved the copy of Fitness Certificate and Permit of the offending vehicle so also the Driving Licence of the driver namely, Satish Gaikwad vide Exh.35 to 37 respectively.

23. On perusal of those documents, it appears that the accident occurred on 07.03.2018. However, the Fitness Certificate (Exh.35) is valid upto 19.09.2018, Permit (Exh.36) is valid upto 12.09.2018 so also the driver of offending vehicle namely Satish Gaikwad is holding valid driving licence (Exh.37).

24. Though, it is contended by the insurer but on scanning of the oral as well the documentary evidence which is led from the side of the applicant wherein the fitness, permit

and driving licence of the driver is proved. However, the insurer failed to prove the same and there is no iota of evidence which leads to show or from where an inference can be drawn that there was a breach of policy condition.

25. Moreover, no evidence is led by the insurer in order to prove the said contention which is raised as a defence in the matter either by oral or the documentary evidence. In absence of any cogent, reliable and trustworthy oral as well documentary evidence, it would be difficult to consider that there was a breach of policy conditions.

26. It is further defence of the insurance company that the accident occurred due to sole negligence of the applicant. However, except mere defence, there is no iota of evidence in support of the said defence raised by the insurance company. Moreover, as per the FIR (Exh.25) so also the Arrest Memo at Exh.27, the offence was registered against the driver of offending vehicle namely Satish Gaikwad who was arrested on 21.03.2018 and there is no whisper about any negligence or fault attributed by the applicant which resulted in the accident. In absence of any evidence to that effect, it would be difficult to believe that the accident occurred due to sole negligence of the applicant. Therefore, I answer Issue No.2 in the negative.

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

27. So far as quantum of compensation is concerned, it is contended by applicant that he had sustained Right femur

shaft fracture which resulted in 56 % of partial permanent disability

28. It is argued by the learned counsel for the applicant that at the time of accident, the applicant was aged about 20 years wherein he had sustained injuries in the said accident and was taken to Fauziya Hospital, Kurla therein he was treated as indoor patient from 07.03.2018 to 12.03.2018. However, again admitted in the same hospital from 12.03.2018 to 19.03.2018. The applicant sustained fracture Lt. Femur shaft, abrasion over left leg and right leg along with other multiple injuries.

29. It is further argued that the applicant has incurred Rs.1,12,000/- towards medical treatment so also loss of earning as he was working with Maria Internal at Kurla as labourer and was drawing a salary of Rs.30,000/-p.m.

30. It is argued that Dr. Naresh Khanna (AW2), the Orthopedic Surgeon has issued the disability certificate which is duly proved vide Exh.40. The applicant has sustained the permanent partial disability to the tune of 56%, therefore, he is entitled for all pecuniary as well as non-pecuniary expenses.

31. Per contra, it is argued by the Learned Counsel for the Insurer that that the occupation and income of the applicant is not duly proved. Moreover, the disability is not proved by the applicant and the evidence of Dr. Khanna (AW2) lacks credence and it cannot be relied upon as he is not the treating doctor.

32. The applicant Mohd. Rizwan (AW1) testified that after the accident he was treated at Fauziya Hospital, Kurla from 07.03.2018 to 12.03.2018. However, he was again admitted in the same hospital from 12.03.2018 to 19.03.2018. He sustained Right Femur shaft fracture.

33. He deposed that he was admitted in Kothari Hospital, Kurla from 21.06.2018 to 22.06.2018 for removal of screw. He further deposed that he spent Rs.1,12,000/- towards hospital and medical expenses, Rs.50,000/- towards conveyance and Rs.60,000/- towards special diet.

34. He testified that at the time of accident, he was working as a labourer with Maria Internal, Kurla and was earning Rs.30,000/- per month. He further deposed that due to accidental injuries, he is unable to do his work which he was doing prior to the accident. Therefore, he could not continue his work. He also deposed that prior to the accident, all the family members were dependent on his income. However, after the accident, he had lost his job and now he is not able to give financial help or support to his family and he is dependent on his family members and relatives.

35. He also testified that he had consulted Dr. Naresh Khanna (AW2) who has issued the disability certificate with the assessment of 56 % permanent partial disability. He also testified that he was admitted in Kothari Hospital Kurla from 21.06.2018 to 22.06.2018 for removal of screw.

36. He was cross examined at length from the side of the Insurer on the point of sustaining injury, treatment, hospitalization, incurring of expenses, occupation and income. However, all the adverse suggestion put forth to him in respect of the injury, treatment, hospitalization, incurring of the expenses, occupation and income are specifically denied by him. He was also confronted on the point of his income wherein during the cross examination, the learned counsel for the insurer referred one document in respect of the statement dtd.23.09.2019 which is addressed to HDFC Insurance Co. concerning the occupation and income of the applicant injured.

37. To prove the hospitalization and medical bills Fauziya Hospital, applicant examined Dr. Abdul Rahim Shaikh (AW2) vide Exh.44. He deposed that he is working in Fauziya Hospital. He deposed that the applicant was admitted in their hospital twice, for serious injuries sustained in the accident dtd.07.03.2026. He filed and proved the Authority Letter, his Identity Card and Adhar Card vide Exh.47 to 49.

38. He was cross examined by the insurer. He was confronted on the point of meaning of serious injuries mentioned in his affidavit wherein he replied that it was a left femur fracture which was causing profuse bleeding. He admitted that femur fracture is not a serious injury. He was also confronted as to whether he operated the patient or assisted the operating doctors wherein he replied in negative. He was further confronted regarding the implant used for the applicant as well as the type of implant using in their hospital

wherein he replied that he does not know about the implant which was used for the applicant as he did not do the procedure. However, he further replied that their hospital is using Titanium implant.

39. He was also confronted as to whether in any document, it is written that applicant required removal of implant wherein he replied in negative. He admitted that Titanium being the best implant, there is no need for removal.

40. To prove the disability the applicant examined Dr. Naresh Khanna (AW2) vide Exh.39. He deposed that he had examined the applicant on 20.12.2025 and have assessed the permanent partial disability to the extent of 56 % wherein the applicant had narrated that the accident took place on 07.03.2018 whereby the applicant had taken treatment at Fauziya Hospital from 07.03.2018 to 12.03.2018 and then from 12.03.2018 to 19.03.2018. According to him, the applicant had sustained fracture of left shaft femur for which closed interlocking nailing was done at Fauziya Hospital.

41. It is also his evidence that on examination, he observed the following disability :

- i. Tenderness and Deformity
- ii. Movement of left hip and left knee are painful and restricted, unable to squat
- iii. Unable to do day to day activities, unable to do work as before the accident.

According to him, the fracture of left shaft femur

consolidated clinically and radiologically. He proved the disability certificate issued by him vide Exh.40.

42. He was cross examined at length from the side of Insurer on the point of clinical examination of the applicant, issuance of disability certificate, assessment of partial permanent disability on higher side. However, he denied the adverse suggestions putforth to him in respect of issuance of false disablement certificate to the applicant. He was confronted on the point as to whether in any medical document there is mention about the removal of implant wherein he replied in the negative.

43. He was confronted regarding radiological examination of the patient wherein he replied that the patient had brought the x-ray. He denied that scar is not the disability but it is a cosmetic disability. He also denied that pain is subjective and the patient can perform his routine.

44. On scanning of the oral as well as the documentary evidence, it can be seen that the accident took place on 07.03.2018 and the applicant was initially treated at Fauziya Hospital initially from 07.03.2018 to 12.03.2018 and thereafter from 12.03.2018 to 19.03.2018.

45. In **Raj Kumar Vs Ajay Kumar [2011 ACJ 1 (SC)]**, the principle of assessment, determination of loss of future earning of the injured with reference to the extent of his permanent disablement, quantum and injury is discussed at length.

However, the following are the principles which are enumerated as under :

- “(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).
- (iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.
- (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”

46. Moreover the partial permanent disability is also discussed in the said case wherein it refers to a person's inability to perform some of the duties and bodily functions that one could perform before the accident.

47. The disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human-being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accidents injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('Disabilities Act' for short). But if any of the disabilities enumerated in section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

48. The duty is cast upon the Tribunal to award just which means that compensation should to the extent possible

fully adequately restored the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. A Court or Tribunal have to assess the damages objectively and excludes from consideration any speculation or fancy though some conjectures with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury but also for the loss which is suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injury and his inability to earn as much as he used to earn or could have earned.

49. The Tribunal should not be a silent spectator when medical evidence is tendered in regard to the injuries and their effect, in particularly, the extent of disability. However, section 168 and 169 of the Motor Vehicles Act make it evident that a Tribunal does not function as a neutral empire as in a civil suit, but as an active explorer and seeker of truth who is required to 'hold an enquiry into the claim' for determining the 'just compensation'. The Tribunal should therefore take an active role to ascertain the true and correct position so that, it can assess the 'just compensation'. The Tribunal should also act with caution if it proposed to accept the expert evidence of doctors who did not treat the injured but who give 'ready to use' disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who

without treating the injured, readily giving liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the Doctor who treated the injured or who assessed the permanent disability. Mere production of a disability certificate or Discharge Certificate will not be proof of the extent of disability stated therein unless the Doctor who treated the claimant or who medically examined and assessed the extent of disability of claimant, is tendered for cross-examination with reference to the certificate.

50. Here in the present matter, the applicant has examined Dr. Naresh Khanna (AW2) for proving the disablement certificate which is issued by him vide Exh.40. However, on scanning of the oral evidence adduced by Dr. Khanna (AW2), it can be seen that on 20.12.2025, he had examined the applicant i.e. after the span of 7 years and have assessed the permanent partial disability to the extent of 56 % on the basis of history narrated by the applicant Mohd. Rizwan. His evidence is very clear on the point of treatment of applicant who had taken treatment at Fauziya Hospital initially from 07.03.2018 to 12.03.2018 and then from 12.03.2018 to 19.03.2018.

51. There is no iota of evidence which leads to show or from where, an inference can be drawn that the said doctor had any occasion to treat the applicant for the injuries which is

alleged to have been sustained due to the said vehicular accident. In absence of any evidence to the effect of the treatment, it would be difficult to believe and consider the assessment to the tune of 56 % permanent partial disability assessed by Dr. Khanna (AW2).

52. Furthermore, mere production of a disability certificate issued by a doctor who is a private practitioner cannot be considered as proof to the extent of disability stated therein unless, the doctor who treated the applicant who medically examined and assessed the extent of disability of the applicant is tendered for cross examination with reference to the certificate. Moreover, the Discharge Summary of Fauziya Hospital which are filed and proved by the applicant vide Exh.27 & 28 disclose only about the history, diagnosis and operative details wherein there is no mention about any disablement or likelihood of any disablement in future because of the injuries sustained by the applicant in the accident.

53. In absence of any evidence in respect of the any likelihood of disablement in future the testimony of Dr. Khanna (AW2) cannot be considered as it lacks credence. Therefore, it can not be considered that the applicant has sustained permanent partial disablement which has been assessed by Dr. Khanna (AW2) to the extent of 56%.

54. The applicant has claimed Rs.1,12,000/- towards medical bill and purchase of medicines, Rs.60,000/- towards special diet and Rs.50,000/- towards conveyance.

55. To substantiate the expenses incurred by the applicant for his medical treatment, he has filed the medical bills of Fauzia Hospital vide Exh.30 & 31 so also the medicine purchase bills worth Rs.21,000/- vide Exh.32. Moreover, as per the pleading of the applicant, at the time of accident he was working as labourer with Maria Internal, Kurla and was earning Rs.30,000/- p.m.

56. It is to mention that if the disablement certificate is not proved in the Motor Accident Claim Petition or similar injury compensation case, it significantly impact the computation of compensation, especially under the head of 'disability'. However, without a valid, proved disablement certificate (usually issued by a competent medical board), the Court can not assume or rely on any claimed percentage of disability. Moreover, the Court can still award compensation, but it must be based on actual, proven damages such as medical expenses, pain and suffering, loss of income during treatment, loss of amenities, conveyance, special diet and future treatment.

57. Furthermore, in absence of proved disablement certificate based on the overall facts and circumstances of the case, the Tribunal can award lump sum compensation.

58. Here in the present matter, the applicant could not demonstrate or prove the exact disability percentage, the injuries, though not certified as permanent, the pain, suffering and the hardship and there is a lack of precise evidence to apply the multiplier method, but the injury is still significant,

therefore, considering the nature of injuries sustained by the applicant, in my opinion, the applicant is entitled for lump sum compensation which is reasonable, fair and just.

59. It is to mention that the applicant has filed the list towards the medicine purchase bill along with the other bills concerning his treatment to the tune of Rs.21,000/-. However, on going through the bills filed vide Exh.32 from page no.23 to 31, it can be seen that it comes to Rs.22,884/-. Therefore the applicant is entitled for the amount of Rs.22,884/- towards medicine purchase and other bills.

60. It is also to mention that as per Exh.30 & 31, the applicant has filed the Discharge Bill. However, on going through Exh.30, it can be seen that the bill amount is for Rs.10,880/- out of which the concession of Rs.3280/- is being given to the applicant therefore, he is entitled for Rs.7,600/-. Furthermore, on going through Exh.31, it can be seen that the bill amount is for Rs.81,740/-out of which the concession of Rs.13,740/- is being given to the applicant therefore, he is entitled for Rs.68,000/-.

61. It is pertinent to note that the occupation and the income of the applicant is duly brought on record by the learned counsel for the insurer vide Exh.38 whereas the said letter which was written to HDFC insurance company on 23.09.2019 was referred to Mohd. Rizwan (AW1) during the cross examination. On perusal of the said letter, it can be seen that there is a mention that he was working with his brother namely

Mohd. Badruddin Khan in the motor part scrap and he was drawing a salary of Rs.10,000/- per month.

62. It is to mention that the injured applicant would have remained out of work during treatment and recovery. In absence of precise medical evidence regarding the period of treatment, a reasonable estimate is made. Considering the nature of injuries, period of incapacity is assessed as 3 months. Therefore, the injured applicant is entitled for loss of income during the treatment i.e. Rs.30,000/-.

63. Thus, the applicant is entitled to get compensation of **Rs.98,484/-** towards medical expenditure, **Rs.30,000/-** towards loss of income, **Rs.15,000/-** for special diet and **Rs.15,000/-** for Conveyance. In addition to this, the applicant is also entitled for **Rs.1,00,000/-** towards pain and suffering, **Rs.25,000/-** towards loss of functional disability, **Rs.25,000/-** towards loss of amenities of life and. Thus, the applicant is entitled for total compensation of **Rs.3,08,484/-** which is just, fair and reasonable.

64. It is already held that the offending motor Truck bearing No.MH-15-BJ-8476 is owned by the opposite party on the date of accident and was insured with the insurer. The applicant has filed the copy of insurance policy vide Exh.33 which discloses that the said Truck was insured with the insurer vide policy No.2317 2019 0955 8400 000 valid from 18.09.2017 to 17.09.2018. The accident took place on 07.03.2018 herein the offending Truck bearing registration No.MH-15-BJ-8476 is

involved. It means at the time of accident, the vehicle was duly insured with the Insurer. Therefore, the insurer is liable to indemnify the Opposite party.

65. The applicant has claimed interest on the compensation amount. It is the general principle that in the petition under Motor Vehicles Act, interest should be granted equal to the rate of interest on fixed deposits of Nationalised banks. Therefore, I think it proper to grant interest @ 7.5% per annum on the amount of compensation from the date of application. However, in view of order passed below Exh.20 dtd.14.01.2026, applicant is entitled for the interest @7.5% p.a. from the date of filing of claim petition till realisation, **excluding for the period from 05.06.2023 to 14.01.2026**. Hence, I answer Issue Nos.3 accordingly and pass the following order.

**:- ORDER :-**

1. The petition is hereby allowed with costs against the opposite party and Insurer as under :-
2. The Opposite party and Insurer are liable to pay jointly and severally an amount of **Rs.3,08,484/- (Rupees Three Lakh Eight Thousand Four Hundred Eighty Four only)** to the applicant along with interest @ 7.5% per annum from the date of application till its full realization, **excluding for the period from 05.06.2023 to 14.01.2026**.

3. Amount of Rs.25,000/-, if any, granted towards no fault liability to the applicant shall be adjusted from the above said amount of compensation.
4. Opposite party and the Insurer are directed to deposit the awarded amount to the credit of the below stated bank account of this Tribunal directly by NEFT/RTGS.

<b>Account Name</b>	MOTOR ACCIDENT CLAIMS TRIBUNAL, MUMBAI	
<b>Account No.</b>	<b>IFSC</b>	<b>MICR</b>
00000040777482356	SBIN0030002	400002273

5. On deposit of the amount, it be paid to the applicant by NEFT/RTGS **directly** in **his** bank account of the Nationalised bank of **his** choice against proper identification and by following the necessary office procedure, subject to payment of deficit Court fees, if any.
6. Award be drawn up accordingly.

Mumbai  
Date: 18.04.2026  
GDE

[M. I. Arland]  
CHAIRMAN  
Motor Accident Claims Tribunal,  
Mumbai