


MHNG010065932019 	Presented on : 18/07/2019
	Registered on : 19/07/2019
	Decided on : 16/03/2026
	Duration : 6 Y : 07 M : 27 Days
	<u>Exhibit No. 45</u>

**BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS TRIBUNAL,  
NAGPUR**

[Presided over by Dinesh P. Surana]

**M.A.C.P. No.653 of 2019**

**Durga D/o Prakash Pathak,** ... **Petitioner**  
Age 21 years, Occ. Student,  
Through the PoA holder  
**Prakash S/o Trimbak Pathak,**  
Age 67 years, Occ. Retired,  
R/o. Plot No.38, Rameshwari-  
Beltarodi Road, Near Rudra Bar T-point,  
Padmavati Nagar Besa, Nagpur.

// **Versus** //

**Gangadhar Shankar Bandawar,** ... **Respondent**  
Aged major, Occ. Owner,  
R/o. At Sanjay Nagar Mel Qtr.A/1,  
Mul Road, Chandrapur.  
At present, Chaitanya Nagar,  
Kharbi Road, Nandanwan, Nagpur.

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

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**Appearances:**

Adv. P.S. Mirache for the petitioner.

Adv. P.Z. Dhoke for the respondent.

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

*[Delivered on 16.03.2026]*

By this petition under Section 166 of the Motor Vehicles Act, 1988, compensation of Rs.21 Lacs is claimed, on account of the vehicular accidental injuries, resulting in permanent disability and losses to the petitioner.

2] It is the case of the petitioner that on 07.05.2019 at around 10:00 pm, when she was proceeding on a motorcycle with her friend from Padmavati T-point, Opposite Rudra Bar, Nagpur, the offending Wagon-R Car bearing registration No.MH-34-K-3569 (in short "Car"), came in high speed, being driven by its driver in a rash and negligent manner, gave a forcible dash to her motorcycle from behind, due to which she suffered injuries to her head and chest. She incurred medical expenses of Rs.6 Lacs. A crime was registered against the driver of the Car at Beltarodi Police Station for causing the accident and the petitioner's accidental injuries due to rash and negligent driving.

3] As per the petitioner, at the time of the accident, she was 21 years old. She was a student of B.A. III year. Due to the accident, she (1) was unable to concentrate on her studies; (2) could not do her normal and daily routine work properly; (3) was unable to participate in games, sports and cultural programs; and (4) suffered permanent disability.

Therefore, the petitioner on several heads claimed the above amount of compensation from the respondent owner of the Car.

4] The respondent owner of the Car, by way of a written statement Exh.18, by taking general denials and defences, resisted the claim of the petitioner. He has specifically contended that his Car was not involved in the said accident. Without conducting a proper investigation, the police filed a charge sheet against one Chetan Barde, a resident of Chandrapur, for causing the said accident, due to rash and negligent driving, but in the end, he was acquitted. As such, he is not liable to pay compensation to the petitioner.

5] To substantiate his contentions, petitioner Durga Pathak examined herself and reiterated her pleadings by way of evidence affidavit Exh.21. Apart from her oral testimony, she also placed her reliance on the following documents.

- i] Exh.22 (Form Comp. AA);
- ii] Exh.23 (First Information Report / FIR);
- iii] Exh.24 (Spot panchanama/Crime Details Form);
- iv] Exh.25 (True copy of driving license);
- v] Exh.26 (True copy of R.C.);
- vi] Detail Accidental Report (DAR) filed by P.Stn. Belatrodi.

6] The petitioner also examined PW-2 Dr. Niraj Gupta, M.D., Medico Legal Consultant in KRIMS Hospital, Nagpur, who treated the petitioner.

7] The respondent, in his evidence affidavit Exh.39, deposed that he purchased the Car in 2010. Its date of registration is 5<sup>th</sup> July 2005. Since 2017, it has not been in working condition. Nobody has been driving his Car since then. That his Car is not involved in the said accident. Based on the assumptions and presumptions, the petitioner has involved his Car, only because coincidentally its colour is silver.

8] The respondent also placed his reliance on (1) the testimony of petitioner (Exh.30) recorded in Summary Criminal Case No.19223 of 2019, (2) her statement (Exh.31), recorded by Police on 24.06.2019, and (3) the judgment dated 09.01.2025 (Exh.32), whereby the accused Chetan Barde was acquitted in Summary Criminal Case No.19223 of 2019 by the learned JMFC, Court No.8, Nagpur, in Crime No.151 of 2019, for the offences punishable under Section 279, 337 and 338 of the I.P. Code and Section 134/177 of the Motor Vehicles Act.

9] Advocate P.S. Mirache for the petitioner submitted that though the petitioner has not filed on record her permanent disability certificate, she has proved that she suffered grievous injuries in the said accident, due to which she is unable to do her day-to-day work, which resulted in her functional disability. She has also proved that she has incurred medical expenses due to the accidental injuries. The involvement of Car has been apparently proved. Therefore, he prayed for the grant of the claimed compensation to the petitioner.

10] Per contra, Adv. P.Z. Dhoke for the respondent submitted that the petitioner was a pillion rider on the motorcycle and the dash was

given by a silver Car, which fled away from the spot. Nobody has stated or identified the involvement of the Car owned by the respondent in the said accident. The involvement of the offending Car is not proved. The petitioner has failed to prove that the driver of the silver Car was at fault in causing the said accident. Chetan Barde was acquitted of the offences of causing the said accident and accidental injuries to the petitioner. The other eyewitnesses, including the rider of the motorcycle, Rishikesh, are not examined by the petitioner to prove the manner of the accident and the involvement of the respondent's Car in the said accident. As such, he prayed for dismissal of the claim petition.

11] Based on the rival contentions, evidence, and the material on record, I record my findings on the Issues at Exh.20, for the reasons discussed thereunder.

<u>I S S U E S</u>	<u>Findings</u>
1. Whether the petitioner sustained injuries in a motor vehicle accident due to the rash and negligent driving of the Car?	... <u>In the Affirmative.</u>
2. Whether the petitioner sustained grievous injuries and/or permanent disablement due to vehicular accidental injuries?	... <u>Partly in affirmative.</u>
3. Whether the petitioner is entitled to the compensation? If yes, to what extent and from whom?	... <u>As per the final order.</u>
4. What award, costs and interest?	... <u>As per the final order.</u>

## REASONS

### As to Issue No.1:

12] The petitioner herself is an eyewitness to the alleged accident. She pleaded and testified as to the manner of the accident. According to her, on the given date, time, and place, the Car bearing No.MH34-K-3569 was being driven by its driver at high speed, in a rash and negligent manner, and gave a dash to their motorcycle from behind. The testimony of the petitioner about the manner of the accident is corroborated by the Police case papers.

13] The F.I.R. Exh.23 was given by Rishikesh on the 4<sup>th</sup> day of the accident, based on which Crime No.151 of 2019 was registered against a silver-coloured Car. Rishikesh, in his FIR to the police, has specifically stated that the silver-coloured car (number not known), being driven by its driver at high speed, rashly and negligently, due to which the accident took place.

14] The Form Comp. AA shows that after due inquiry into the said accident, the police found that the silver offending Car bearing No.MH34-K-3569 is involved in the said accident, which was driven by Chetan Barde and was owned by the respondent at the time of the accident. Chetan Barde was also charge-sheeted in the said crime.

15] The petitioner, in her cross-examination by the respondent, admitted that she does not know about the vehicle that dashed into their motorcycle. However, she clarified that Rishikesh knew about the same.

She also admitted that (1) she does not know about the manner of the accident, (2) she could not notice the vehicle at the time of the accident, (3) she does not know Chetan Barde or (4) that he was acquitted by the learned Magistrate in the case. However, she made a voluntary statement that after her discharge from the Hospital, when the police came to record her statement, she came to know about the vehicle involved in the accident.

16] From the testimony of the petitioner, it is apparent that she is unaware of the involvement of the exact vehicle involved in the accident. However, the DAR filed by the Police clearly show that the offending Car was involved in the said accident. The respondent has not filed on record his vehicle inspection report or the report of any mechanical expert to show that at the time of the accident, his Car was unfit to be driven on the road. Unless proved otherwise, it can be presumed that a vehicle was mechanically fit to be driven on the road when it was well within the period of 15 years of its first registration.

17] Mere acquittal in the criminal case is not a ground to hold that the offending Car was not involved in the alleged accident. The fact remains that after due investigation into the crime, Belatrodi Police Station found involvement of the offending Car in the accident and charge-sheeted its driver, Chetan Barde, for causing the accident and accidental injuries in the said accident. An acquittal in a criminal case is based on the principles of strict proof of facts by the prosecution beyond a reasonable doubt. Whereas, the principles of preponderance of probability apply to the claim petition filed under Section 166 of the Motor Vehicles Act, which is a beneficial legislation. As such, such acquittal from the

Criminal Case will not be a ground to hold that the offending Car of the respondent was not involved in the said accident. Therefore, I am of the view that the petitioner has probalitized her contention of involvement of the Car in the said accident.

18] The fact that the offending Car gave a dash to the motorcycle from behind, wherein the petitioner was a pillion rider, by itself shows, on the principles of “*res ipsa loquitur*”, that the driver of the Car was at fault in causing the said accident. As such, I answer Issue No.1 in the affirmative.

**As to Issue No.2:**

19] Admittedly, the petitioner has not filed her permanent disability certificate on record. PW-2 Dr. Niraj Gupta, examined by the petitioner, has not opined that due to the accidental injuries the petitioner suffered any permanent disability. PW-2 Dr. Gupta deposed that the petitioner was admitted to their KRIMS Hospital, Nagpur, on 07.05.2019, with injury due to the road traffic accident, i.e. 3 abrasions on the right hand, right ankle and right shoulder, with bleeding injury to her right ear and nose and bleeding in her brain. PW-2 Dr. Gupta further deposed that the petitioner was having a head injury too, with a fracture injury to her left temporal bone. The testimony of PW-2 Dr. Gupta is corroborated by the medical case papers of the petitioner issued by KRIMS Hospital. As per PW-2 Dr. Gupta, for further treatment by a neurologist, the petitioner took discharge from the hospital. As such, the injuries caused to the petitioner are apparently not only grievous but serious in nature. However, without there being any evidence that such injury resulted in

her permanent disability, it cannot be concluded that the petitioner really suffered permanent disability due to the accidental injuries. Therefore, my answer to issue No.2 is partly affirmative.

**As to Issue No.3:**

20] The petitioner pleaded and deposed that due to the vehicular accidental injuries, she is unable to concentrate on her studies, as well as unable to do her daily routine work properly. After the accident, her normal activities are affected. Her testimony, though, has gone unchallenged from her cross-examination by the respondent, but is not corroborated by any medical expert's evidence, including PW-2 Dr. Gupta. PW-2 Dr. Gupta, though the treating doctor of the petitioner has not opined that the injury caused to the petitioner resulted in her future loss of earnings, or that it may affect her educational career. However, a fracture to the temporal bone takes a long, long time to heal. As such, I am of the view that the petitioner is entitled to the lump sum amount of Rs.1,00,000/- on account of loss of earnings or loss of educational career for the period of her treatment due to the accidental injuries. But, she is not entitled to future loss of earnings.

21] According to PW-2 Dr. Gupta, the petitioner incurred Rs.30,000/- expenses for her admission in KRIMS Hospital. The injury report of the petitioner Exh.37, filed along with DAR, is issued by Neuron Hospital. The genuineness of the said document is not disputed by the respondent. The injury report of the petitioner shows that she was brought to Neuron Hospital on 08.05.2019 and was discharged on 26.05.2019. She was brought in a drowsy condition with a bleeding right

ear. She was operated for the same and managed accordingly. The petitioner might have undergone pathological and radiological examination and might have incurred medical expenses for her admission to Neuron Hospital.

22] Having regard to the injury caused to the petitioner, and she has undergone surgery, I am of the view that she is entitled to medical, medicine and radiological expenses of around Rs.1,00,000/- at Neuron Hospital. At the time of the accident, the petitioner was only 21 years old and was unmarried. Therefore, the petitioner is also entitled to Rs.1,00,000/- towards loss of her marriage prospects. The petitioner has failed to prove that her fracture injuries resulted in her permanent or functional disability. As such, in my view, the petitioner is entitled to the amount of Rs.40,000/- towards pain and suffering and Rs.10,000/- towards conveyance, hardship, special diet and travelling expenses, etc. The compensation to which the petitioner is entitled is summarised as follows.

<u>Rs.1,00,000/-</u>	towards loss of earnings or loss of educational career.
<u>+Rs.1,00,000/-</u>	towards medical & medicine expenses.
<u>+Rs.1,00,000/-</u>	towards marriage prospects.
<u>+Rs.40,000/-</u>	towards pain and suffering.
<u>+Rs.10,000/-</u>	towards special diet, travelling expenses & conveyance & hardship etc.

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**Rs.3.50 Lacs** Total (including NFL).

23] On perusal of the R & P, it is apparent that the petitioner, too, had contributed in dragging the claim petition from 2019. Hence, she is entitled to interest @7% per annum from the date of the petition, till its

realisation. As a result, I proceed to pass the following order.

**ORDER**

- i] Petition is partly allowed with proportionate costs.
- ii] The Respondent do pay to the petitioner, by depositing in her bank account, an amount of compensation of **Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand only)** (including the amount received by the petitioner towards the 'No Fault Liability', if any) along with interest thereon at the rate of 7% per annum, from the date of filing of the petition, till its realisation.
- iii] The petitioner has filed her bank details on record with pursis Exh.44, i.e., Axis Bank (Manish Nagar Branch, Nagpur), Account No.926010005900819, IFSC Code: UTIB0002994. The concerned Bank Manager is directed to pay the deposited amount of compensation in the said Bank account to the petitioner, after due identification and verification, without insisting on further orders of this Tribunal.
- iv] Award be drawn accordingly, but only after the petitioner affixes the deficit court fees, if any, on the entire amount of awarded just compensation.
- v] The respondent is directed to report the compliance of this order to this tribunal expeditiously and without fail.

Nagpur.  
Date: 16.03.2026

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

Case argued on	:	20/02/2026
Judgment dictated on	:	16/03/2026
Transcription ready on	:	18/03/2026
Judgment checked and digitally signed on	:	25/03/2026

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**CERTIFICATE**

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

Name of Stenographer : Ajay P. Bothe  
(Grade I)