

Presented on : 20.06.2018  
Decided on : 17.03.2026  
Duration : 7-Yrs., 8-Ms, 24-Ds.

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

(Presided Over by Smt. R. R. Patwari, Member.)

**APPLICATION NO.1426 OF 2018**

**EXH.62**

[1. Budhaji Sakharam Lahamate (F/o)  
Age 62 years, Occupation : Farmer....Deleted]

2. Manda Budhaji Lahamate (M/o)  
Age 52 years, Occupation : Housewife

3. Sarika Budhaji Lahamate (S/o)  
Age 27 years, Occupation : Doctor

4. Abhinay Budhaji Lahamate, (B/o)  
Age : 23 years, occupation :Doctor

R/o B-34, Sumeru Co-operative Housing  
Society, SVP Nagar, Near Versova  
Telephone Exchange, MHADA,  
Andheri (West), Mumbai 400 053.

...Claimants.

**VERSUS**

1. Shikha Ankur Zhaveri,  
Age 36, Occupation: Teacher,  
R/o. Flat No.82, Shitij Building,  
8<sup>th</sup> Floor, Nepeansea Road,  
Mumbai 400 006.  
(Driver of the Vehicle)

2. Ankur Shalesh Zhaveri,  
Age : Adult, R/o. Flat No.82, Shitij Building,  
8<sup>th</sup> Floor, Nepeansea Road,  
Mumbai 400 006.  
(Owner of the Vehicle)

.....Opp.Party

**AND**

Bajaj Allianz General Insurance Co. Ltd.,

Reg.Office : GE Plaza,  
Airport Road, Yerwada, Pune 411 006  
Policy No. OG-18-9906-1801-00111951  
Valid from 27.01.2018 to 27.01.2019

...Insurer

**Appearance:**

Advocate V.J. Parihar - for the Claimant.

Advocate D. B. Pawar - for the Opposite Party Nos. 1 and 2.

Advocate H.C. Thanawala - for the Insurer.

**CLAIM** – Under Section 166 of the Motor Vehicles Act.

**JUDGMENT**

**(Delivered on 17<sup>th</sup> March, 2026.)**

By this application under Section 166 of the Motor Vehicles Act, 1988 (for short, “the M. V. Act”), the claimants/legal heirs of deceased Miss. Dipali Budhaji Lahamate are seeking compensation on account of death of Dipali caused in a motor vehicular accident dated 24.03.2018. Claimant No.1 (*since deceased*) was father, claimant No. 2 is mother, claimant No. 3 is sister and claimant No. 4 is brother of the deceased. Father of the deceased passed away, pending the litigation. Therefore, his name came to be deleted from the array of applicants/claimants by order dated 28.06.2023.

**Briefly stated facts are:**

2. On 24.03.2018, deceased Dipali was going to attend convocation ceremony of her brother. At that time, one vehicle bearing No. MH-02-BP-4982 came in high speed, in rash and negligent manner and struck the deceased causing her fatal injuries which resulted in her death.

3. The accident was occurred at Zebra crossing of Traffic Signal at N.S. Road, next to Parsi Gate, Kevaldham, Marine Drive, Mumbai, due to rash and negligent driving of driver of the vehicle bearing No. MH-02-BP-4982. Therefore, Crime No.67/2018 dated 24.03.2018 came to be registered in the Marine Drive Police Station, Mumbai against driver of the vehicle bearing No.MH-02-BP-4982 (hereinafter referred to as “the offending vehicle”) i.e. opposite party No. 1, for causing motor accident due to rash and negligent driving.

4. After the accident, the deceased was initially taken to the Bhatia Hospital, Mumbai. Thereafter, on 27.03.2018, she was shifted to the J. J. Hospital, considering severity of the injuries, however, she succumbed to her injuries on 30.03.2018 during treatment.

5. According to the claimants, at the relevant time of the accident, the deceased was 25 years old. She had completed B.D.S. and was undergoing internship session for the period from 01.09.2017 to 31.08.2018 at Nair Hospital Dental College with monthly stipend of Rs. 6,000/-. She was brilliant student and had bright future. She would have earned more than Eighty Crores during the residue of her lifetime, if the accident had not occurred. Due to her untimely death, the claimants have suffered emotionally and financially. Therefore, they need to be compensated with just compensation.

6. Opposite party No. 1 was driving the offending vehicle at the time of the accident and opposite party No. 2 was registered owner thereof. The offending vehicle was duly insured

with the insurer, at the relevant time of the accident. Therefore, the owner and the insurer, both are liable to pay compensation to the claimants under joint and several liability.

7. Opposite party No.1 has entered appearance through advocate, however, failed to file written statement.

8. Opposite party No.2 has filed written statement vide Exh.13. He has not disputed ownership over the offending vehicle or the fact that the offending vehicle was involved in the accident in question. He has, however, denied the allegations that the accident in question occurred due to rash and negligent driving of the driver of the offending vehicle. He has contended that the accident occurred due to negligence of the deceased herself as she was crossing the road carelessly while speaking on mobile phone. The driver of offending vehicle had blown horn and made all possible efforts to avoid the accident, however, since the deceased had come on the road abruptly, the accident occurred. Therefore, the owner is not liable to pay any compensation. It is further contended that the offending vehicle was duly insured with the insurer at the relevant time. Therefore, the insurer is liable to indemnify the insured owner, in case he is held liable.

9. He has denied age, income and occupation of the deceased as also dependency of the claimants on the income of the deceased. According to him, the claim is exorbitant and liable to be dismissed.

10. The insurer, the Bajaj Alliance General Insurance

Co. Ltd. has filed written statement vide Exh.12 and resisted the claim contending that the accident did not occur due to negligence of driver of the offending vehicle but due to negligence of the deceased herself as she was crossing the road carelessly while speaking on mobile phone, without due care and caution of the traffic. Therefore, the deceased shall be held responsible for the accident. It is further contended that the insurer is not liable to pay compensation as there was breach of policy terms and conditions as the driver was driving the insured vehicle without holding valid and effective driving license at the time of the accident and the vehicle was plied for hire or reward. Therefore, the claim is liable to be dismissed against the insurer.

11. I have heard learned Advocate V. J. Parihar appearing for the claimants, learned Advocate D. B. Pawar for opposite party Nos. 1 and 2 and learned Advocate H. C. Thanawala appearing for the insurer. I have also gone through the written notes of arguments filed by the claimants vide Exh. 60 and 61 and the insurer vide Exh.58 and 59.

12. Learned advocate appearing for the claimants has submitted that the accident took place due to rash and negligent driving of driver of the offending vehicle in which the deceased sustained grievous injuries and succumbed to the injuries. The deceased was crossing road at signal, through zebra-crossing, when the signal was red. Even though, it is assumed that the deceased was speaking on phone while crossing the road, she cannot be held responsible for the accident as the signal was red and she was crossing the road through the zebra-crossing. The

driver of the offending vehicle was duty bound to stop the vehicle at signal until the signal turns green. However, she did not stop and hit the deceased who was walking through the zebra-crossing. This indicates recklessness of driver of the offending vehicle. In the case of *Ashvinbhai Jayantilal Modi vs. Ramkaran Ramchandra Sharma and another, 2014 ACJ 2648*, the Hon'ble Supreme Court has held that driver of heavy motor vehicle should take sufficient caution and should have sufficient control over the vehicle. The facts indicate that driver was driving the offending vehicle at a high speed, in rash and negligent manner and had no control over the vehicle. There is nothing to show negligence on the part of the deceased and the accident occurred only due to rash driving of the accused driver.

13. Learned Advocate for the claimant has further submitted that the deceased had done B.D.S. She had bright future. She was an intern and was getting monthly stipend of Rs. 6000/-. However, considering her profession, she would have earned not less than Rs. 50,000/- per month. In the case of *Bishnupriya Panda vs. Basanti Manjari Mohanty and another, 2023 ACJ 2393*, the Hon'ble Supreme Court has observed that the MACT was justified in considering the notional income of the deceased at Rs. 50,000/- per month, and adding 40 percent of the same towards future prospects, having taken note that the deceased was a student of 4<sup>th</sup> year MBBS and was aged about 21 years at the time of accident occurred on 27.07.2013. Income of the deceased, in this case, has to be reckoned applying the same criteria, as she also belonged to the medical profession. The claim application deserves to be allowed accordingly.

14. On the other hand, learned advocate appearing for the opposite party has contended that there was no fault at all on the part of driver of the offending vehicle as she was driving the vehicle with due care and caution. Her vehicle was under control. The accident occurred due to negligence of the deceased as she was speaking on mobile phone while crossing the road. If she was alert and cautious towards the traffic, she could have avoided the accident. He further contended that none of the claimants have witnessed the accident. Therefore, they cannot prove negligence on the part of driver of the offending vehicle. No liability can be imposed against the vehicle of the opposite party unless negligence on the part of its driver is proved. Therefore, the claim is liable to be dismissed.

15. Learned Advocate appearing for the insurer has submitted that in the claims filed under Section 166 of the M.V. Act, it is obligatory on the part of the claimant(s) to prove negligence on the part of the driver of the insured vehicle. In the case of Surender Kumar Arora & Anr. vs. Dr. Manoj Bisla and Ors., 2012 STPL(Web) 202 SC, the Hon'ble Supreme Court has observed that once the claimants approach the Tribunal under Section 166 of the M. V. Act, they have necessarily to take upon themselves the burden of establishing the negligence of the driver or owner of the vehicle concerned. Admittedly, the claimants have not witnessed the accident. There is no eye-witness examined by the claimants to prove negligence of the accused driver. The spot sketch clearly indicates that the deceased was walking on the road without using designated pedestrian crossing, and she was engaged on a phone call. She was not

attentive and cautious about the traffic on the road. The accident occurred due to negligence of the deceased herself and there was not fault on the part of the driver of the insured vehicle. In the facts and circumstances of the case, the deceased is liable for contributory negligence.

16. He further submitted that the claimants have not duly proved income of the deceased. According to the claimants, monthly income of the deceased was Rs. 6000/-, at the time of the accident and the same has to be taken into consideration. AW1 has categorically admitted in cross-examination that all the claimants are having sufficient independent source of income. There was no dependency at all on the income of the deceased. Therefore, none of the claimants can be treated as dependent on the deceased merely to grant them compensation under this head. There is nothing to show the claimants have incurred other expenses also. Therefore, the entire claim is liable to be dismissed. Further, in case of future prospects, no amount of interest can be granted on such amount which is being paid in advance. He placed reliance on the judgment of the Hon'ble Bombay High Court in the case of *Smt. Kalpana Madhu Gavali and others vs. Maharashtra State Road Transport Corporation, Swargate, Pune, MANU/MH/3837/2023*.

17. I have considered the submissions and perused the record. Considering the rival contentions of the parties, issues came to be framed vide Exh. 14 on 08.11.2019. I have recorded my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Whether the petitioners prove that deceased on 24.3.2018 at 3.00 p.m., on Marine Drive Mumbai, died in road traffic accident due to rash and negligent driving of offending car no.MH-02-BP-4982?	Yes.
2.	What was the age and income of the deceased on the day of incident ?	Age : 25 yrs. Notional Income : Rs.40,000/- p.m.
3.	Whether the insurance company proves breach of the terms of the policy regarding the used of this car, driving license ?	No.
4.	Whether the petitioners are entitled for the compensation as sought ? If yes, from whom ?	Yes, as per final order.
5.	What order ?	As per final order.

### REASONS

**Issue Nos.1 to 4:** [All these issues are interlinked, hence taken together for discussion to avoid repetition.]

18. In order to substantiate the claim, the claimants have examined claimant No.4 Abhinay Budhaji Lahamate, brother of the deceased, as AW1 vide Exh.22 and Dr. Pradyumna Sunil Khairnar, as AW2 vide Exh.49. The claimants have placed reliance on the following documents:

Certified copy of FIR alongwith statement	Exh.24
Panchnama	Exh.25
Inquest Panchanama	Exh.26

Spot Panchanama	Exh.27
P.M.Report	Exh.28
Accident Report Form	Exh.29
Copy of Insurance Certificate	Exh.30
Driving Licence	Exh.31
Registration Certificate	Exh.32
Medical bills	Exh.33 colly
Death Certificate	Exh.34
Statement of marked and board Certificate of SSC to HSC and Statement of marks of BDS	Exh.35
Certified copy of passing Certificate of BDS final	Exh.36
School Leaving Certificate	Exh.37
Copies of ID Card and Aadhar Card	Exh.38 colly
Original Death Certificate	Exh.39
Circular of MPSC	Exh.40
Ration Card	Exh.41
Aadhar Card and PAN Card of the applicants	Exh.42 colly
Bank Statement of the deceased	Exh.43
Original Medical Bills and deposit receipts alongwith list	Exh.44 colly.

19. In his evidence affidavit, AW1 has reiterated the contents of the claim-application. He has specifically stated that the accident occurred at zebra-crossing of traffic signal at N.S. Road, Marine Drive, Mumbai due to rash and negligent driving of driver of the offending vehicle as he drove the vehicle in high speed at traffic signal, without observing the signal was red. The deceased sustained severe injuries in the accident and succumbed to her injuries during treatment. There was no negligence on the

part of the deceased as she was crossing road at zebra-crossing of traffic signal with due care and caution. AW1 was put to cross-examination at length by opposite parties and the insurer, however, nothing contrary to the version of the claimants regarding occurrence of the accident or death of deceased in the accident could be brought on record.

20. The accident was reported to the Marine Drive Police Station, Mumbai by one eyewitness on the same day based upon which Crime No. 67/2018 dated 24.03.2018 came to be registered in the said police station against driver of the offending vehicle for causing accident due to rash and negligent driving. There was prompt FIR. The informant has specifically stated in the FIR that at the time of the accident, the traffic signal of N.S. Road, Kaivalyadham was red and one 23 years old woman (the deceased) was crossing road through zebra-crossing, speaking on mobile phone, at that time, one white car of Honda City company (the offending vehicle) came in high speed, broke the signal and struck the said woman who was crossing the road. The woman fell down to the road bleeding from head. The informant asked people to help the victim to the hospital and followed the offending vehicle by his motorcycle. The offending vehicle was stopped at traffic signal of Mafatlal Bath. The informant informed the traffic police about the accident committed by the offending vehicle. Thereafter, the Police from the Marine Drive Police Station arrived there and took the accused driver and the offending vehicle to the Marine Drive Police Station.

21. The FIR clearly indicates that the accident had

occurred due to rash and negligent driving of the accused driver. The victim was crossing the road through zebra-crossing area when the signal was red. There was no fault on her part. The FIR was lodged by an independent eyewitness. He had no reason to falsely implicate the accused driver. The spot panchanama (Exh. 27) and the inquest panchanama (Exh. 26) also support the version of the claimants. The vehicle panchanama (Exh. 25) of the offending vehicle shows that the offending vehicle was got damaged in the said accident. The post-mortem report (Exh.28) discloses history of the accident dated 24.03.2018 and that the deceased was admitted in the Bhatia Hospital on 24.03.2018 and she was shifted to the J.J. Hospital on 27.03.2018 for better treatment and while under treatment, she was declared dead by the on-duty doctor, on 30.03.2018. The cause of death as per the post-mortem report was “*Death due to head injury with multiple injuries over body. (unnatural)*”. The police papers, thus, show that the accident occurred due to rash and negligent driving of driver of the offending vehicle which resulted in death of the victim of the accident.

22. Opposite party No. 1, the accused driver has not filed written statement objecting the claim on any ground. She has not disputed involvement of the offending vehicle in the accident or the material allegation that the offending vehicle was driven in rash and negligent manner and caused the accident that resulted in casualty.

23. Opposite party No. 2 and the insurer have contended that the accident did not occur due to negligence of driver of the offending vehicle but due to negligence of the deceased herself as

she was speaking on mobile phone while crossing the road and that if she had been careful towards the flow of traffic, she could have avoided the accident. It is pertinent to note here that as per the FIR, the deceased was crossing the road through zebra-crossing while the traffic signal was red. The accused driver was duty bound to stop the vehicle at the traffic signal until the signal turns green. This clearly shows that there was no negligence on the part of the deceased.

24. Negligence means failure to exercise required degree of care which is expected of a prudent driver. When a motor vehicle is being driven with reasonable care, it would ordinarily not meet with accident. The very fact that the driver of the offending vehicle drove the vehicle in excessive speed, broke the signal and struck the pedestrian causing her fatal injuries which resulted in her death, indicates negligence on the part of the driver of the offending vehicle. There is nothing to show negligence on the part of the deceased. Hence, Crime No.67/2018 came to be registered against the driver of the offending vehicle. There is nothing on record to believe that the driver has been falsely implicated in this case.

25. In view of above, the claimants have been able to prove on the basis of pre-ponderance of probabilities that Miss. Dipali Budhaji Lahamate has died in the road accident dated 24.03.2018, due to rash and negligent driving of driver of the offending vehicle bearing No. MH-02-BP-4982.

26. Now, coming to the inter-se liability of the opposite parties and the insurer to pay the compensation, it is not disputed

that at the relevant time of the accident, the offending vehicle was owned by opposite party No. 2, driven by opposite party No. 1 and it was insured with the insurer and that the insurance policy was effectively in force. In vehicular accident cases, the owner is made liable for the negligence of driver on the basis of vicarious liability. In so far as liability of the insurer is concerned, the insurer has failed to prove breach of policy terms and conditions at the hands of the insured owner. Therefore, the opposite parties and the insurer would be liable, jointly and severally, to pay compensation to the claimants.

27. To ascertain quantum of compensation, the relevant factors to be considered would be the age of the deceased, her income immediately prior to the accident, the number of dependents, the multiplier etc. The claimants have produced academic records of the deceased. Her school leaving certificate (Exh.37) shows her date of birth was 05.11.1992. Accordingly, at the time of the accident, the deceased was around 25 years old.

28. In so far as occupation and income of the deceased is concerned, according to the claimants, the deceased was BDS and was undergoing internship in the Nair Hospital and she was getting monthly stipend of Rs. 6,000/-, per month. They have produced Passing Certificate of Final B.D.S. dated 11.08.2017 issued in the name of the deceased by the Maharashtra University of Health Sciences, Nashik (Exh.36). In cross-examination of AW1, the opposite parties and the insurer have not disputed the fact that the deceased had completed B.D.S. and that she was undergoing internship session in the Nair Dental College and Hospital, Mumbai at the relevant time of the accident. Since, the

deceased was still pursuing her studies, there was no income as such, except the monthly stipend, of the deceased. In order to bring on record, what could have been the actual income of the deceased as a Dentist, if the accident had not occurred, the claimants have examined AW2 Dr. Pradyumna Sunil Khairnar, a practicing Dental Surgeon, at Baner, Pune. AW2 has stated that he has completed B.D.S. at Nair Dental College and Hospital, Mumbai in the year 2016. The deceased was a junior student in his college. His total income in the A. Y. 2025-2026 was Rs. 7,73,950/-. He produced his academic records (Exhs. 51 to 53) and Income Tax Returns (ITRs) for the A.Y. 2025-2026, A.Y. 2024-2025 and A.Y. 2023-2024 (Exh. 54, colly) in proof of his education and income. The ITRs shows income of AW2 in the A.Y. 2023-2024 was Rs. 483150/-, in the A.Y. 2024-2025 was Rs. 8,00,010/- and in the A.Y. 2025-2026 it was Rs. 7,73,950/-. This shows there was gradual increase in the income of AW2. AW2 was put to cross-examination by the opposite parties and the insurer. However, nothing contrary to his version has been brought on record.

29. In the case of *Ashvinbhai Jayantilal Modi vs. Ramkaran Ramchandra Sharma and another 2014 ACJ 2648*, relied upon by the claimants, *the Hon'ble Supreme Court* has held in paragraph No. 9 as follows,

*9. We have heard the learned counsel for the parties. In our considered view, the deceased was 19 years old and was pursuing his Medical Degree with good marks at the time of the accident. With respect to the future income of students pursuing professional courses we refer to Arvind Kumar Mishra V. New India Assurance Co.Ltd., 2010 ACJ 2867 (SC), wherein this court held as under :*

*“(11) On completion of Bachelor of Engineering (Mechanical ) from a prestigious institute like B.I.T., it can be reasonably assumed that he would have got a good job. The appellant has stated in his evidence that in the campus interview he was selected by Tata as well as Reliance Industries and was offered pay package of Rs.3,50,000 per annum. Even if that is not accepted for want of any evidence in support thereof, there would not have been any difficulty for him in getting some decent job in the private sector. Had he decided to join government service and got selected, he would have been put in the pay scale for Assistant Engineer and would have earned at least Rs.60,000 per annum. Wherever he joined, he had a fair chance of some promotion and remote chance of some high position. But uncertainties of life cannot be ignored taking relevant factors into consideration. In our opinion, it is fair and reasonable to assess his future earning at Rs.60,000 per annum taking the salary and allowances payable to an Assistant Engineer in public employment as the basis ....”*

*The Tribunal and the High Court have not taken into proper consideration that the deceased was a student of medicine at the time of the accident while determining his future income. The courts below have wrongly ascertained the future income of the deceased at only Rs.18,000 per month, which in our view is too less for medical graduate these days. Therefore, the courts below have failed in following the principles laid down by this Court in this aspect in the above case. The deceased was a diligent and outstanding student of medicine who could have pursued his MD after his graduation and reached greater heights. Today, medical practice is one of the most sought after the rewarding profession. With the tremendous increase in demand for medical professionals, their salaries are also on the rise. Therefore, we have no doubt in ascertaining the future income of the deceased at Rs.25,000/- p.m., i.e. Rs.3,00,000/- p.a.”*

30. In the case of ***Bishnupriya Panda vs. Basanti Manjari Mohanty and another***, 2023 ACJ 2393, relied upon by the claimants, ***the Hon'ble Supreme Court*** has observed in paragraph Nos. 5 and 6 as follows,

*“5. The MACT, having taken note that the deceased was a student of 4<sup>th</sup> year of MBBS and was aged about 21 years at the time of accident which had occurred on*

*27.7.2013, had taken the notional income of the deceased at Rs.50,000 per month and added 40 per cent of the same towards future prospects, which adds up to the sum of Rs.70,000. 50 percent of Rs.70,000, i.e. , Rs.35,000 is deducted towards self-expenses and has thereafter awarded the compensation.*

*6. In so far as the notional income reckoned and the parameters adopted to reach the same, we are of the opinion that the MACT was justified. ....”*

31. In this case, the deceased was an intern at the relevant time of the accident and was getting monthly stipend of Rs. 6000/-. She would have started practicing her profession and earning after completion of the Internship Session, if the accident had not occurred. Her notional income will have to be assessed having regard to her profession, in the light of above decisions. Since AW2 belonged to the same Medical Department of the deceased and that he has been practicing as a Dental Surgeon since many years, his evidence may be helpful in ascertaining the notional income of the deceased. The Academic records (Exh.35) of the deceased include her marks-memos which show that she had passed her 10<sup>th</sup> and 12<sup>th</sup> and graduation in B.D.S. with good marks. She was a brilliant student. AW2 has stated that after completion of B.D.S., there are various Government and private sectors for the students to join. The deceased was aiming to practice as a Dentist. Therefore, considering the aforesaid credentials of the deceased and testimony of AW2, it would be appropriate to consider notional income of the deceased as Rs. 40,000/- per month i.e. Rs.4,80,000/- per annum. As the deceased was 25 years old, and has to be considered as self-employed, 40% of her income has to be awarded towards future prospects,

in view of the law laid down by the Honorable Apex Court in the case of *National Insurance Co. Ltd. v. Pranay Sethi [(2017) 16 SCC 680]*.

32. Accordingly, the income of deceased would be  $(480000+192000) = \text{Rs.}672000/-$ . The deceased was bachelor. According to the claimants, all of them were dependent on the income of the deceased. Father of the deceased, claimant No. 1 has passed away, pending the litigation. AW1 (claimant No. 4) has stated in cross-examination that he has been serving as Medical Officer in the Rural Hospital, Rajur, Tal. Akola, Dist.-Ahilyanagar and his monthly salary is Rs. 1,17,000/-. He further stated that claimant No. 3 Sarika is BMS and has been serving as Community Health Officer, Sub-center, Kuruli, Pune. In view of occupation and income of claimant Nos. 3 and 4, they cannot be considered as dependents on the income of the deceased, although they are entitled for compensation on account of death of their sibling. Meaning thereby, only claimant No. 2 who is mother of the deceased has to be considered as dependent on the income of the deceased. Accordingly, half of the income of the deceased has to be deducted towards her personal and living expenses. Thus, the contribution of the deceased towards her dependent would have been  $(672000-336000) = \text{Rs.} 3,36,000/-$ .

33. The deceased falls in the slab of age group "21 to 25" for which the multiplier applicable is "18". By applying the multiplier of 16, the total loss of dependency will be  $(336000 \times 18) = \text{Rs.}60,48,000/-$ .

34. In view of the decision of the Honorable Supreme

Court in *National Ins. Co. Ltd Vs. Pranay Sethi, 2017 ACJ 2700 (SC)* claimant No. 2 being mother of the deceased is entitled to Rs.40,000/- towards parental consortium, in addition to loss of estate of Rs.15,000/- and funeral expenses of Rs.15,000/-. Thus, under these heads, the claimants would be entitled to [(40000+30000) =Rs.70,000/-. In the case of *Pranay Sethi (supra)* decided on 31.10.2017, it has been specifically directed that after every three years there would be 10% rise in these conventional heads of consortium, funeral expenses and loss to estate. Accordingly, there should be 20% increase in the sum Rs.70,000/- granted under conventional heads, since more than six years have been lapsed after the decision in *Pranay Sethi (supra)*. Accordingly, the amount payable under the conventional heads will be **Rs.84,700/-**.

35. It is contended by the claimants that after the accident, the deceased was hospitalized in Bhatia Hospital, Mumbai and in J. J. Hospital, Mumbai from 24.03.2018 to 30.03.2018. She succumbed to her injuries on 30.03.2018, during treatment. The claimants had to bear total medical expenditure of Rs.2,05,041/- for treatment of the deceased which includes hospitalization charges as well as medicine charges purchased from the chemists. The claimants have produced original hospital and pharmacy bills of total **Rs.2,05,041** vide **Exh.44**. The opposite parties or the insurer have not much disputed genuineness of those bills or it is not their case that those are false and fabricated. Therefore, the claimants would be entitled to recover medical expenses of **Rs. 2,05,041/-**.

36. The breakup of compensation that has been awarded in favor of the claimants is tabulated as below:

Sr. No.	Head	Amount
1.	Loss of dependency	Rs. 60,48,000/-
2.	Loss of love and affection, future expenses, loss of estate, etc.	Rs.84,700/-
3.	Medical expenses	Rs. 2,05,041
	<b>Total</b>	<b>Rs. 63,37,741/-</b>

37. Thus, under all heads the claimants are entitled to **Rs. 63,37,741/- (in words Rupees Sixty-Three Lakh Thirty-Seven Thousand Seven Hundred Forty-One only)** towards compensation.

38. Considering the prevailing rate of interest given by all the nationalized banks, it will be just and proper to award the interest @ 7% per annum on the award sum.

39. In view of above, the compensation payable would be **Rs. 63,37,741/- (Rupees Sixty-Three Lakh Thirty-Seven Thousand Seven Hundred Forty-One only)** along with interest @ 7% per annum from the date of filing of the petition till realization of the entire amount. Evidence of AW1, claimant No.4 shows that he and claimant No. 3 Sarika are in medical profession, having sound income. Therefore, it would be appropriate to grant major part of the compensation amount to claimant No. 2, mother of the deceased and remaining be distributed among claimant Nos. 3 and 4, in equal proportion. In view of this, the claim-application deserves to be allowed.

Accordingly, I have answered issue Nos.1 to 4.

40. Despite specific directions given, the claimants have not produced particulars of their bank accounts along with requisite documents. Therefore, it is necessary to give directions to the claimants to provide particulars of their bank accounts and to give directions to the opposite parties and the Insurer to deposit the amount of compensation along with accrued interest in the account of this Tribunal directly by NEFT/RTGS mode, till the claimants provide their bank details. In the result, I proceed to pass the following order,

#### ORDER

- 1) The claim application is allowed with proportionate costs.
- 2) Opposite Party Nos. 1 and 2 and the Insurer to pay, jointly or severally, to the claimants, the compensation amount of **Rs. 63,37,741/- (Rupees Sixty-Three Lakh Thirty-Seven Thousand Seven Hundred Forty-One only)** which includes the amount of compensation granted under Section 140 of Motor Vehicles Act, if any, along with interest @ 7% per annum from the date of registration of the claim-application till realization of the entire amount, within 30 days.
- 3) The compensation amount be apportioned as follows:  
Claimant No. 2 (mother of the deceased) be given **Rs.60,37,741/-**, along with accrued interest, and claimant No.3 (sister of the deceased) and claimant No.4 (brother of the deceased) be given **Rs.1,50,000/-**, each, along with

accrued interest.

- 4) The amount of compensation be transferred directly in the bank account of the claimants, as above, within a period of six weeks from today.
- 5) The Claimants to provide particulars of their separate bank accounts along with the requisite documents in support thereof, within a period of two weeks from today.
- 6) In case the claimants fail to furnish particulars of their bank accounts and requisite documents within the stipulated period, the opposite parties and/or the insurer, as the case may be, are at liberty to deposit the compensation amount in the bank account of this Tribunal by NEFT/RTGS, in compliance of this order.
- 7) The Accounts Officer, MACT, Mumbai shall transfer the compensation amount in the bank accounts of claimant Nos.2 to 4, in the proportion directed above, by NEFT/RTGS, on due verification and as per rules, after furnishing necessary details by the claimants as follows:
  - a) Full name and address,
  - b) Name of Bank and Branch,
  - c) Bank Account Number,
  - d) Bank IFSC code,
  - e) Copy of first page of bank passbook containing photograph of account holder duly attested by the concerned bank, and
  - f) Self attested copies of Aadhar card and PAN card.
- 8) Pending interim applications, if any, in this proceeding stand disposed of.

- 9) The claimants shall deposit deficit court fees, if any, within 8 days, from this order.
- 10) Award be drawn accordingly.

Date:17.03.2026.

Sd/-  
(Smt. R. R. Patwari),  
Member, C.R.No.5,  
M.A.C.T., Mumbai.