



Presented on : 04-05-2021
Registered on : 17-06-2021
Decided on : 05-05-2026
Duration : 05 Y-00 M-01 D.

**BEFORE MEMBER, MOTOR ACCIDENT CLAIM TRIBUNAL,
NAGPUR**

(BEFORE AEJAZ H SAYYED)

Exhibit No. : 59

M. A. C. P NO. : 397/2021

CNR NO. : MHNG010046382021

- 01) Mrs. Nikita W/o. Anil Kalbande
(D/o. Baburao Bhure),
Age about 35 years,
Occupation – Medical Practitioner,
R/o. Flat No. 1201, Kingston,
B-Wing, High Street, Hiranandani
Gardent, Powai-Mumbai.
- 02) Mrs. Priyanka W/o. Krunal Moundekar,
(D/o. Baburao Bhure),
Aged about 32 Years, Occ.-Teacher,
R/o. Ganjakheth Chowk, Old Bhandara
road, Deoghar Mohalla, Nagpur-440002. : **.. Petitioners**

/// Versus ///

- 01) Rita Industries, through its CEO
Shri Vishal S/o. Dhiraj Shah,
Office at – S. No. 439/1A, 440/4A, near
Dabhel Check Post, Dabhel Village, Nani
Daman, Daman and Diu 1, UT, DD and :
DN-396210.
- 02) The New India Assurance Company
Limited, through its Regional Manager,
Office at – MECL Building, (Dr.

Babasaheb Ambedkar Bhawan), 4th Floor,
High Land Drive, Seminary Hill,
Nagpur-440001.

Branch At- Valsad DO (230900), 1st
Floor, Adina Chambers, Station Road,
Valsad-396001 (Gujrat) :

- 03) The Manager, United India Insurance
Company Limited, Rani Zhansi Square,
Wardha Road, Nagpur-12,
Office At – T.P. Hub, Old Secretariat
Building, Opp. VCA Stadium, Civil Lines,
Nagpur. : .. Respondents

Under Section 166 of the Motor Vehicles Act Rs.1,00,000/-.

APPEARANCE :

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Mr. D. G. Paunikar : Advocate for Petitioners.
Exparte : Respondent No. 1
Mrs. Meetali Lokhande : Advocate for Respondent No.2
Mr. D. M. Paranjape : Advocate for Respondent No.3
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JUDGMENT

(Delivered on this 05th day of May -2026)

Three persons a son, father and mother have been killed in a tragic Motor Vehicle Accident. This petition under Section 166 of the Motor Vehicle Act for compensation in respect of death of Shubham S/o. Baburao Bhure has been filed by his two sisters.

02. It is the case of the petitioners that on 07/01/2021 at about 3:30 hours, their brother Shubham was proceeding by Hyundai i10 Car bearing registration No. MH-31-DK-4426 along with their parents. When they reached near Amarjit Dhaba, Dhamna at that time

one Truck bearing registration No. DD-03-M-9184, was illegally parked in the middle of the road without any indicator. Shubham could not notice the truck and rammed into it, which resulted in an accident. All the occupants of the car suffered multiple injuries and later on succumbed to those injuries.

03. It is the case of the petitioners that information of accident was given to Hingna Police Station. Accordingly, a case was registered against the deceased driver of Car and driver of the aforesaid Truck *vide* Crime No.0010/2021 under Sections 279, 304(A), 283 of the Indian Penal Code and Sections 184, 122 and 134/177 of the Motor Vehicle Act. (Hereinafter referred to as 'Offending Truck' and 'Offending Car').

04. Deceased Shubham was unmarried. Petitioner No. 1 and 2 are his real sisters.

05. Respondent No.1 is the owner and No. 2 is the insurer of the offending truck. Claimants have filed this petition against the owner and insurer of the offending truck and against insurer of the car invoking the provisions of Section 155 of the Motor Vehicle Act, regarding survival of cause of action against the insurer after the death of Shubham (Owner of the Car).

06. According to petitioners, deceased was doing a private job and getting salary of Rs. 33,559/- per month and helping them with his income. They have lost love and affection of brother which cannot be compensated in terms of money. Due to untimely death of their

only brother they have sustained pecuniary and non-pecuniary damages, which cannot be compensated by any means. Respondent Nos.1 & 2 are, jointly and severally, liable to pay the compensation. They, thus, prayed for grant of maximum compensation.

07. In spite of receipt of notice (Exh.11), Respondent No. 1 (owner) did not appear, hence, matter proceeded ex parte against Rita Industry.

08. Respondent No. 2 The New India Assurance Company Limited (Insurer of the Truck), contested the petition by filing written statement at Exh.15. According to insurance company, accident occurred due to negligence of Shubham and this petition under Section 166 of M. V. Act is not maintainable against the owner and insurer of the truck. Petitioners were not dependent on the income of deceased and on that count also petition is liable to be dismissed *in limine*. There is breach of condition of policy and insurance company is liable to be exonerated. Insurance company alternatively denied age, occupation, and income of deceased and ultimately, prayed for dismissal of the petition.

09. Respondent No.3 United India Insurance Company Limited (Insurer of the Car), contested the petition by filing written statement at Exh.10. According to Insurance Company, deceased himself was solely responsible for the alleged accident. Petitioners have suppressed material facts. Petition is not maintainable against Respondent No. 3 and same is liable to be dismissed.

10. On material proposition of facts and law, affirmed by one party and, denied by another, following issues are framed, and I have given my findings for the reasons that follows:

	ISSUES	FINDINGS
1	Whether petitioners prove that death of Shri Shubham S/o. Baburao Bhure was caused as a result of injury sustained by him an accident that had taken place on 07/01/2021 at about 3:30 hours at opposite Amarjit Dhaba, Amaravati Road, Dhamna Nagpur, within the jurisdiction of Police Station Hingna, District Nagpur?	In affirmative.
2	Whether the petitioners prove that said accident occurred due to fault and negligence of the driver of stationary truck bearing registration No. DD-03-M-9184?	Partly in affirmative. Accident is the result of contributory negligence of deceased Shubham and driver of the truck.
3	Whether Respondent nos.2 & 3 proves that Respondent no.1 has committed breach of terms and conditions of policy?	.. In Negative.
4	Whether petitioner is entitled for compensation? If yes, to what extent and from whom?	.. As per final order.
5.	What order and award?	.. As per final order

11. Petitioner No. 1 Mrs. Priyanka W/o. Krunal Moundekar (CW-1) has deposed at Ex.18. She has also examined Office Superintendent in Ward No. 5 (3), Nagpur, Mr. Bhola Yadaorao Khapekar (CW-2) at Exh. 41 for proving income tax returns and relied upon the following documents.

S N	Particulars	Exh. No.
1.	Certified copy of FIR	23
2.	Copy of form AA	24
3.	Copy of Spot panchanama	25
4.	Copy of Inquest panchanama	26
5.	Postmortem Report.	27
6.	R. C. Particulars of Car No. MH-31-DK-4426 and its insurance policy	28 & 29
7.	Original copy of death certificate	30
8.	Aadhar card of Shubham	31
9.	Driving license of Shubham	32
10.	Pan Card of Shubham	33
11.	Aadhar card of claimants Nikita and Priyanka	34/1 and 34/2
12.	Certificate under Section 65(B)	43
13.	Income tax returns	44/1 to 44/3

12. Respondent No.2 – (The New India Assurance Company Limited) has filed extract of driving license of Shiv Karan Yadav at Exh. 50.

13. I have heard learned advocate Mr. D. G. Paunikar, for the petitioners. According to him, accident occurred due to negligence of driver of stationary truck. He parked his truck without any sign or indicator. Police, after detail investigation, has registered an offence against Truck driver. Deceased was doing a private job and earning Rs. 33,559/- per month and supporting the family. Petitioners have lost love and affection of a brother, which cannot be compensated in terms of money. Respondent Nos.1 & 2 are, jointly and severally, liable to pay the compensation. He, thus, prayed for grant of maximum compensation under the pecuniary and non pecuniary heads.

14. I have heard Learned advocate Mrs. Mitali Lokhande for Respondent No.2 (Insurer of the truck). According to her, both petitioners are married sisters, who are residing with their respective husbands and they were not dependent on the income of the deceased and on this sole count petition is liable to be dismissed. She alternatively submitted that accident occurred due to negligence of Car driver as he rammed into a stationary vehicle and this petition under Section 166 of the Motor Vehicle Act is not maintainable against the owner and insurer of the Goods Truck. At the most, it is a case of contributory negligence. It is alternatively submitted that income and dependency has not been proved and petition is liable to be dismissed.

15. Learned advocate Mr. D. M. Paranjape for Respondent No. 3 (Insurer of the Car) has filed written notes of argument at Exh. 58. It is mainly urged that at the time of accident the driver of the Car having registration No. MH-31-DK-4426, was driving his car carelessly and negligently and dashed against the stationary truck bearing registration No. DD-03-M-9184. Police papers are sufficient to demonstrate the said fact as the offence has been registered against the Car driver and therefore, it is a clear cut case of contributory negligence and liability cannot be fastened on Respondent No. 3 alone.

16. Learned advocate Mr. Paranjape has raised the issue of dependency stating that a married daughter or sister may be legal representative but not dependent. To buttress this argument, he relied on following three judgments;

- (i) **Manjuri Bera Vs. Oriental Insurance Company, 2007, AIR 1474.**
- (ii) **Deepshikha Vs. National Insurance Company, 2025, INSC 675.**
- (iii) **Farzana Abbasbhai Vs. MSRTC, 2017(1) TAC 288(Bom.)**

17. Learned advocate Mr. Paranjape lastly submitted that income and dependency has not been proved and petition is liable to be dismissed.

REASONS

AS TO ISSUE NOS.1 & 2 :

18. Petitioner No. 1 Mrs. Priyanka W/o. Krunal Moundekar (CW-1) has deposed at Exh. 18. She reiterated almost all the contents of claim petition. According to her, at the time of accident her brother was proceeding by Car along with his parents. When they reached near Amarjit Dhaba, Dhamna at that time one Truck bearing registration No. DD-03-M-9184 was illegally parked in the middle of the road without any indicator due to which said Car collided with the truck from behind, resulting in an accident. He suffered multiple injuries and succumbed to those injuries. Priyaka was cross-examined by learned advocates for Respondents. However, nothing significant could be brought on record.

19. I have carefully gone through the police papers filed on record. Exh. 23 is the copy of FIR which shows that accident occurred on 07/01/2021 at about 15:30 hours and information of accident was given to Police Station on 07/01/2021 at about 21:46 hours. Police has registered a case against the Car driver as well as Truck driver.

Police has also issued Form AA (Exh. 24) which is giving details regarding accident, vehicle number and name and addresses of driver of truck and car.

20. Spot panchanama (Exh.25), indicates that accident occurred on Nagpur Amravati National Highway No.6, Mouza Dhamna, Nagpur. Truck was parked abutting to a Highway. It is necessary to note that very recently the Hon'ble Supreme Court in Re: **Phalodi Accident Vs. National Highways Authority of India on 13/04/2024**, directed that no heavy or commercial vehicle shall stop or park on any national highway carriageway or paved shoulder except at designated bays or lay-bys. Enforcement will be carried out through Advanced Traffic Management Systems (ATMS), GPS-based photographic evidence, and eChallan mechanisms. Hon'ble Supreme Court noted that most of the accident on the National Highways are occurring due to such illegal parking of the vehicle.

21. Reverting to the facts of the present case, there is nothing on record to show as to why the truck was parked on the side strips of the road. Even if, a vehicle is on the side strips or the wings of the road, still it may cause hindrance to the ongoing heavy traffic on a national highway. The manner in which accident occurred shows that truck driver was negligent in parking his truck causing obstruction to free flow of traffic and car driver was equally negligent to have rammed in stationary truck. **So the accident is result of contributory negligence of car driver Shubham and that of truck driver in equal proportion i.e. 50:50.**

22. Postmortem report (Ex.27) shows that the cause of death of Shubham was 'Head Injury'. It is, thus, observed that Shubham died in a motor vehicle accident, due to injuries suffered in the accident involving Truck bearing registration No. DD-03-M-9184 and i10 Car having No. MH-31-DK-4426 and due to negligence of truck driver and his own contributory negligence. **Issue Nos.1 & 2, thus replied accordingly.**

AS TO ISSUE No. 3 :

23. Both the Insurance Companies have taken plea of breach and terms and conditions of policy. However, same has not been proved by adducing proper evidence. **Issue No. 3 replied in negative.**

AS TO ISSUE NO.4:

24. At the time of fixing compensation, basically, only three facts need to be established by the claimants for assessing compensation in the case of death, i.e. as under:

- (i) Age of the deceased
- (ii) Income of the deceased
- (iii) Number of dependents

25. According to claimants, deceased Shubham was aged about 28 years. Copy of his driving license filed on record is showing his date of birth as 04/05/1994, means, on the date of accident on 07/01/2021, Shubham was around 28 years of age.

26. According to claimants, deceased Shubham was working

as Web Consultant and earning Rs. 33,559/- per month. In order to prove the income of Shubham, claimants have examined Mr. Bhola Yadaora Khapekar, who is the office Superintendent in Ward No. 5 (3) of Income Tax Office at Nagpur. He proved Income Tax Returns (ITR) for the Assessment Year 2018-2019, 2019-2020 and 2020-2021 (Exh. 44/1 to 44/3).

27. In cross examination, Mr. Khapekar stated that in all the ITR(s) income of Shubham Baburao Bhure is shown as 'Income From Other Sources' which includes income from dividend, interest income and income from house property. He also admitted that professional income, salaried income or income from business is not included in the Column of income of other sources.

28. A careful perusal of aforesaid admission given by a competent witness from income tax office would show that whatever income Shubham has shown in ITR is income from other sources I.e dividend, interest income and income from house property which is still available to claimants being his legal representative and same cannot be considered for assessing the loss of income or loss of estate.

29. Claimants have also filed one salary slip of a Company by name 'Return On Web Consulting Services Private Limited', Pune along with list Exh.20/10, it shows that deceased was receiving net pay of Rs.23,560/-. Said salary slip has not been proved but considering the qualification and the fact that the deceased was owning a car and that he was a qualified engineer, I am inclined to consider his monthly notional income Rs. 20,000/- per month.

30. Now, we will turn to the issue of dependency of petitioners on the income of deceased which is the crux and pivot of the entire matter and required to be dealt with in some detail.

31. Learned advocate Mrs. Mitali Lokhande and Mr. D. M. Paranjape for respective Insurance Companies have equivocally submitted that it is not the case of the petitioners that they were residing with the deceased in the same house at Nagpur. Both the sisters were residing at their matrimonial home and they were dependent on their respective husbands and by no stretch of imagination they can be said to be dependent on the income of their brother and petition must fail on this ground.

32. Learned advocate Mr. Paunekar has vehemently opposed these submissions. According to him, claimants are only surviving legal heirs and legal representatives of deceased. Word 'Dependent' has not been used in Motor Vehicle Act. He invited my attention to following two case laws;

i) **Montford Brothers of St. Gabriel Vs. United India Insurance Co. Ltd. 2014 AC 275 SC.**

12. Para 13 of the Report of Gujarat SRTC Case, (1987) 3 SCC 234 : 1987 SCC (Cri) 482 : AIR 1987 SC 1690 reflects the correct philosophy which should guide the Courts interpreting the legal provisions of beneficial legislation's providing for compensation to those who had suffered loss (SCC p.250)

13. We feel that the view taken by the Gujarat

High Court is in consonance with the principles of justice, equity and good conscience having regard to the conditions of the Indian society. Every legal representative who suffers on account of the death of a person due to a motor vehicle accident should have a remedy for realization of compensation and that is provided by Sections 110-A to 110-F of the Act. These provisions are in consonance with the principles of law of torts that every injury must have a remedy. It is for the Motor Vehicles Accidents Tribunal to determine the compensation which appears to it to be just as provided in Section 110-B of the Act and to specify the person or persons to whom compensation shall be paid. The determination of the compensation payable and its apportionment as required by Section 110-B of the Act amongst the legal representatives for whose benefit an application may be filed under Section 110-A of the Act have to be done in accordance with well-known principles of law. We should remember that in an Indian family brothers, sisters and brothers' children and some times foster children live together and they are dependent upon the bread-winner of the family and if the bread-winner is killed on account of a motor vehicle accident, there is no justification to deny them compensation relying upon the provisions of the Fatal Accidents Act, 1855 which as we have already held has been substantially modified by the provisions contained in the Act in relation to cases arising out of motor vehicles accidents. We express our approval of the decision in **Megjibhai Khimji Vira v. Chaturbhai Taljabhai**, (AIR 1977 Guj.195) and hold that the **brother of a person** who dies in a motor vehicle accident is entitled to maintain a petition under Section 110-A of the Act if he is a legal representative of the deceased.”

(ii) **National Insurance Company Vs. Birendra and others**, (2020) 12

SCC 356, wherein the Hon'ble Supreme Court has observed in **Para 11** as under;

11. According to Section 2 (11) CPC, legal representative means a person who in law represents the estate of a deceased person, and includes any person who inter-meddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. Almost in similar terms is the definition of legal representative under the Arbitration and Conciliation Act, 1996 i.e. under Section 2(1) (g).

33. I have pondered over the submissions of learned advocates. I have also carefully gone through the case laws relied upon by them. In order to understand the concept of legal representatives we have to consider some provisions of Motor Vehicle Act.

34. Section 166 of the MV Act provides for filing of an application for compensation. The relevant portion of the said Section is as under:

35. **166. Application for compensation:** (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

- (a) by the person who has sustained the injury; or
- (b) by the owner of the property; or
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be:

36. Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.”

37. The MV Act does not define the term ‘legal representative’. Generally, ‘legal representative’ means a person who in law represents the estate of the deceased person and includes any person or persons in whom legal right to receive compensatory benefit vests. A ‘legal representative’ may also include any person who intermeddles with the estate of the deceased. Such person does not necessarily have to be a legal heir. Legal heirs are the persons who are entitled to inherit the surviving estate of the deceased. A legal heir may also be a legal representatives.

38. In case of **Montford Brothers (Supra)**, deceased was a ‘Brother’ and therefore, without any family or heir. After considering the facts of the case, the Hon’ble Supreme Court ruled that the Society to which deceased was belonging is competent to claim the compensation.

39. In **Birendra Singh (Supra)**, relied upon by petitioner,

claimants were major sons of Smt. Sunheridevi (Deceased) and they were held to be entitled for compensation on account of death of their mother. It was also highlighted in the judgment dependency is the factor for calculating the amount of compensation and it does not disqualify the legal representative for filing the claim petition.

40. Yet again Hon'ble Supreme Court in **N. Jayashri Vs. Cholamandalam M.S. General Insurance, AIR Online 2021, SC 923** while dealing with a question whether a mother-in-law can be dependent on the son-in-law in Para 16 of the Judgment has made following observation;

16. In our view, the term 'legal representative' should be given a wider interpretation for the purpose of Chapter XII of MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfill its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realization of compensation.

41. In a latest judgment of **Seema Rani & others Vs. The Oriental Insurance Company, Civil Appeal No. 2323/2025 dated 11/02/2025**, the Hon'ble Supreme Court in Para 10 of judgment held as under:

Adverting to the facts at hand, on a perusal of the

statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary 1 (2020) 11 SCC 356 3 employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude **a married daughter** from compensation. Therefore, in view of this, the High Court erred in excluding these dependents. **(Dark Emphasis by me)**.

42. As far as the case law relied upon by Respondent No. 3, (Unites India Insurance Companies) is concerned, in **Manjuri Bera (Supra)**, the Hon'ble Supreme Court was considering whether a married daughter can claim compensation in case of death of his father and concluded that she is entitled to receive the amount of No Fault Liability granted under Section 140 of the M.V. Act which is now deleted. Said case law of **Manjuri Bera (Supra)** has been discussed and distinguished in **Birendrasingh (Supra)**.

43. Similarly, in case of **Farzana Abbasbhai (Supra)**, mother and surviving brother have filed claim petition and married sisters were intending to implead themselves as Respondent but same was opposed by brother contending that they were not dependent on deceased brother.

44. In case of **Deepshikha (Supra)**, one Smt. Paras had died in a Motor Vehicle Accident. She was staying with her old aged mother. Her mother and married daughter had filed a claim petition which was allowed by Tribunal in Appeal High Court held that only mother

who was staying with deceased was entitled to receive the compensation and Respondent No. 2 being a married daughter is not entitled for compensation.

45. The aforesaid three judgments are distinguishable on facts and with utmost respect not applicable to case in hand in view of several recent judgment of the Hon'ble Supreme Court, which I have referred herein above.

46. Admittedly, deceased was unmarried. In case of unmarried person deductions are to be made irrespective of actual number of dependent. In an unfortunate incident, father, mother and the only brother has been killed in the accident. In Indian Culture a married daughter or a married sister has several occasions and festivals to visit parental house. These visits are significant for balancing emotional needs with social expectations. The Motor Vehicle Accident has not only killed an individual or the only brother of the petitioners, but also wiped out their *Maika* (मायका) or *Naihar* (नैहर). In Hindu culture, a brother's role in his married sister's life is defined by a lifelong commitment to her protection, welfare and emotional support. While marriage, marks, her transition into a new family, the bond with her brother remains a sacred 'eternal' link to her natal home. If the father is deceased, brother is regarded as father figure inheriting all responsibilities towards his sisters care and protection.

47. Hon'ble Karnatka High Court in case of **National Insurance Company Limited Vs. George Menezes, First Appeal No. 4216/2020, Decided On 17/10/2025**, has ruled that married sisters can claim Motor Accident Claim Compensation as dependents

observing that it is common in India for earning members to continue contributing to the welfare of their sisters even after the marriage.

48. Considering the aforesaid law laid down by the Hon'ble Superior Courts, in my humble opinion, petitioners **being only surviving legal heirs** can be said to be the persons who have suffered pecuniary and non pecuniary damages due to accidental death of Shubham and they are entitled to maintain a petition under Section 166 of the Motor Vehicle Act and to receive compensation in case of his death.

49. In view of the observation of Constitution Bench of the Hon'ble Supreme Court in case of, "*National Insurance Vs Pranay Sethi decided on 31/10/2017*" ½ amount will have to be deducted towards the personal expenses of deceased as he was unmarried or bachelor. Since deceased was 28 years of age, hence, multiplier of '17' is applicable, as per above cited case of *Pranay Sethi*.

50. Hon'ble Supreme Court in case of *Pranay Sethi* has granted compensation under the head of loss of estate, loss of consortium, and funeral expenses @ Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. In *Pranay Sethi's* judgment the Hon'ble Court in para 61 (viii) has observed as under :-

“ Reasonable figures on conventional heads, namely loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% every three years.”

51. Judgment in Pranay Sethi's case was rendered by Hon'ble

Supreme Court on 31/10/2017. Four years have elapsed, and hence, there should be enhancement of 10% Plus 10% i.e. 20% of amount while granting compensation under these conventional heads. Hence, an amount of Rs.15,000/- plus 20% i.e. Rs. 18,150/- for loss of estate and Rs. 18,150/- for funeral expenses is awarded.

52. Hon'ble Supreme Court, in case of “ *Magma General Insurance V/s. Nanu Ram, decided on 18/09/2018*” has granted compensation to petitioner for the loss of spousal, filial and parental consortium. Here, petitioners are sister and therefore, they are not entitled under any of the category of consortium outlined by Hon'ble Supreme Court in case of **Magma (Supra)** and compensation under this head **cannot be granted**.

53. In above referred case of Pranay Sethi, Hon'ble Supreme Court, in case of self employed or fixed salary person has granted future prospects. Deceased was in a private job, below 40 years of age. Hence, 40% of income will have to be added towards future prospects.

54. Hence, following is the computation of compensation :-

S N	Heads	Calculation
i.	Salary/Income	Rs.20,000/- per month
ii.	40% Future prospect as deceased was below 40 years of age.	Rs.20,000/- (+) <u>Rs. 8,000/-</u> (=) Rs.28,000/-
iii.	½ of (ii) deducted as personal expenses of the deceased.	Rs.28,000/- (-) <u>Rs.14,000/-</u>

		(=) Rs.14,000/- p. m. <i>i.e.</i> Rs.1,68,000/-p. a.
iv.	Compensation after applying multiplier of '17' as deceased was 28 years of age.	Rs.1,68,000/- (x) $\frac{\quad\quad\quad}{17}$ (=) Rs.28,56,000/-
v.	Funeral expenses	Rs.00,18,150/-
vi.	Loss of Estate	Rs.00,18,150/-
TOTAL Compensation(iv+vi)		Rs.28,92,300/-
Less 50% deducted towards contributory negligence of deceased		Rs.14,46,150/-

WHO WILL PAY THE COMPENSATION?

55. I have already held that there was contributory negligence of deceased in the accident and I have considered the negligence of car driver and the truck driver in equal proportion and deducted the 50% of the compensation towards contributory negligence. The question before me who will pay the said compensation?

56. In case of **National Insurance Company Vs. Aashalata Bhowmik, AIR 2018 SC 4133**, the Hon'ble Court was considering the similar question and observed that the deceased being the owner of the offending vehicle **was not a third party within the meaning of the Act**. The deceased was the victim of his own action of rash and negligent driving. Therefore, claimants being the legal heirs of deceased could not have maintained the petition filed under Section 166 of the Motor Vehicle Act.

57. Admittedly, United India Insurance (Respondent No. 3) is the insurer of the Car. The deceased was registered owner-cum-driver of the car. The car was having package policy. The P.A. cover of owner

driver was upto Rs.15,00,000/-. This is a petition under Section 166 of the Motor Vehicle Act and same is not maintainable in respect of death of owner cum driver against his **own insurance company** because remedy is provided elsewhere and this petition will have to be dismissed against Respondent No. 3 with an observation that legal representatives or claimants may take recourse to appropriate remedy (if, any) for claiming amount of personal accident cover against Respondent No.3. **Issue No. 4 replied accordingly** and following order is passed.

ORDER

- i) The petition is allowed with costs against **respondent Nos. 1 and 2 Only and same is dismissed against Respondent No. 3 (United India Insurance Company Limited)**.
- ii) The claimant Nos. 1 and 2 are entitled to receive compensation of **Rs.14,46,150/- (Rupees Fourteen Lakh Forty Six Thousand One Hundred and Fifty Only)**.
- iii) The respondent Nos. 1 & 2 do pay an amount of **Rs.14,46,150/- (Rupees Fourteen Lakh Forty Six Thousand One Hundred and Fifty Only)** with interest at the rate of 7.5% per annum from the date of filing of this petition till realization of entire amount towards compensation to the claimants.
- iv) Compensation amount is apportioned as under;

(i)	Claimant No. 1 Mrs. Nikita Kalbande	Rs.7,23,075 +interest +proportionate cost.
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(ii)	Claimant No. 2 Mrs. Priyanka Moundekar	Rs.7,23,075+interest +proportionate cost.
Total		Rs.14,46,150/-

v) In terms of direction of Hon'ble Supreme Court in case of Suo Moto Writ Petition (C) No. 7 of 2024 and **Parminder Singh V. Honey Goyal & Ors.** Respondents are directed to deposit the aforesaid amount in the following accounts of the claimants :-

S. N.	Claimant Nos. & Name	Account No.	Bank Name & Branch	Branch Code	IFSC No.	MICR No.
1.	Claimant No.1 Mrs. Nikita	87460001 00022084	Punjab National Bank, Branch New Shukrawri, Mahal Nagpur.	87460 0	PUNB 0874 600	44002 4029
2.	Claimant No.2- Mrs. Priyanka	Same as above				

Note:- Amount of claimant No. 2 be deposited in the account of claimant no.1 as she is her power of attorney holder.

Award be drawn up accordingly.

(AEJAZ H SAYYED)

Dated : 05/05/2026

Member, M.A.C.T. -4, Nagpur.

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I certify that the contents of this PDF File are word to word as per original Judgment/Order.

Name of the Steno : K. Harde
Name of the Court : Aejaz H Sayyed
Member, M.A.C.T.- 4, Nagpur.
Judgment delivered on : 05/05/2026
Judgment signed by P.O.: 05/05/2026
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