


MHNG010072432019 	Presented on : 03/08/2019
	Registered on : 08/08/2019
	Decided on : 20/03/2026
	Duration : 6 Y : 07 M : 12 Days
	<u>Exhibit No. 58</u>

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

[Presided over by Dinesh P. Surana]

M.A.C.P. No.725 of 2019

- 1] Yogita Wd/o. Anup Tiwari, ... **Petitioners**
Age 35 years, Occu. Housewife,
- 2] Simran D/o. Anup Tiwari,
Age 13 years, Occu. Student,
Acting through the Biological Mother
Yogita Wd/o. Anup Tiwari.
- 3] Shruti D/o. Anup Tiwari,
Age 6 years, Occ. Student.
Acting through the Biological Mother
Yogita Wd/o. Anup Tiwari.
- 4] ~~Mandabai Wd/o. Vijay Tiwari,~~
Aged 62 years, Occ. Houwewife,
(Deleted as per order dated 06.05.25).

All 1 to 4 R/o. Plot No.68,
Near Wanjari Kirana shop,
Mitravihar Nagar, Kharbi Road,
Hanuman Nagar, Nagpur-440009.

// **Versus** //

- 1] Jalaudeen Khan, ... **Respondents**
(Driver of Force Traveller),
Age: Major, Occ. Driver,
R/o. C/o.Ravi Kumar Sultan Singh,
House No.241, V.P.O., Bakoli,
P.S. Alipur, Delhi-36.
- 2] Ravi Kumar S/o. Sh. Sultan Singh,
(Owner of Force Traveller),
Age: Major, Occ. Business,
R/o. House No.241, V.P.O., Bakoli,
P.S. Alipur, Delhi-36.
- 3] Lalit Kumar (Bus Driver),
Age: Major, Occ. Driver,
C/o. Mahendra Kumar S/o. Jaiguru,
B-176, Indira Vikas Colony,
Dr. Mukharji Nagar, New Delhi-09.
- 4] Mahendra Kumar S/o. Jaiguru,
(Owner of Bus),
Age: Major, Occ. Business,
C/o. B-176, Indira Vikas Colony,
Dr. Mukharji Nagar, New Delhi-09.
- 5] United India Insurance Company,
(Insurance Company for both vehicles)
Through its authorised person, T.P. Hub,
Opp. VCA Stadium, Nagpur.

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

Appearances:

Adv. R.M. Tahaliyani for the petitioners.
Respondent Nos.1 to 4 proceeded ex-parte.
Adv. Asgar Hussain for the respondent No.5.

J U D G M E N T*[Delivered on 20.03.2026]*

By this petition under Section 166 of the Motor Vehicles Act, 1988, widow (petitioner No.1), minor daughters (petitioner Nos.2 & 3) and mother (petitioner Nos.4) (deleted, since died pending the claim petition), of deceased Anup Tiwari, have claimed compensation of Rs.55.40 Lacs, on account of the vehicular accidental death of Anup.

2] It is the case of the petitioners that on 12.12.2018 at about 2:30 pm, on Delhi Manali Road, Near Hara Bagh (Maladi), within the jurisdiction of Police Station Sunder Nagar, District Mandi, while Anup was travelling in Force Traveller bearing RTO registration No.DL 1 VC 2620 (in short "Traveller"), there was a head-on collision between the traveller and a Bus bearing RTO registration No.DL-1-PC 4889 (in short "Bus"). That, Anup, succumbed to the vehicular accidental injuries. At the time of the accident, Anup was 42 years old. He was associated with Handa Travels and was arranging tours and thereby earning a salary of Rs.30,000/- per month. The petitioners were dependent on his income. At the time of the accident, the said traveller was driven by respondent No.1 and owned by respondent No.2; the Bus was driven by respondent No.3 and owned by respondent No.4. Both vehicles were insured with respondent No.5. The accident took place due to the composite negligence of the drivers of both vehicles. As such, on different heads, petitioners claimed above compensation, jointly and severally from the respondents.

3] The respondent Nos.1 to 4 proceeded ex-parte. The respondent No.5 insurance company, by way of written statement Exh.14,

by taking general denials and defences, resisted the claim of the petitioners. They contended that the Traveller was not insured with them at the time of the accident. The policy of insurance of the Traveller is fake. Therefore, they denied their liability to pay the compensation to the petitioners. They have not disputed that on the given date, time, and place, the said vehicular accident took place.

4] To substantiate their contentions, PW-1 Yogita (petitioner No.1) (widow of Anup), examined herself and reiterated the pleadings in the claim petition by way of her evidence affidavit Exh.27. Apart from her oral testimony, she also placed her reliance on the following documents.

- i] Exh.34 (First Information Report/FIR);
- ii] Exh.35 (O/c letter issued by witness to Police);
- iii] Exh.36 (P.M. Report of Anup);
- iv] Exh.37 (Certificate issued by P.S. Sundernagar);
- v] Exh.38 (Form Comp. AA);
- vi] Exh.39 (Death Certificate of Anup);
- vii] Exh.40 (Copy of Aadhar card of Anup);
- viii] Exh.41 (Copy of Aadhar card of petitioner).

5] The petitioners also examined PW-2 Chandrahas Handa, at Exh.46, Proprietor of Handa Tourism, who deposed that the deceased was a travel agent and was earning Rs.30,000/- to Rs.35,000/- per month.

6] None was examined for and on behalf of the respondent insurance company.

7] Heard arguments advanced by Adv. Sandip Kadu for the petitioners and Adv. Asagar Hussain for the respondent insurance company.

8] Advocate Sandip Kadu for the petitioners submitted that there was a head-on collision between both vehicles. Therefore, this is the case of composite negligence. Therefore, all the respondents are jointly and severally liable to pay the just compensation to the petitioners. Adv. Kadu further submitted that though one of the vehicles was insured with the respondent insurance company, as the policy of insurance of the traveller is fake, it is not disputed that this is a case of composite negligence. However, he submitted that the petitioners have failed to prove the occupation and income of the deceased. Therefore, according to him, the petitioners are not entitled to the compensation as claimed.

9] Based on the rival contentions, evidence, and the material available on record, I record my findings on the Issues at Exh.21, for the reasons discussed thereunder.

ISSUES

Findings

- | | |
|--|---------------------------------------|
| 1. Whether the petitioners prove that on the given date, time, and place, Anup Tiwari died of injuries suffered in a vehicular accident which took place due to the rash and negligent driving of the drivers of both the vehicles, i.e., the bus and Force Traveller? | ... <u>In the Affirmative.</u> |
| 2. Whether respondent No.5 proves that respondents have committed a breach of the terms and conditions of the policy? | ... <u>In the Negative.</u> |

3. Whether petitioners are entitled to ... As per the compensation? If yes, to what extent and from whom? final order.
4. What order and award? ... As per the final order.

REASONS

As to Issue No.1:

10] The respondent insurance company, in their written statement, has not denied that on the given date, time, and place, the said accident took place. The advocate for the respondent insurance company has also agreed that this is a case of composite negligence.

11] Admittedly, the petitioners are not the eyewitnesses to the alleged accident. But their testimony as to the manner of the accident and death of Anup in the said vehicular accident is corroborated by the documentary evidence.

12] Based on the FIR, given within two hours of the accident, Crime No.300 of 2018 was registered at Sunder Nagar Police Station, District Mandi, for the offences punishable under Section 279 and 337 of the I.P. Code. The informant in his FIR has informed the Police that it was a head-on collision between both vehicles.

13] From the memorandum of post-mortem examination held on the dead body of Anup at the Government Hospital (Exh.36), the doctor has noticed fracture injury to the temporal bone of Anup, with nose

bleeding. Anup died within a few hours of the accident. There is no cross-examination of PW-1 Yogita as to the vehicular accidental death of Anup. Under such circumstances, the petitioners have probalibilized their contentions that on the given date, time, and place, the said accident took place out of the use of both vehicles and due to the composite negligence of the drivers of both vehicles, wherein Anup died. Therefore, my answer to issue No.1 is in the affirmative.

As to Issue No.2:

14] The respondent insurance company has not examined any witness to prove any breach of the terms and conditions of the policy of insurance of the Truck. Therefore, my answer to issue No.2 is in the negative.

As to Issue No.3:

15] Anup was 42 years old at the time of the accident. Multiplier of 14 applies to his age group. At the time of the accident, the deceased was maintaining his family of 5, including himself. As per the petitioners, deceased Anup was associated with Handa Travels, and he was used to arrange tours and was earning Rs.30,000/- per month. PW-1 Yogita, in the cross-examination, admitted that she has not produced any document to show the monthly income of her husband. However, she denied the suggestion that her husband was earning Rs.30,000/- per month. The testimony of petitioners as to the occupation and income of the deceased is corroborated by the testimony of PW-2 Chandrahas, who deposed that

Anup was working with them for the last one or two years. Later on, he started working as a freelancer travelling agent. He was working with him and also with another tourism agency. PW-2 Chandrahas opined that the deceased might be getting Rs.30,000/- per month. PW-2 Chandrahas admitted that he has not produced any document to show the monthly income of Anup. There is no reason for the petitioner to depose falsely about the work profile of Anup. It also seems that at the time of the accident, he was travelling in the Traveller, which was proceeding from Delhi to Manali. Therefore, the possibility cannot be ruled out that at the time of the accident, Anup was working as a travel agent. However, for want of cogent evidence about the income of deceased Anup, I consider his notional income as Rs.20,000/- per month.

16] Having regard to the nature of work he was doing, and the dependency on him, being self-employed, 25% increase in his income towards his future prospects is required to be taken into consideration. The petitioners have themselves calculated 1/3rd deduction towards the personal expenses of the deceased. Therefore, 1/3rd is required to be deducted from his income towards his personal expenses.

17] 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. As such, the just payable compensation will be as follows.

	Rs.2,40,000/-	p.a. (Loss of earnings Rs.20,000/- x 12)
X	<u>14</u>	(Multiplier applied)
	Rs.33,60,000/-	
-	<u>Rs.11,20,000/-</u>	(1/3 rd deduction towards Personal Expenses)
=	Rs.22,40,000/-	
+	<u>Rs.05,60,000/-</u>	(25% increase towards Future Prospects)
=	Rs.28,00,000/-	
+	Rs. 36,300/-	(towards loss of Estate & funeral expenses)
+	Rs. 15,000/-	(expenses towards dead body carrier van)
+	<u>Rs.1,45,200/-</u>	(Consortium for 3 dependents)
Total	<u>Rs.29,96,500/-</u>	(Round up <u>Rs.30 Lacs</u>)

18] The above amount of just compensation is inclusive of the compensation payable or paid on the principle of No Fault Liability – NFL.

19] Considering the fact, as admitted by the respondent insurance company too, that this was the case of composite negligence and one of the vehicles involved in the accident is admittedly insured with the respondent No.5 insurance company, I am of the view that all the respondents are jointly and severally liable to pay the above amount of just compensation to the petitioners.

20] Being the widow of Anup, petitioner No.1 is entitled to the share of 60% and his minor daughters, i.e. petitioner Nos.2 & 3, are entitled to the share of 20% each, in the above amount of just compensation.

21] From the R & P, it is apparent that the petitioners, too, are instrumental in dragging the claim petition till date. As such, interest @

7% per annum only can be awarded in the case in hand, from the date of filing of the petition, till its realisation. In the result, I proceed to pass the following order.

ORDER

- i] Petition is allowed with proportionate costs.
- ii] The Respondent Nos.1 to 5 do pay jointly and severally to the petitioners, an amount of compensation of **Rs.30 Lacs (Rupees Thirty Lacs only)** (including the amount received by the petitioners towards the 'No Fault Liability', if any), along with interest thereon at the rate of 7% per annum, from the date of petition, till its realization.
- iii] The petitioner No.1 is entitled to the share of 60% and the petitioners No.2 & 3 are entitled to the share of 20% each, in the above amount of just 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 respondent Nos.1 to 5, for compliance.
- v] The concerned bank manager is directed to keep one-half ($\frac{1}{2}$) share of the petitioner No.1 in the FDR in her name for 5 years. On maturity of the said FDR, the concerned bank shall directly pay the maturity amount to the petitioner No.1, after due identification and verification, without insisting on the further orders of this Tribunal.

vi] The concerned bank manager is further directed to keep the entire amount of compensation payable to the minor petitioners No.2 and 3 in FDRs in their respective names, with an auto-renewal option, till they attain the age of 21 years. On maturity, the concerned bank shall directly pay the amount of their FDRs to the petitioners No.2 and 3, after due identification and verification, without insisting on the further orders of this Tribunal, after petitioners No.2 and 3 attain the age of 21 years.

vii] The petitioner No.1, being the natural guardian/mother of minor petitioners No.2 & 3, is entitled to the quarterly accrued interest on the FDRs of minor petitioners No.2 & 3, towards their maintenance. The concerned bank manager is directed to assist the petitioner No.1 for the payment of such interest or continue to deposit the same in her bank account till the petitioners No.2 & 3 attend the age of 21 years.

viii] Award be drawn accordingly, but only after petitioners affix the deficit court fees, if any, on the entire amount of awarded just compensation.

ix] The respondents No.1 to 5 are directed to report the compliance of this order to this tribunal expeditiously and without fail.

Nagpur.
Date : 20.03.2026

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

Case argued on	:	04/03/2026
Judgment dictated on	:	20/03/2026
Transcription ready on	:	23/03/2026
Judgment checked and digitally signed on	:	25/03/2026

=====

CERTIFICATE

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

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