


<b>MHNG010059252019</b> 	Presented on : 01/07/2019
	Registered on : 02/07/2019
	Decided on : 04/05/2026
	Duration : 6 Y : 10M : 3 Days
	<b><u>Exhibit No. 56</u></b>

**BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS  
TRIBUNAL, NAGPUR**  
[Presided over by Dinesh P. Surana]

**M.A.C.P. No. 577 of 2019**

Basanti W/o Satyanarayan Kadel, ... **Petitioners**  
Age 54 years, Occu. Tailoring,  
(**Since died during pendency of claim  
petition, through her L.Rs.**)

- 1] Giriraj S/o Satyanarayan Kadel,  
Age 42 years, Occu. Business,
- 2] Manish S/o Satyanarayan Kadel,  
Age 44 years, Occu. Service,  
R/o. Jeevan Jyoti Colony, Jaganath  
Baba Nagar, Distt. Chandrapur.

// **Versus** //

- 1] Deepak S/o Manohar Parasnani, ... **Respondents**  
Aged Major, Occu. Owner,  
R/o. 569, Chapru Nagar, Plot No.569,  
Old Bagadganj, Garoba Maidan,  
Distt. Nagpur.
- 2] The Manager,  
Bajaj Allianz Ins. Co. Ltd.,  
Rian House, 2nd Floor, Kingsway,  
Sadar, Distt. Nagpur.

**[CLAIM PETITION FOR GRANT OF COMPENSATION U/SEC. 166 OF THE  
MOTOR VEHICLES ACT, 1988]**

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**Appearances:**

Adv. S.S. Thakur for the petitioner.  
Adv. D.G. Paunikar for the respondent No.1.  
Adv. Kalpana Raut for the respondent No.2.

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**J U D G M E N T**

*[Delivered on 04.05.2026]*

By this petition under Section 166 of the Motor Vehicles Act, 1988, compensation of Rs.13 Lacs is claimed on account of vehicular accidental injuries to Basanti Kadel, resulting in her losses.

2] Pending claim petition, Basanti Kadel died; therefore, her L.Rs. - 2 sons continued the claim petition.

3] It is the case of the petitioners that on 03.06.2019 at 05:30 a.m., Basanti was a pillion rider on the Activa bearing registration No. MH-40/BP-9940 (in short, "Activa"). Her relative Hemlata Prakash Verma was riding the Activa. While they were proceeding from Saoner - Nagpur Highway Road towards Nagpur Railway Station, near Wox Cooler, Koradi, District Nagpur, a Maruti Car bearing registration No. MH-09/AB-6803 (in short, "Maruti Car"), being driven by its driver rashly and negligently, gave dash to their Activa from behind. They fell on the road. Basanti sustained grievous injury to her legs, head injury, and other body parts. She was admitted to Alexis Hospital, Nagpur. Crime was registered against the driver of the Maruti Car for causing the said accident and accidental injuries to her and Hemlata.

As per the petitioners, at the time of the accident, Basanti was 54 years old. Her monthly earnings was Rs.10,000/-. In the title clause, the occupation of Basanti is mentioned as “tailoring work”, whereas in pleadings, she is shown to have been in service at S.S. Travels. Due to the said accident, Basanti is unable to work properly, and she was unable to do her job for 6 months. Her grievous injuries could not be cured. As such, on different heads, petitioners claimed above compensation from the respondent No.1, owner and respondent No.2, insurer of the Maruti Car.

4] The respondent No.1, owner of the Maruti Car, by way of written statement Exh.15, by taking general denials and defences, resisted the claim of the petitioners. He submitted that the story of the accident putforth by the petitioners is false and concocted. At the relevant time, the rider of the Activa was riding it without a licence. She herself lost control over the Activa, and therefore she and Basanti fell on the road, due to which Basanti sustained minor injuries. Based on the false information, the Koradi police station wrongly registered an offence against him. However, he admitted that at the time of the accident, his Car was insured with the respondent No.2 insurance company.

5] The respondent insurance company, by way of written statement Exh.18, too, by taking general denials and defences, resisted the claim of the petitioners. They submitted that the FIR was lodged against the driver of the unknown vehicle. The spot panchnama does not reveal the presence of any vehicle at the spot of the accident. As such, it is clear that the alleged accident did not take place due to the involvement of the Maruti Car. Therefore, claim petition under Section 166 of the Motor Vehicles Act is not maintainable. Without prejudice to their other

contentions, they have alternatively pleaded that Maruti Car was insured under the “private car - liability only policy”, whereas it was used for commercial purposes. The driver of the Maruti Car was not holding a valid and effective driving licence at the time of the accident; therefore, there was a willful breach of the terms and conditions of the policy of insurance of the Maruti Car, by the respondent No.1. The rider of the Activa was riding it in the middle of the road. She and Basanti were not wearing helmets at the time of the accident. The rider of the motorcycle was negligent and, therefore, the sole tortfeasor.

6] To substantiate their contentions, the son of Basanti - petitioner No.1 examined himself on oath and reiterated his pleadings in the petition by way of an evidence affidavit Exh.23. Apart from his oral testimony, he has also placed his reliance on the following documents.

- [i] Exh.26 (Form Comp AA);
- [ii] Exh.27 (First Information Report/FIR);
- [iii] Exh.28 (Crime Details Form / Spot panchnama); and
- [iv] Exh.29 (Death certificate of Basanti Kadel).

7] Petitioners also examined the following witnesses.

PW-2 Ehtesham Akhil Ahmed at Exh.32, then working as Assistant Manager at Alexis Hospital, Nagpur, who deposed that Basanti was admitted at Alexis Hospital on 03.06.2019 and they received a hospital bill of Rs.5,82,392/- (**round up Rs.5.83 Lacs**) Exh.34, which includes medicine and hospital charges.

PW-3 Shuddhodhan Pralhad Shambharkar at Exh.37, Pharmacist at Christ Medical Store, who proved the pharmacy bills at Sr.No.85 to 100 (Exh.38 colly.) (**for round up Rs.35,000/-**), which were issued by his pharmacy. They received their payments according to the bills.

PW-4 Anand Pralhadji Sharma at Exh.37-A, owner of Shivam Medical and General Stores at Chandrapur, who deposed that patient Basanti purchased medicines from his pharmacy. He proved the sale summary worth Rs.63,941/- (**round up Rs.64,000/-**) Exh.38-A.

PW-5 Dr. Ninad Gawande at Exh.39, MBBS and MD and then working at Alexis Hospital, Nagpur, who treated Basanti at Alexis Hospital. He also proved the Case Summary of Basanti Exh.41, issued by the Alexis Hospital.

PW-6 Dr. Shardul Vilas Wargantiwar at Exh.46, a Neurosurgeon, and attached to Christ Hospital, deposed about the medical condition, discharge and admission of Basanti in the said hospital. He further deposed that on 12.08.2019, the patient was reported dead and therefore her death certificate Exh.48, was issued by their hospital.

8] By way of pursis Exh.49, petitioners informed that they do not want to adduce further evidence.

9] The respondent No.1, owner of the Maruti Car, examined himself on oath and reiterated his pleadings by way of evidence affidavit Exh.50. He proved his driving licence Exh.52, whereby he was authorised to drive a Light Motor Vehicle, and which was valid on the date of the

accident too. He has also proved the policy of insurance Exh.53 of his Maruti Car.

10] By way of pursis Exh.54, respondent No.1 also closed his side.

11] None was examined for and on behalf of the respondent insurance company, and they closed their evidence by way of pursis Exh.55.

12] Heard arguments advanced by Adv. S.S. Thakur for the petitioner, Adv. D.G. Paunekar for the respondent No.1, and Adv. Kalpana Raut for the respondent insurance company.

13] Adv. S.S. Thakur, for the petitioner, submitted that the petitioners have proved that the said vehicular accident took place out of the use of the Maruti Car, and due to rash and negligent driving of the Car by its driver and owner - respondent No.1. She further submitted that the petitioners have also proved by leading cogent evidence that Basanti died during treatment due to the accidental injuries. The petitioners also proved the medical and medicines bills of Basanti. She prayed for grant of just compensation to the petitioners.

14] As against this, Adv. Paunekar for the respondent No.1 submitted that the accident did not take place out of the use of the Maruti Car owned by the respondent No.1. The vehicle of the respondent No.1, and respondent No.1, both are falsely impleaded in the said accident by the petitioner. A false offence was registered against the respondent No.1 at the Koradi police station, based on the false and incorrect information

furnished to the police. The vehicular accidental death of Basanti has not been proved. Petitioners are adult earning members and were not dependent on Basanti. As such, he prayed for dismissal of the claim petition.

15] Adv. Kalpana Raut, for the respondent No.2 insurance company, contended that the involvement of the Maruti Car in the said accident is not proved. The FIR was lodged against the driver of an unknown vehicle. No vehicle was found at the spot of the accident while drawing the spot panchnama. Therefore, this is a case of hit and run. As such, she prayed for dismissal of the claim petition.

16] Based on the rival contentions, evidence, and the material available on record, I record my findings on the recasted Issues at Exh.19, for the reasons discussed thereunder.

<b><u>ISSUES</u></b>	<b><u>Findings</u></b>
1] Does the petitioners prove that the driver of respondent No.1 drove the Maruti Car rashly and negligently and committed an accident?	... <b><u>In the affirmative</u></b>
2] Does the petitioners prove that in said accident, Basanti sustained injury or died of vehicular accidental injuries?	... <b><u>In the affirmative</u></b>
3] Does respondents prove that the alleged accident did not take place due to the involvement of the vehicle of respondent No.1?	... <b><u>In the negative</u></b>

- 4] Whether the respondent insurance company ... **In the negative**  
 proves that the driver of the Maruti Car was  
 not holding a valid and effective driving  
 licence and thereby committed breach of the  
 licensing condition of the policy?
- 5] Whether the petitioner is entitled to ... **Yes.**  
 compensation? If yes, what would be the ... **As per the final**  
 amount of compensation? **order**
- 6] What order? ... **As per the final**  
**order**

## **REASONS**

### **As to Issue No.1 and Issue No.3:**

17] None of the Petitioners, i.e. LR of Basanti, is an eyewitness to the alleged accident. However, the rider of the Activa in her claim petition, MACP No.576 of 2019, has examined herself. She is cross-examined at length by the respondent insurance company on the manner of the accident. This tribunal, considering her testimony with the relevant documents, had held that the respondent No.1, owner and driver of the Maruti Car, was at fault in causing the said accident. Even otherwise, according to the petitioners, on the given date, time, and place, the Maruti Car gave a dash to the Activa from behind. It was being driven by its driver (i.e. respondent No.1) rashly and in a negligent manner. The FIR was given at the Koradi police station by Hemlata, rider of the Activa, at 03:00 p.m. on the same day of the accident. In FIR to the police, Hemlata, who is an eyewitness to the accident, had stated that an unknown four-wheeler vehicle gave a violent dash to her Activa from behind. The said vehicle was being driven at high speed and in a negligent manner. Based

on her information, Crime No. 188 of 2019 was registered at the Koradi police station against the unknown driver of the unknown vehicle.

18] While drawing the spot panchnama on the same night of the accident, the police and panchas did not notice any vehicle lying on the spot. The police also prepared a sketch map of the spot of the accident in column No.9 of the spot panchnama. As per the petitioners, at the time of the accident, Hemlata was riding her Activa and proceeding towards the railway station. Therefore, as seen from the sketch map in column No.9 of the spot panchnama, it seems that the accident took place on the extreme left side of the North-South road. As a fact, the Saoner-Nagpur road runs North - South, exactly contrary to what is shown in the spot panchnama. The said road is 2 way with a divider in between. If the dash could have been given by any four-wheeler vehicle coming from the back side, such a vehicle ought to have been driven, leaving sufficient left side space of the highway for a two-wheeler to pass on, or for a four-wheeler to be overtaken. Therefore, whichever vehicle was involved in the accident was at fault for causing the said accident.

19] The respondent No.1, owner, has contested the claim petition. In his evidence affidavit Exh.50, he has specifically mentioned in para Nos.6 and 7, which are reproduced below.

*6. That at the relevant time of the alleged incident, I was travelling in my vehicle on the said road. I observed that an accident had occurred ahead and, out of civic duty, I stopped my vehicle to make inquiries. It came to my knowledge that the petitioner, who was riding her Activa scooter without possessing a valid and effective driving license, was driving in a wobbly and unsafe manner. She consequently lost her balance and control over her vehicle and fell down on the road, thereby sustaining*

*injuries due to a dash by an unknown truck. My vehicle was not involved in the said incident in any manner whatsoever.*

*7. That the registration of Crime No.188/2019 under Sections 279, 337 and 338 of the Indian Penal Code by the Koradi police station against the driver of my vehicle is of no legal consequence in these proceedings. It is submitted that the said FIR was registered on the basis of false, incorrect, and motivated information furnished by the petitioner at the instance of interested persons.*

20] From the testimony of respondent No.1 (RW-1), it is apparent that he has not mentioned which truck gave a dash from behind to the Activa. He has admitted his presence on the spot. He has admitted that an offence was registered at the Koradi police station against the driver of his vehicle. He admitted that at the time of the accident, he himself was driving his vehicle. According to him, an offence was registered against him at the Koradi police station for causing the said accident.

21] In Form Comp AA, Koradi police station has specifically mentioned that in the said crime, initially, the offence was registered against the unknown vehicle, but subsequently, the accused (i.e. driver of the offending vehicle - Maruti Car) was arrested, and a Final Report / Charge-sheet was filed against him in the court of law. Therefore, in Form Comp AA, the Koradi police station has specifically mentioned that the accident took place due to a Maruti Suzuki Zen four-wheeler bearing registration No. MH-09/AB-6803. It was owned and driven by the respondent No.1. It was insured with the respondent insurance company at the time of the accident (a fact which is not disputed). Under such circumstances, based on the preponderance of probability, the test which is applicable for adjudication of the claim petitions, I am of the view that

the petitioners have probalilized their contention that the said accident took place out of the use of the Maruti Car and the said accident also took place due to the rash and negligent driving of it by its driver. As such, my answer to Issue No.1 is in the affirmative and Issue No.3 in the negative.

**As to Issue No.2:**

22] Petitioners have pleaded that in the said vehicular accident, their mother, Basanti, suffered grievous injuries. PW-1 Giriraj Kadel, son of Basanti, deposed that in the said vehicular accident, his mother Basanti received grievous injuries to the left fronto-temporal parietal subdural hematoma with contusion in massive subdural haemorrhage and also an undisplaced fracture of the pubic ramus injury. However, he further deposed that her mother was admitted to Alexis Hospital, Nagpur, and they took her discharge against medical advice on 12.06.2019, and on the same day, she was admitted to local private Christ Hospital, Chandrapur, till 30.06.2019, but during treatment, she died on 12.08.2019. Undoubtedly, petitioners have not amended their claim petition from an injury to death claim of their mother, Basanti, but in the evidence affidavit, PW-1 Giriraj has specifically deposed about the vehicular accidental death of his mother, Basanti.

23] PW-5 Dr. Gawande, MBBS, MD, then working in Alexis Hospital, Nagpur, deposed that Basanti was admitted in their hospital on 03.06.2019 (i.e. date of accident) with severe head injury in the form of Fracture Right Temporoparietal bone with underlying Right Sub-Dural Hematoma and hemorrhagic Contusion. She was also having a left FTP acute Sub-Dural Hematoma with large hemorrhagic Contusions causing mass effect with midline shift. The patient was having blood injury chest

in the form of multiple fractures of the right ribs with lung contusions. She was also having a blood injury over the pelvis in the form of a fracture of the right pubic rami. The patient had undergone emergency surgical intervention for a head injury on 03.06.2019. Other injuries are managed conservatively and was discharged against medical advice (DAMA) on 12.06.2019 in a very critical condition. He proved the Injury Report of Basanti Exh.40, issued by him to the Koradi police station. He also proved the Case Summary of Basanti Exh.41, issued by the Alexis Hospital. His testimony is corroborated by the Injury Report Exh.40 and Medical Case Summary Exh.41 of Basanti.

24] PW-6 Dr. Shardul, a Neurosurgeon, then attached to Christ Hospital, deposed on 12.06.2019, patient Basanti came to their hospital on complaint by road traffic accident. Her surgery was conducted at Alexis Hospital, and thereafter, she was referred to their hospital. On investigation, grievous fracture injury to her head was found. On 30.07.2019, she was discharged from their hospital. He proved the Discharge Card Exh.47, issued by their hospital. He further deposed that on 12.08.2019, the patient was reported dead and therefore her Death Certificate Exh.48 was issued by their hospital. The testimony of PW-6 Dr. Shardul is corroborated by the Discharge Card Exh.47, issued by their hospital.

25] From the oral testimony of PW-5 Dr. Gawande and PW-6 Dr. Shardul and the medical evidence of Basanti, it is apparent that within a few days of her discharge from Christ Hospital, Chandrapur, she died. Though PW-6 Dr. Shardul was unable to opine that the death of Basanti was due to vehicular accidental injuries, it is apparent from her medical

case papers that her condition at the time of her discharge was critical. Her first discharge was against medical advice, which is normally done due to financial reasons, or for a better and convenient similar treatment nearby to their vicinity. In the case in hand, Basanti and the petitioners are residents of District Chandrapur. Therefore, after taking DAMA from Alexis, Basanti was admitted to Christ Hospital, Chandrapur. No improvement is seen in her condition in her Discharge Card Exh.47 issued by Christ Hospital, Chandrapur. She was only given medication and was brought back to the Casualty of said hospital on 12.08.2019 morning in a dead condition. PW-5 Dr. Gawande has opined that the injuries to Basanti were non-curable. As such, there is no other probability than the vehicular accidental death of Basanti due to the grievous fracture head injury caused to her. As such, I am of the view that petitioners have probalitized that Basanti sustained grievous hurt / grievous injuries in the said vehicular accident and also succumbed to it during her treatment. As such, my answer to Issue No.2 is in the affirmative.

**As to Issue No.4:**

26] The respondent insurance company has not examined any witness to prove that the driver of the Maruti Car – respondent No.1 was not holding a valid and effective driving license at the time of the accident. On the contrary, respondent No.1, along with his evidence affidavit Exh.50, has filed and proved his driving licence, which shows that on the date of the accident, he was possessing driving licence authorising him to drive a Light Motor Vehicle, which includes a Maruti Car too. As such, my answer to Issue No.4 is in the negative.

**As to Issue No.5:**

27] From the medical documents of Basanti, it seems that at the time of the accident, she was 60 years of age; therefore, the multiplier of '9' applies to her age group. In DAR Part VII, column No.56, her occupation and income are not shown. In pleadings by the Basanti, she herself has mentioned her occupation in the title as tailoring and in subsequent pleadings, she has mentioned that she is serving in S.S. Travels. No document of the petitioner regarding her work profile or income is filed, either by petitioner Basanti or her sons, after her death. Therefore, petitioners have failed to prove that Basanti was either doing tailoring work or was serving in S.S. Travels, or earning Rs.10,000/- per month. Therefore, having regard to her old age, I consider her notional income as Rs.7,000/- per month, i.e. Rs.84,000/- per annum.

28] Basanti was a widow. At the time of the accident, her son Giriraj (petitioner No.1) was doing business, and her elder son Manish (petitioner No.2) was in service. Therefore, they, in the strict sense, cannot be said to be dependent on her income. Still, a widow contributes a substantial amount of her earnings on her children. As such, having regard to the circumstances of the case, 1/2 (one half) is required to be deducted towards the personal expenses of Basanti, and 10% is required to be considered towards her future prospects.

29] From the medical evidence on record, it is apparent that petitioners have incurred medical and medicine expenses of Rs.5,83,000/- + Rs.35,000/- + Rs.64,000/- = Rs.6,82,000/-, for which the petitioners are entitled. The petitioners might have incurred medical expenses of Rs.3 Lacs for the treatment of their mother, Basanti, at Christ Hospital,

Chandrapur. Medical Bills (unproved) of a similar amount are filed by the petitioners on record issued by the said hospital, which seems to be genuine.

30] The Hon'ble Supreme Court of India in the case of **Saroj and others Vs. Iffco-Tokio General Ins. Co. Ltd. and others**, [2024 ACJ 2523, decided on 24.10.2024] in terms of the principles laid down in **National Insurance Co. Ltd. Vs. Pranay Sethi**, [2017 ACJ 2700], has recalculated and granted Rs.18,150/- towards loss of estate, Rs.18,150/- towards funeral expenses and Rs.48,400/- to each dependent towards loss of consortium. Under such circumstances, I am of the view that Petitioner Nos.1 to 4 are entitled to the following amount of just compensation.

	Rs.84,000/- p.a.	(Loss of income)
X	<u>9</u>	(Multiplier applied)
	Rs.7,56,000/-	
+	<u>Rs. 75,600/-</u>	(added 10% towards future prospects)
=	Rs.8,31,600/-	
-	<u>Rs.4,15,800/-</u>	(1/2 deduction towards personal expenses)
=	<u>Rs.4,15,800/-</u>	
+	Rs. 36,300/-	(Loss of Estate & funeral expenses)
+	Rs. 96,800/-	(Consortium for 2 dependents)
+	Rs.9,82,000/-	(medical & medicines expenses)
+	<u>Rs. 19,100/-</u>	(towards travelling expenses)
<b>Total</b>	<b><u>Rs.15,50,000/-</u></b>	<b>(Including NFL)</b>

31] Now it is a well-settled principle that this tribunal has every right to grant just compensation over and above the amount claimed.

32] The fact is not disputed that at the time of the accident, the Maruti Car was owned by the respondent No.1, and insured with the respondent insurance company. Therefore, respondents are jointly and severally liable to pay the aforesaid amount of compensation to the petitioner.

33] It seems that petitioners are instruments in dragging the claim petition from 2019 till date. As such, the petitioners are entitled to interest at the rate of 7% per annum on the above amount of just compensation. As such, my answer to Issue No.5 is accordingly in the affirmative. As a result, I proceed to pass the following order.

### ORDER

- i] Claim Petition is partly allowed with proportionate costs.
- ii] The respondents jointly and severally do pay to the petitioner, an amount of compensation of **Rs.15,50,000** (Rupees Fifteen Lacs Fifty Thousand only) (including the amount received by the petitioners towards the 'No Fault Liability', if any), along with interest at the rate of 7% per annum thereon, from the date of the petition till its realisation.
- iii] The petitioners shall be entitled to an equal share in the above compensation.
- iv] The Registrar (MACT), Nagpur, to take the account details of the petitioners, which shall be of any Nationalised Bank only, and send it to the respondents, for compliance.

- v] The respondents shall deposit the respective share of the aforesaid compensation in the respective bank accounts of the petitioners.
- vi] The Manager of the concerned Bank is directed to deposit one-half ( $\frac{1}{2}$  / 50%) each share of the petitioners, in their FDRs in their respective names for 5 years, and the remaining half share shall be paid to them after due identification and verification. On maturity of the said FDRs, the concerned bank shall directly pay the maturity amount to the respective petitioners, after due identification and verification, without insisting on further orders of this Tribunal.
- vii] Award be drawn accordingly, but only after the petitioners affix the deficit court fees, if any, on the amount of awarded just compensation.

Nagpur.  
Date: 04/05/2026

[Dinesh P. Surana]  
Chairman, MACT &  
Principal District Judge, Nagpur.

Case argued on	:	18/04/2026
Judgment dictated on	:	04/05/2026
Transcription ready on	:	04/05/2026
Judgment checked and digitally signed on	:	04/05/2026

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**CERTIFICATE**

I affirm that the contents of this PDF file of the Judgment are word-to-word, as per the original Judgment.

Name of Stenographer      Prashant P. Yenurkar  
(Grade I)