

MHNG010058212023



Presented on : 05.06.2023

Registered on : 06.06.2023

Decided on : 13.03.2026

Duration : 02Y. 09M. 08D.

**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS
TRIBUNAL-1, NAGPUR**

(Presided over by P. B. Naikwad)

M.A.C.P NO. 450/2023**Exh.69**

PETITIONERS : 1) Surekha Wd/o Ramdas Raut
Age : 52 yrs, Occu.- Housewife,
2) Himanshu S/o Ramdas Raut
Age : 27 yrs, Occu- Student,
3) Shrishti D/o Ramdas Raut
Age : 25 yrs, Occu- Student,
4) Gitabai Wd/o Sitaram Raut
(Dead hence deleted)
All R/o : 74, Near MBA College,
Uppalwadi, Kamptee,
Nagpur – 440026.

VERSUS

RESPONDENTS : 1) The Oriental Ins. Co. Ltd.,
Through its Manager,
15, A.D. Complex, Mount Road,
Sadar, Nagpur.
2) M/s. Nagarjun Training Institute
R/o : Nagalok, Near Akashwani Relay
Center, Bhilgaon, Kamptee,
Nagpur – 440026

**CLAIM FOR COMPENSATION UNDER SECTION 166 OF THE
MOTOR VEHICLES ACT 1988.**

.....
 Shri P. S. Mirache, Advocate for petitioners.
 Smt. S.G. Kasbekar, Advocate for Respondent No.1.
 Shri A.P. Thakare, Advocate for Respondent No.2.

J U D G M E N T

(Delivered on 13th March 2026)

This is a petition under section 166 of the Motor Vehicles Act 1988 for grant of compensation of Rs.76,72,550/- (restricted to Rs.1,00,000/-) on account of death of husband of petitioner No.1, father of petitioner No.2 and 3 namely Ramdas S/o Sitaram Raut in a vehicular accident.

2] The facts giving rise to the present petition, in brief are as under :

That on 14.04.2023 at about 13:15 hours Ramdas was riding Maestro No. MH-49-AW-0492. At that time in front of Sequel Toyoto Showroom, Uppalwadi Kamptee, Nagpur Ambulance bearing No.MH-40- CD-2558 came at a high speed and in rash and negligent manner and gave forcible dash to his Maestro . Therefore Ramdas sustained grievous injuries. He was admitted in Asha Hospital, Nagpur but during treatment he died. Police station Kapil Nagar registered Crime No.99/2023 against the driver of offending Ambulance.

3] Ramdas was aged 58 years. After retirement he was doing service with South East Central Railway, Nagpur and was getting salary of Rs. 40,000/- p.m.. He was also getting pension of Rs.37,000/- per month from the army. Due to his sudden death,

petitioners have sustained physical, mental and financial losses. They were dependent upon him. Respondents are liable to pay them compensation.

4] Respondents by written statement Exh.14 and 16 denied the contentions made by petitioners and averred that, no ambulance as alleged was involved in the said accident. Accident took place due to negligence of deceased and he contributed the same. However respondents admitted ownership and insurance of the offending vehicle. But respondent no. 1 contended that there was breach of terms and conditions of insurance policy. Petition is bad for non-joinder of necessary party. Respondents lastly prayed to dismiss petition with costs.

5] In view of rival pleadings of the parties, following issues are framed vide Exh.17 and I record my findings against each of them for the reasons, recorded hereinafter.

SR.No	ISSUES	FINDINGS
1	Do petitioners prove that Ramdas Sitaram Raut died in a vehicular accident and the vehicle i.e. Ambulance bearing registration No.MH-40-CD-2558 was involved in it ?	Yes
2	Do petitioners prove that at the time of incident/accident, the driver of offending vehicle i.e. Ambulance bearing registration No.MH-40-CD-2558 was driving his vehicle in rash and negligent manner ?	Yes

3	Does respondent No.1 prove that deceased was responsible for the said accident and he contributed the same ?	No
4	Does respondent No.1 prove that there was breach of terms and conditions of insurance policy ?	No
5	Whether petition is bad for non joinder of necessary party ?	No
6	Whether petitioners are entitled for the compensation as claimed and from whom ?	Yes, from respondents.
7	What order and award ?	As per final order

6] Before proceeding to discuss the material on record, at the very outset it is necessary to mention here that during pendency of petition petitioner no. 4 Gitabai died, therefore her name came to be deleted from the array of petition and matter proceeded further.

REASONS

7] In order to prove their claim petitioner No.1 Surekha Ramdas Raut examined herself as PW.-1 at Exh.18. PW-2 Satyasheel Vishnu Rokde is examined at Exh.37. Then petitioners closed their evidence vide pursis Exh.61.

8] No evidence is adduced by respondents. Respondent No. 1 filed pursis Exh. 62 to that effect whereas evidence of . Respondent No.2 came to be closed as per order dated 25.02.2026. Thereafter argument of respective learned counsels were heard.

As to Issues No.1 To 3 :

9] It has come in the evidence of PW-1 Surekha that deceased Ramdas was her husband. At the time of incident her husband was riding Maestro No. MH-49-AW-0492. At that time in front of Sequel Toyoto Showroom, Uppalwadi Kamptee, Nagpur Ambulance bearing No.MH-40- CD-2558 came at a high speed and in rash and negligent manner and gave forcible dash to his Maestro. Therefore her husband sustained grievous injuries. He was admitted in Asha Hospital, Nagpur but during treatment he died. Police station Kapil Nagar registered Crime No.99/2023 against the driver of offending Ambulance.

10] To support her testimony petitioners also filed on record documents i.e. Form AA Exh.22, FIR Exh.23, spot panchanama Exh.24, inquest panchnama Exh.25, postmortem report Exh.26, Chargesheet Exh. 66, copy of insurance Exh.27 and Aadhar Card Exh. 28 etc.

11] Learned counsel for petitioners argued that in view of oral and documentary evidence placed on record petitioners have discharged their burden to prove issues No.1 and 2. It is also proved that accident took place due to rash and negligent driving of the driver of ambulance and the same was involved in the accident. He also placed his reliance on the authority ***Ranjeet and Another Vs. Abdul Kayam Neb and Others 2026 A.C.J. 239;*** and submitted that charge sheet itself is sufficient to prove rashness and negligence and no further evidence is required. Hence issues No.1 and 2 may kindly be answered in the affirmative and for want of evidence issue No.3 be answered in the negative.

12] Whereas learned counsel for respondents argued that involvement of ambulance in the said accident is not at all proved. Neither FIR nor spot panchnama disclosed registration number of ambulance. No witness to the incident is examined. Therefore petitioners have failed to discharge their burden to prove issues No.1 and 2. Merely because certified copies of police papers are filed on record, that itself is not sufficient to discharge burden of petitioners in this respect. On the contrary record shows that accident occurred due to rash and negligent driving of deceased. Hence issues No.1 and 2 be answered in the negative and issue No.3 in the affirmative.

13] Having regard to the submissions made by respective learned counsels and after going through the material on record so also authority cited supra, I found that though no description of offending vehicle is given in FIR Exh.23, still in spot panchnama Exh.24 it is specifically mentioned that Ambulance had come at a high speed and gave dash to motorcycle of deceased and accident occurred. Moreover petitioners have also filed on record certified copy of charge sheet vide Exh.66 which established and proved the involvement of Ambulance No.MH-40-CD-2558 and the prosecution of its driver.

14] Therefore in view of spot panchnama Exh.24 and charge sheet Exh.66 involvement so also rash and negligent driving on the part of driver of Ambulance No.MH-40-CD-2558 is duly established and proved. Hon'ble Supreme Court in the case of ***Ranjeet and Another*** cited supra, in Para 4 of judgment specifically ruled that,

“once charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye witnesses are not examined, that will not be fatal to prove the death of deceased due to negligence of bus driver.”

15] In the case on hand similar is the position. Spot panchnama Exh.24 and charge sheet Exh.66 clearly disclosed about involvement of Ambulance and rash and negligent driving of its driver. Similarly inquest panchnama Exh.25 and postmortem report Exh.26 established and proved that Ramdas died due to injuries to vital organs in an accident arising out of the use of motor vehicle.

16] Therefore in view of authority cited supra, which is binding upon this tribunal and the material brought on record issues No.1 and 2 are duly proved. Hence I record my findings to said issues in the ***Affirmative***.

17] Respondents though contented that accident occurred due to negligence of deceased, still no evidence is adduced by them. On the other hand charge sheet Exh.66 disclosed contrary. Therefore issue No.3 is not proved at all. Hence I record my findings to the said issue in the ***Negative***.

As to Issue No.4 :

18] Respondent No.1 averred that, there was breach of terms and conditions of insurance policy as driver of offending Ambulance was not holding valid and effective driving license. However to discharge its burden no evidence is adduced by respondent No.1. On the other hand the documents on record

shows contrary. Charge sheet Exh.66 nowhere disclosed that the driver is prosecuted for the offence punishable under Sec.3/181 of M.V. Act. Therefore no breach of policy condition is made out and proved. Hence I record my findings to issue No.4 in the ***Negative***.

As to Issue No.5 :

19] Respondents also contended that petition is bad for non joinder of necessary parties. However it is clear from record that owner and insurer of the offending vehicle are joined as party. Though owner and insurer of Mestro are not joined as party, still from charge sheet Exh.66 it is clear that the same came to be filed against the driver of Ambulance only. Therefore petition cannot be said to be bad for non joinder of necessary parties. Driver of offending vehicle cannot be termed to be necessary party. At the most he is proper party, as in his absence also present claim can be decided legally and correctly. Therefore I record my findings to issue No.5 in the ***Negative***.

As to Issue No.6 :

20] Learned counsel for petitioners argued that deceased Ramdas was aged 58 years at the time of accident and was in service with Railway and was getting monthly salary of Rs.40,000/-. He was Ex-Military man and was also getting pension of Rs.37,000/-. His total earning was Rs.77,000/- p.m. PW-1 Surekha and PW-2 Satyasheel specifically stated about the same. PW-2 Satyasheel has proved documents Exh.39 to 46. Therefore it is proved that deceased had income of Rs.77,000/- p.m. In all four members were dependent upon him. He was permanent

Government employee. Therefore 50% future prospects be awarded. Petitioners are also entitled to compensation on other heads i.e. loss of consortium, loss of estate, funeral expenses etc. Hence compensation as claimed be awarded. He also placed his reliance on the following authorities :

- i) ***New India Assurance Company Limited Vs. Mrunal Makrand Patwardhan and Others 2023 (4) Mh.L.J 131;***
- ii) ***Preetha Krishnan and Others Vs. United India Insurance Company Limited and Others 2025 (4) T.A.C. 715 (S.C);***

21] Per contra learned counsel for respondent No.1 argued that involvement of offending vehicle in the accident is not proved at all. Accident occurred due to sole negligence of deceased. He was not permanent employee but was doing service after retirement. He was temporarily employed. Only three years service of deceased was remaining. Petitioners No.2 and 3 were not dependent upon deceased. Petitioners are getting family pension, therefore there is no loss of earning to petitioners. Petitioners prolonged the matter for no reason. Though respondent was ready to settle the matter in Lok-Adalat, but petitioners were not responding. Therefore compensation and interest as claimed shall not be awarded. Charge sheet also came to be filed belatedly. She also placed her reliance on the authority ***New India Assurance Company Limited Vs. Shanthi Mascarenhas and Others in MFA No.4427 of 2010 (MV) decided by Hon'ble Karnataka High Court on 12.07.2018;*** and submitted that no interest as claimed be awarded.

22] I have given my anxious consideration to the submission made by respective learned counsels. I have also thoroughly gone

through the authorities cited supra. As discussed earlier I have recorded my findings to issues No.1 and 2 in the affirmative, therefore in view of the same certainly petitioners are entitled to get compensation.

23] As per Exh.39 and 43 to 45 date of birth of Ramdas was 27.12.1965. Therefore it is clear that at the time of accidental death, Ramdas was aged 57 years, 3 months and 17 days. Therefore multiplier of 9 is applicable.

24] From evidence of PW-2 and documents Exh.39 to 46 proved by him, it is proved that at the time of accident Ramdas was in service with South-East Central Railway. PW-2 Satyasheel specifically stated that he was permanent employee. In the month of February 2023 his monthly salary was Rs.43,022/-. He proved salary slips Exh.43 to 45. Exh.44 disclosed gross salary Rs.43,022/-. He was paying professional tax of Rs.300/-. In view of authorities in the case of *Mrunal Patwardhan* cited supra, income tax and professional tax has to be deducted. After deduction of professional tax net income of deceased from salary become Rs.42,722/- p.m.

25] Learned counsel for petitioners also argued that deceased Ramdas was Ex-Service man and was getting pension of Rs.37,000/- from Army. He also produced on record pension order Exh.54 to that effect. However from said document it is clear that pension of Rs.10,029/- was only granted to him. Out of the same Ramdas had commuted the sum of Rs.5,014/- and after commutation, Ramdas was getting monthly pension of Rs.5,015/-. Therefore while determining income of deceased, said sum of

Rs.5,015 also needs to be taken into consideration, as due to death of Ramdas petitioners have suffered loss to that effect.

26] Learned counsel for respondent No.1/insurer argued that legal representatives of deceased are receiving family pension therefore there is no loss of income to them. Hence compensation as claimed shall not be awarded. Still her said submission cannot be accepted in view of law settled by Hon'ble Supreme Court in this respect. Hon'ble Supreme Court time and again ruled that,

“Family pension cannot be deducted while computing compensation under Motor Vehicles Act. It is treated as a separate statutory benefit, not a substitute for the deceased income. Compensation must reflect the actual financial loss caused by the accident. Pensionary benefits are co-lateral advantages.”

therefore in view of settled position of law, even if it is assumed that petitioners are entitled and getting family pension, still the same cannot be deducted from the earning of deceased. Due to death of Ramdas certainly petitioners have suffered loss of income. Therefore in view of discussion made above, while determining the net income of deceased, amount of Rs.5,015/- needs to be added. Including the same I hold net monthly income of deceased as Rs.47,737/-.

27] It is also clear from record that deceased Ramdas was permanent employee. Therefore in view of law settled by Hon'ble Supreme Court in the case of **Pranay Sethi**, petitioners are also entitled to addition of 15% in actual income of deceased towards future prospects.

28] At the time of death Ramdas left behind in all four

dependents i.e. petitioners including his deceased mother. As dependency is to be considered on the day of accident, therefore even though mother of deceased Geetabai is now no more, still as she was alive at the time of accidental death of Ramdas, therefore her dependency also needs to be considered. Though petitioners No.2 and 3 were aged 27 and 25 years respectively, still as they were taking education, at the time of accidental death of Ramdas and had no independent income, therefore they were certainly dependent upon deceased. Therefore 1/4th deduction is to be made from actual income towards personal expenses of deceased.

29] As petitioners have lost husband, father and son respectively, therefore in view of settled position of law they are also entitled to compensation on account of loss of consortium, loss of estate and funeral expenses.

30] Record also shows that accident occurred at Uppalwadi, Kamptee. After accident Ramdas was taken to Asha Hospital, Kamptee where he died during treatment. Thereafter his dead body was taken to Meyo Hospital, Nagpur where postmortem was conducted. Thereafter his funeral took place at Uppalwadi, Kamptee where petitioners resides. Therefore in view of the same certainly petitioners were required to incur expenses on Ambulance and transportation. Therefore interest of justice requires to award certain compensation for the same. In view of facts of the present case, petitioners are entitled to Rs.15,000/- towards transportation and ambulances expenses and the same is accordingly awarded.

31] Therefore in view of proved facts and income on record

and discussion made above, the compensation worked out becomes as under :

Yearly income	47,737 x 12	=	5,72,844/-
Future prospects	15%	(+)	85,926/-
		Total	6,58,770/-
Personal expenses	1/4 th	(-)	1,64,692/-
		Total	4,94,078/-

As multiplier of 9 is applicable. Therefore,

4,94,078 x 9	=	44,46,702/-
Loss of consortium for each petitioner	(40,000 x 4)	1,60,000/-
Loss of Estate		15,000/-
Funeral Expenses	(+)	15,000/-
Ambulance and Transportation		15,000/-
Total:		46,51,702/-

32] Therefore in view of calculations made above and the submissions made by learned counsels **Rs.46,51,702/-** is just, fair and reasonable compensation for accidental death of Ramdas. In view of settled position of law it is the duty of this Tribunal to award just and reasonable compensation to petitioners to mitigate their hardship and agony. Therefore even though petitioners have restricted their claim to Rs.1,00,000/-, due to financial constraints and though they did not amend the prayer, still they are entitled to enhanced compensation though not claimed, on payment of deficit court fees.

33] As Respondent No.1 is insurer and Respondent No.2 is

owner of the offending vehicle therefore they are jointly and severally liable to pay the said compensation to petitioners.

34] Learned counsel for respondent No.1 relying upon the authority in the case of ***Shanthi Mascarenhas*** cited supra, though argued that no interest shall be awarded, still after going through the said authority I found that the same is not helpful to respondent, as the facts and circumstances therein have no resemblance with the facts of the present case. Here neither any order for waiver of interest is passed by this tribunal any time, nor there appears inordinate delay on the part of petitioners to proceed with the claim. Therefore the submissions made in this respect cannot be accepted. However petitioners cannot be held entitled to get interest @ 12% as claimed. In facts and circumstances of the case they are entitled to get interest @ 7.5% only and the same is awarded to them.

35] Thus petitioners have discharged their burden to prove their claim to the extent noted above. Hence I record my findings to issue 6 ***Accordingly*** and in sequel, pass the following order.

ORDER

- 1) Petition is allowed with costs.
- 2) Respondents shall jointly and severally pay the compensation of **Rs.46,51,702/- (Forty Six Lac Fifty One Thousand Seven Hundred Two Rupees only)** to petitioners, along with simple interest @7.5% p.a. from the date of petition i.e. from 05.06.2023 till its final realization.

3) Out of the total amount of compensation, **Rs.12,00,000/- each** along with interest be paid to petitioner No.2 Himanshu and petitioner No.3 Shrishti whereas remaining amount of **Rs.22,51,702/-** with interest, be paid to petitioner No.1 Surekha.

4) Respondents are hereby directed to transfer the said amount into the Bank account of petitioners by NEFT/RTGS, details of which are furnished as under, on due verification and identification.

5) Respondents are further directed to deposit separately the amount to be invested in fixed deposit in the name of respective petitioners, as per directions given below :

Sr. No.	Name of petitioner	Name of Bank, Branch and IFSC Code	Savings Account Number	Amount
1	Surekha Ramdas Raut	State Bank of India, Branch at Cantonment, Kamptee SBIN0000400	20049686367	₹.22,51,702/- + Interest, Out of which Rs.2,00,000/- in F.D. for Three years (Out of total amount Rs.14,627/- be deducted towards deficit Court fees)
2	Himanshu Ramdas Raut Mob. No. 8888988138	State Bank of India, Branch at Cantonment, Kamptee SBIN0000400	39219625031	₹.12,00,000/- + Interest, Out of which Rs.3,00,000/- in F.D. for Three years
3	Shrishti Ramdas Raut	Union Bank of India Branch at Kamptee UBIN0576263	762602010013205	₹.12,00,000/- + Interest, Out of which Rs.3,00,000/- in F.D. for Three years

- 6) Petitioners are entitled to receive quarterly interest on the amount deposited in fixed deposit.
- 7) Respondents are directed to issue specific directions to the concern bank of petitioners about the amount to be invested in fixed deposit in their name for the specified period, as per award and make the bank aware about the award.
- 8) Respondents are further directed to intimate this Tribunal/ report compliance, about the payment made to petitioners within 15 days from the date of payment, without fail.
- 9) The concerned bank shall ensure that such specified portion is kept in fixed deposit in the name of petitioners as per award and shall report compliance to this Tribunal.
- 10) If the FD is not withdrawn/enchased on maturity or before maturity, in that event concern banks are directed to renew the same after periodical intervals.
- 11) In case of maturity of the fixed deposit, concerned bank is directed to pay the amount of fixed deposit with interest to the concerned applicant/holder, on due verification and identification, without seeking any further order/direction from this Tribunal.
- 12) Respondents are hereby directed to re-verify the account details of the petitioners from the documents provided by them and on satisfaction of their correctness, then only transfer the awarded amount into their bank account.
- 13) Respondent No.1/insurer is further directed to deduct Rs.14,627/- from the final amount payable to petitioner No.1

Surekha and the same be deposited in the account of MACT towards deficit Court fees, the details of which are given as under :

Name of Account Holder	Name of Bank, Branch and IFSC Code	Current Account Number	Amount Rs.
Member, MACT, Nagpur	Union Bank of India, Branch at DBA, Civil Lines, Nagpur UBIN0544248	442401010036699	14,627/-

14) Award be drawn up accordingly, by giving details of the savings account of petitioners in it, as above.

Dictated and pronounced this in open Tribunal, today.

Date : 13.03.2026

(P. B. Naikwad)
Member, M.A.C.T-1,
Nagpur.

Endorsement

Case Argued on	11.03.2026
Judgment dictated on	13.03.2026
Transcription ready on	13.03.2026
Judgment checked and signed on	13.03.2026

Date : 13.03.2026

(P. B. Naikwad)
Member, M.A.C.T-1,
Nagpur.

CERTIFICATE

I affirm that the contents of this P. D. F. file of judgment are word to word, as per original judgment.

(S.R. Chaple)
Stenographer (Grade-I)