


MHNG010080792021 	Presented on	: 21-08-2021
	Registered on	: 23-08-2021
	Decided on	: 12-03-2026
	Duration	: 04-Y, 06-M, 19-D

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
NAGPUR. AT NAGPUR.**

(Presided over by R.S.Salgaonkar, Member, M.A.C.T-2, Nagpur)

Exhibit No.44

Proceeding Number : M.A.C.P No.663/2021

1] Balvir Vivek Fulmali

Aged about 45 Years, Occup.: Household,

2] Srushti Vivek Fulmali

Aged about 23 Years, Occup.: Nil,

3] Aman Vivek Fulmali

Aged about 18 Years, Occup. : Student,

The Petitioners

4] Vimal Vyankatesh Fulmali

Aged about 81 Years, Occup. : Nil,
All Address: Plot No.174, Khamla Road, Near
Dr. Dongare Homeopathic Clinic, Surendra
Nagar, **Nagpur**

Versus

1] Anil Dayaram Sawarbandhe

Aged about Major, Occup. : Not known,
Address: At Post Near Dipesh Panchbhai
Gandhi Shala Javal, Vitthal Gujari, Ward Pauni,
Tah.Pauni, **Dist. Bhandara 441 906**

The Respondent

Appearance:-

Smt. U. A. Bhattad Learned Advocate for Applicants/Petitioners.
Shri. A. B. Shende Learned Advocate for Respondent.

**Coram : R.S.Salgaonkar,
Member, Motor Accident
Claims, Tribunal-2 Nagpur**

Date : 12th March-2026

AWARD**(As per section 168 of The Motor Vehicles Act, 1988)**

This claim petition is filed invoking Section 166 of The Motor Vehicles Act, 1988 (Hereinafter will be referred to as “M.VAct”).

2) Necessary particulars for consideration in this claim petition are as follows :

1.	Name of the deceased	:	Vivek s/o. Yuankatesh Fumali.
2.	Age of deceased as per the petition	:	53 Years.
3.	Occupation of deceased	:	Private Service.
4.	Name and address of employer of deceased	:	Uber Eats.
5.	Monthly income as pleaded in petition	:	Rs.15,000/- p.m.
6.	Place of accident	:	Near Chhatrapati Square, Dhantoli, Nagpur.
7.	Date of accident	:	10/06/2019
8.	Time of accident (as pleaded)	:	21:00 hrs.
9.	Police station	:	Dhantoli-Police Station, Nagpur
10.	Was the person in respect of whom compensation is claimed was traveling in vehicle.	:	Deceased was driving Activa bearing registration No.MH-31-ET-7573
11.	Registration number of vehicle(s) involved in accident.		
	Vehicle No 1 - Registration number and name of owner and insurance policy particulars of that vehicle.	:	Activa bearing registration No. MH-49/AV-9792. Owner-Deceased Vivek s/o. Yuankatesh Fumali. Driver-Deceased Vivek s/o. Yuankatesh Fumali. Policy No-details not provided. Validity period-details not provided.
	Vehicle No 2 - Registration number and name of owner and insurance policy particulars of that vehicle		Offending Swift Car bearing registration No. MH-36/H-8471. Owner- Respondent. Driver- Mukesh Ramdas Randaye Policy No- details not provided. Validity period-details not provided.
13.	Amount of compensation claimed	:	Rs1,00,000/- with further prayer of just compensation.

The accident took place in following manner :-

3) The accident took place on 10.06.2019 at about 21.00 hours near Chhatrapati Square within the jurisdiction of Dhantoli Police Station, Nagpur. On the said day, the deceased Vivek Fulmali was riding his two-wheeler, namely Honda Activa bearing registration No. MH-31-ET-7573, on the correct side of the road and at a moderate speed while proceeding from Khamla towards Chhatrapati Square. At that time, the offending vehicle, namely Maruti Swift bearing registration No. MH-36-H-8471, came at high speed and in a rash and negligent manner and dashed against the Activa of the deceased. Due to the said impact, the deceased fell down on the road and sustained serious injuries. He was immediately taken for treatment and admitted to Kalpavruksha Healthcare Service Pvt. Ltd.. However, despite treatment, he succumbed to the injuries on 24.06.2019 during the course of treatment. The post-mortem examination was conducted at Government Medical College and Hospital Nagpur. In respect of the said accident, Dhantoli Police Station registered Crime No.213/2019 against the driver of the offending vehicle for the offences punishable under Sections 279, 338 and 304(A) of the Indian Penal Code. Thus, the accident occurred due to the rash and negligent driving of the driver of the offending Maruti Swift bearing registration No. MH-36-H-8471.

Claim of petitioner :-

4) The petitioners claim is for compensation of Rs. 27,20,000/- with further prayer of costs, just compensation and interest. Petitioner has restricted his claim to Rs. 1,00,000/- for purpose of court fees.

Defence of non applicant -Owner of vehicle:-

5) The Non-applicant No.1 is the registered owner of the

vehicle bearing registration No. MH-36-H-8471 (Maruti Swift). He was duly served with notice. The Non-applicant appeared before the Tribunal and contested the petition by filing a written statement at Exhibit No.28.

Defence on Facts:

6) The respondent denies the occurrence of the alleged accident in the manner pleaded by the claimant and disputes the involvement of the insured vehicle. It is specifically denied that the driver was negligent or that his conduct caused the accidental injuries resulting in death. The respondent further denies the particulars of the deceased's age, income, and dependency, and prays that the claimants be put to strict proof thereof. It is further pleaded that the quantum of compensation claimed is excessive and exaggerated.

Evidence:

7) It is pertinent to note that this is a proceeding before the Claims Tribunal. It is an application in a prescribed proforma and does not have the status of a civil suit. The procedure laid down in the Code of Civil Procedure, 1908, is not applicable. Similarly, the strict rules of the Indian Evidence Act, 1872, are not applicable, as the nature of the enquiry before the Tribunal is a summary enquiry. Therefore, every document tendered by either party is taken into consideration. However, for the purpose of deciding the present claim, the Tribunal considers only those documents and particulars which are relevant and necessary, and accordingly, only such specific documents have been referred to hereinafter. Strict proof of medical bills is dispensed with as per the ratio laid down by the Hon'ble Bombay High Court in *Dr. Dattatray Laxman Shinde vs. Nana Raghunath Hire* [2011 (6) ALL MR 646 (Bom)].

Oral Evidence of applicant side:

a) The Petitioner No.1 Balvir wd/o. Vivek Fulmali (PW-1) is examined applicants witness No.1 vide Exh.12. This evidence is on point of nature of injury, cause of injury, about involvement of vehicles and person in accident, on point of age, income, loss of earning capacity and the expenses injured in accident.

Documentary evidence:

Sr.No.	Description of Document.
Exhibit No.13	: Attested copy of form AA
Exhibit No.14	: Attested copy of FIR
Exhibit No.15	: Attested copy of Crime Detail Form
Exhibit No.16	: Attested copy of Inquest panchanama
Exhibit No.17	: Attested copy of PM. Report
Exhibit No.18	: Verified copy of Aadhar card

Evidence of Non-applicant Side :-

8) There is no evidence of non-applicant. The matter is heard Ex-parte against non-applicant.

9) Following issues were framed at Exhibit No.29 and my findings on them are as follows for the reasons below :-

S.R	ISSUES	FINDINGS
1.	Whether the accident took place due to rash and negligent driving by the driver of the offending Swift Car bearing registration No. MH-36/H-8471 and death of Vivek s/o. Yuankatesh Fulmali died in the accident ?	Yes
2.	Whether petitioners are entitled for compensation ? If yes up to what extent ?	As per final order
3.	Who is liable to pay compensation ?	Non-applicant
4.	What award and cost ?	Petition is allowed.

REASONS

As to Issue No.1:-

10) The issue of negligence is *sine qua non* for a petition under Section 166 of the Motor Vehicles Act, 1988. The core question is whether the death of the deceased—on the basis of which the present

compensation is claimed by the legal representatives—was the result of a motor vehicle accident caused due to rash and negligent driving. A claim under Section 166 is fundamentally a codification of tortious liability stemming from the use of motor vehicles. In such proceedings, the primary burden lies upon the claimants to establish that the accident occurred due to the negligence of the driver of the offending vehicle. Hence, proving negligence and establishing a causal connection between such negligence and the fatal injuries sustained by the deceased is essential.

11) The standard of proof required to prove a claim is laid down by honourable Supreme Court in the case of **Bimla Devi and others v. Himachal Road Transport Corporation and others [(2009) 13 SCC 530]**, in which the relevant observation on this point has been made and which is very pertinent and is quoted below:-

“In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.”

12) Aspect of standard of proff is delt with by honourable Supreme Court in the case of **Kusum Lata and Ors. v. Satbir and Ors. [(2011) 3 SCC 646]** wherein it is held that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The nature and standard of negligence under civil law (particularly under the law of torts) differ significantly from the standard applicable in criminal proceedings. In motor accident claims, a driver is held civilly liable as a tortfeasor if it is shown that he owed a duty of care to other road users, breached that duty by acting in a manner not expected of a reasonable and

prudent person—such as by driving rashly or violating traffic norms—and thereby caused the accident resulting in injury or death. The object of such civil liability is not to punish, but to ensure that the victim or their legal representatives receive just compensation for the loss caused.

13) In the present case, the claimants—being the legal heirs of the deceased—have adduced oral and documentary evidence. Although none of the claimants are eyewitnesses to the accident, they have relied upon the police charge-sheet and investigation papers to prove the occurrence of the accident and the negligence of the driver. It is now well-settled that a charge-sheet filed against the driver of the offending vehicle constitutes **prima facie** evidence of negligence, unless rebutted by cogent and credible evidence. Here, a charge-sheet has been filed against the driver under relevant penal provisions, and the same has remained unrebutted, as neither the insurer nor the non-applicants have led any contrary evidence.

14) At this stage, it is pertinent to refer to the decision of the Hon'ble Supreme Court in **Pushpabai Purshottam Udeshi v. Ranjit Ginning and Pressing Co.**, (1977 ACJ 343 SC), wherein it was held:

*“The normal rule is that it is for the plaintiff to prove negligence, but as in some cases considerable hardship is caused to the plaintiff as the true cause of the accident is not known to him but is solely within the knowledge of the defendant, the plaintiff can prove the accident but cannot prove how it happened. This hardship is sought to be avoided by applying the principle of **res ipsa loquitur**... It is sufficient for the plaintiff to prove the accident and nothing more. It will then be for the defendant to establish that the accident happened due to some other cause than his own negligence.”*

15) This principle squarely applies in the instant case, as the claimants were not present at the accident site and could not produce

any eyewitness. However, the circumstances of the accident, the contents of the charge-sheet, and the control of the vehicle being with the non-applicant's driver clearly speak for themselves, thus raising a presumption of negligence under the doctrine of *res ipsa loquitur*. The burden then shifts to the opposite party to disprove negligence, which they have failed to do.

16) Furthermore, it stands established from the record that the offending vehicle was owned by the non-applicant and was involved in the accident. But for the negligent operation of this vehicle, the accident would not have occurred. Therefore, the driver is clearly the tortfeasor, liable under civil law for the harm caused. It is once again reiterated that the scope of negligence in these proceedings is confined to civil liability for compensation and should not be conflated with the criminal culpability that may arise under the penal provisions of the Bharatiya Nyaya Sanhita, 2023.

17) In view of the above facts, legal position, and settled judicial precedents, this Tribunal holds that the deceased died as a result of a motor vehicle accident caused due to the rash and negligent driving of the vehicle owned by the non-applicant.

Injuries, Treatment and Nexus between Injuries and Death

18) In the present case, the respondents have disputed the nexus between the accident and the death on the ground that there was a time gap between the date of accident and the date of death. The accident occurred on 10.06.2019 and the deceased died on 24.06.2019. The FIR was lodged on 14.06.2019. On this basis, the respondents attempted to contend that the death was not the direct result of the accident involving the offending vehicle, namely the Maruti Swift bearing registration No. MH-36-H-8471.

19) On this point, the evidence of Smt. Balbir (PW-1), the widow of the deceased, is material. In her cross-examination (Exh.12), she stated that after the accident on 10.06.2019, her husband was immediately admitted to Kalpataru Hospital where he remained admitted till 11.06.2019. Thereafter he was taken home and on the next day he was admitted to Kothari Hospital situated near their residence. At Kothari Hospital he remained admitted for three to four days and underwent surgery for his leg injury. After discharge from Kothari Hospital he was brought home and was receiving treatment from the concerned doctor at home. She further stated that though his condition initially appeared stable after discharge, he started complaining of chest pain and while he was being taken to the hospital he died on the way.

20) In this background, the post-mortem report becomes highly relevant. In column No.17 of the post-mortem report, the following ante-mortem injuries are noted:

1. Fracture of bone of left lower limb (tibia) at upper 1/3rd in healing state; after opening, non-union of fracture ends noted.
2. Fracture of bone of left lower limb (fibula) at upper 1/3rd in healing state; after opening, non-union of fracture ends noted.

21) Further observations in column No.20 relating to the thorax reveal the condition of the lungs. It is noted that **about 300 cc of coloured fluid was present in both pleural cavities. Both lungs were congested and oedematous, firm and gritty to cut, and the cut surface was red, shiny** and granular with blood-tinged pus oozing out on cut section. These findings indicate severe pulmonary complications.

22) In column No.23 of the post-mortem report, the Medical Officer has opined that the ante-mortem injuries were sufficient in the ordinary course of nature to cause death and specifically mentioned

injury No.1 stated in column No.17 with its complications. The probable cause of death is stated as bilateral lung consolidation in a case of road traffic accident with evidence of atherosclerotic coronary artery disease. Thus, the medical evidence clearly shows that the deceased had sustained fractures in the accident and subsequently developed serious complications affecting the lungs. The condition of the lungs as described in the post-mortem report demonstrates that the complications arising out of the injuries ultimately led to the death of the deceased.

23) The oral testimony of Smt. Balbir (PW-1) regarding the accident, treatment and deterioration in the health condition of the deceased is consistent with the medical findings in the post-mortem report. Therefore, the evidence on record establishes a clear nexus between the injuries sustained in the accident and the death of the deceased.

24) Accordingly, it is held that the death of the deceased occurred due to the injuries sustained in the road traffic accident caused by the negligent driving of the offending Maruti Swift bearing registration No. MH-36-H-8471. Hence, **Issue No.1** is answered in the **affirmative**.

As to Issue No.2:- (Entitlement and calculation of compensation)

25) Compensation and damages are principally liability under Torts. Motor Vehicles Act, 1988 and particularly, the chapter 12 governing Claim Tribunal is codified law of Torts to the extent of motor accident claims. The point for consideration under this issue is fixing of liability and determining extent of liability.

Entitlement of petitioner for Compensation amount :-

26) Section.166 (c) of M.VAct, 1988 speaks of legal representatives, therefore, parents of deceased are also entitled to share in compensation amount. The category of person entitled are

decided in the case of **Manjuri Bera vs Oriental Insurance Company Ltd. And Anr [2007 (10) SCC 643]**. In many of the cases, due to unitary structure of family, parents of deceased, even after being alive, is not brought to notice of court. This proceeding therefore, proceeds with assumption that the petitioners are the only legal representative to deceased, and the amount of claim awarded in favour of petitioners included the share of all the legal representatives if any left out of petition.

27) The death caused as a result of motor accident, the petitioners are legal representatives of deceased, thence he is entitled to invoke jurisdiction of this Tribunal for compensation, damages and for recovery of medical expenses (if any).

Calculation of loss of future income :-

28) The following factors are essential for computing the just and proper compensation:

- (a) Age of the deceased at the time of death
- (b) Nature of employment or occupation
- (c) Future prospects
- (d) Applicable multiplier

The method and basis for determining each of these components are discussed in the succeeding paragraphs.

Age at the time of death:-

29) There is no documentary proof of the date of birth of the deceased placed on record. Therefore, this Court relies upon the age mentioned in the Discharge Summary and the Post-Mortem Report, wherein the age of the deceased is recorded as 53 years. The death occurred on 24.06.2019. Hence, the age of the deceased on the date of death is taken as 53 years.

Income of the Deceased:

Determination of Notional Income:

30) The claim of the petitioner is that the deceased was working for Uber Eats. The said fact is also mentioned in the FIR. However, though it appears that the deceased was engaged in such work, there is no documentary evidence on record to establish the exact amount of his income. In a claim under Section 166 of the Motor Vehicles Act, 1988, where no documentary proof of income is produced, the Tribunal is required to assess the income on a notional basis by adopting reasonable and judicially accepted parameters. The Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Kusuma & Anr.* [(2011) 13 SCC 306] has held that the discretion under Section 168 of the Act must be exercised judiciously to award just, fair, and reasonable compensation.

31) In the present case, though the petitioner has not produced documentary evidence of income, the surrounding circumstances clearly indicate that he was engaged in gainful activity and had earning capacity. It would therefore be unjust to presume absence of income.

32) In such circumstances, reliance on the Minimum Wages Notification issued by the State Government is the most appropriate and legally recognised method for determining notional income. As per the Minimum Wages Notification applicable to Zone III, which includes District Nagpur, and taking judicial notice thereof under Section 57 of the Indian Evidence Act, 1872, the minimum wages payable to an unskilled worker for the relevant period from 01.01.2019 to 30.06.2019 are Rs. 12,822/- per month. Considering fact that the **construction of roads and buildings** constitutes the most probable source of employment in the Nagpur region, the said sector is adopted as the basis for computing the **notional income**.

33) The Honourable Supreme Court in **Maheshwari & Ors. v. Ramachandran & Ors., Civil Appeal No. 9187 of 2022**, decided on 13 December 2022 holds that:

“However, taking into consideration the fact that the deceased was maintaining a family of 4 members and living a reasonably decent life, it can safely be inferred that he was earning not less than Rs. 15,000/- per month.”

(date of death in cited case law is 28.5.2015)

34) The notional income calculated on the basis of the minimum wages formula broadly aligns with the estimated earning capacity of the deceased, and both approaches yield comparable results in terms of the quantum of compensation. Considering that the accident pertains to the year 2021, adoption of the minimum wages appears to be an appropriate and reasonable method in the circumstances of the case.

35) Therefore, this Tribunal considers it proper to assess the monthly income of the deceased on the basis of minimum wages at **Rs.12,822/- per month** for the purpose of computation of compensation.

Future Prospectus :-

36) In the light of judgment of Honourable Supreme Court in the case of **Sarla Verma -Vs. Delhi Transport Corporation [AIR 2009 SC 3104]** the subsequent judgment in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi [2017 ACJ 2700]**, for consideration of future loss of earning, this court follows the categories recognized and defined by by Honourable Supreme Court of India. It is consolidated in following table.

Future Prospects

Age	Self employed	Salaried employee
below 40	40%	50%
40 to 50	25%	30 %
50 to 60	10%	15%

37) On the point of selection of appropriate multiplier to the age of deceased, it is laid down in paragraph No 42 in the Judgment of Pranay Sethi (supra) that *'The claims Tribunals shall follow the steps and guidelines stated in para 19 of the Sarla Verma for determination of compensation in case of death'*. On considering para No.19 of the Judgment in the case of Sarla Verma (supra), this court categories the multiplier in the following tabular form to select appropriate multiplier.

Multiplier as per paragraph No. 21 as laid down in the case of Sarla Verma (supra)

Age in Years	Multiplier
15 to 20	18
21 to 25	18
26 to 30	17
31 to 35	16
36 to 40	15
41 to 45	14
46 to 50	13
51 to 55	11
56 to 60	9
61 to 65	7
66 to 70	5

Deduction based on dependency :-

38) The deceased, if would have been alive, he would have earned in the future. That is computed under loss of future earnings from point of dependents. However, for his own livelihood, he might have spent some amount out of his income. There is a prescribed formula for that deduction as laid down in the case Pranay Sethi (Supra.). It is as follows:-

S. N.	Number of dependents	Deduction for self use	Entitlement of dependents.
1	Died unmarried	$\frac{1}{2}$	$\frac{1}{2}$
2	2 to 3	$\frac{1}{3}$	$\frac{2}{3}$
3	4 to 6	$\frac{1}{4}$	$\frac{3}{4}$
4	Exceeding 6	$\frac{1}{5}$	$\frac{4}{5}$

39) As discussed above, the appropriate multiplier applicable to the age of 53 years is **11**. The addition towards future prospects is **10%**. Further, considering that the deceased was survived by four dependents, **one-fourth (1/4th)** of the income is required to be deducted towards his personal and living expenses. On the basis of these particulars, the loss of future income is calculated as follows:

Actual calculation of loss of future income by multiplier method:-	
Loss of Earnings	= Multiplier × (annual income+ future prospects) minus deduction for self use.(as stated above)
	= [11x [(Rs. 12822 x12 months)+ 10 %] minus one forth
	= Rs.13,96,318/-

With this formula, after deducting income for self use, the dependents are entitled to loss of future earnings as calculated above.

Total compensation:-

40) Total amount of compensation includes loss of future earnings, loss of consortium, funeral expenses, pain and agony. Except loss of future earnings, all other heads are abstract. These heads cannot be quantified in terms of money. Therefore, this court opts to follow the guidelines in the case of **Pranay Sethi** (supra).

Periodical increase in quantum of funeral expenses and loss of estate component:

41) The Hon'ble Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi* fixed the conventional sum under the heads of **funeral expenses** and **loss of estate** at Rs. 15,000/- each, with a direction that these amounts shall be enhanced at the rate of **10% every three years**

from the date of enforcement of the Second Schedule to the Motor Vehicles Act, i.e., **14.11.1994**. Accordingly, the enhancement works out in tri-annual (three-year) periods as follows:

Tri-Annual Period	Period Covered	Amount (Rs.)
0	14.11.1994 – 13.11.1997	15,000
1	14.11.1997 – 13.11.2000	16,500
2	14.11.2000 – 13.11.2003	18,150
3	14.11.2003 – 13.11.2006	19,965
4	14.11.2006 – 13.11.2009	21,961
5	14.11.2009 – 13.11.2012	24,157
6	14.11.2012 – 13.11.2015	26,573
7	14.11.2015 – 13.11.2018	29,230
8	14.11.2018 – 13.11.2021	32,153
9	14.11.2021 – 13.11.2024	35,368
10	14.11.2024 – 13.11.2027	38,905

Amount of consortium:-

42) Honourable Supreme Court has laid down a ratio in the case of Pranay Sethi (Supra) on point of enhancement of 10% increase in amount of consortium under section 163-A of the Motor Vehicles Act, 1988, Schedule of compensation providing 40,000/- towards loss of consortium was introduced by amendment with effect from 14/11/1994. Every year three there should be 10% increase in it. Now though that Schedule is deleted from the statute, still that remains as legitimate guidelines for arriving as a arithmetical component of consortium. How it increases by 10% every three years is demonstrated in a charge below: -

Tri-Annual increase is stated as follows: -

Consortium calculation with 10 % increased after every set of 3 years as per guidelines of the Honourable supreme in the case of National Insurance Company Limited Vs. Pranay Sethi (2017 ACJ 2700)			
From date	Till date	Rise by 10 %	Enhanced consortium after 10 % increase Rs.
14/11/1994	13/11/1997	Nil	40,000
14/11/1997	13/11/2000	10%	44000
14/11/2000	13/11/2003	10%	48400
14/11/2003	13/11/2006	10%	53240
14/11/2006	13/11/2009	10%	58564
14/11/2009	13/11/2012	10%	64420.4
14/11/2012	13/11/2015	10%	70862.44
14/11/2015	13/11/2018	10%	77948.684
14/11/2018	13/11/2021	10%	85743.5524
14/11/2021	13/11/2024	10%	94317.90764

14/11/2024	13/11/2027	10%	103749.698404
14/11/2027	13/11/2030	10%	114124.6682444
14/11/2030	13/11/2033	10%	125537.13506884

43) The original amount of consortium was Rs. 40,000/-. As per the guidelines laid down by the Hon'ble Supreme Court in para 54 of *Pranay Sethi* (supra), the said amount is subject to periodic enhancement, as per the triennial increment chart. The applicable amount of consortium on the date of the accident is determined accordingly.

44) There are three kinds of consortium recognised in law: (i) spousal consortium, (ii) filial consortium, and (iii) parental consortium. While the head under which consortium is awarded differs based on the relationship of the petitioner with the deceased, the amount is calculated using the same formula. Each eligible petitioner is entitled to the enhanced amount of consortium as per the prevailing rate on the date of accident, as laid down in *Pranay Sethi* (supra).

The total compensation is calculated as follows:-

(a)		Loss of future earnings	Rs.	13,96,318/-
(b)	(i)	Loss of consortium Rs.85,743.55 multiplied by number of dependents (4)	Rs.	3,42,974/-
	(ii)	Funeral expenses	Rs.	32,153/-
	(iii)	Loss of estate	Rs.	32,153/-
	(iv)	Medical expenses (if any)		Not claimed
	(v)	Towards loss of love and affection		Not granted separately
		Total	Rs.	18,03,598/-

The Petitioners are entitled to get the compensation amount as above.

The issue No.2 is therefore, answered accordingly.

As to issue No.3 :-

45) This issue is about fixing of liability and extent of liability subject to fixing of liability. This issue is based on settled Principles of

Law of Contract.

Liability of driver of vehicle:-

46) The driver of the offending vehicle is the principal tortfeasor, being the person whose rash and negligent act directly caused the accident. Under the law of torts and as applied in claims under Section 166 of the Motor Vehicles Act, 1988, he is primarily liable to pay compensation for the harm caused.

Liability of owner of vehicle:-

47) Liability registered owner of the offending vehicle is twofold. Firstly, he bears **statutory liability**, as the use of his vehicle has given rise to a tortious claim under the Motor Vehicles Act; being the owner, he is deemed responsible for compensating the loss and damage arising from the use of the vehicle, regardless of his personal fault. Secondly, he is also liable **vicariously**, since the vehicle was being driven by a person authorized and engaged by him. The driver's negligent act, committed in the course of employment or with the owner's permission, fastens vicarious liability upon the owner. Accordingly, it is held that owner of vehicle is equally liable as the driver of the vehicle. Hence **issues No. 3 is answered as Non Applicant to pay.**

As to issue No.4:-

48) In the light of discussion as above, the claim petition is allowed. Following are the reasons for directions in the operative order forming part of the award.

Interest over compensation amount: -

49) M.V. Act, 1988 is silent about rate of interest. It is left to discretion of Tribunal vide Section 171. This Court relies upon judgment of Honourable Supreme Court in the case of **Khusnuma**

Begum -Vs- New India Assurance Company Ltd.[2001(2) SCC 9] where Honourable Supreme Court has lowered rate of interest from 12% to 9% per annum. Considering the rate of inflation, GDP rate and diminishing value of currency, 9% per annum is sufficient rate of interest to bring compensation amount at par with its real value as on the date of award.

Future interest :-

50) As per the mandate of Section 168(3) of the Motor Vehicles Act, 1988, the insurance company is required to deposit the amount awarded within 30 days from the date of the award. However, considering that the statutory period of limitation for filing an appeal is 90 days, penal interest at the rate of 12% per annum shall be leviable if the awarded amount is not deposited before the expiry of the said 90 days.

Mode of payment and TDS deductions: -

51) This Court prescribes deposit in Court as the only mode of satisfaction of award. The Non applicant shall follow guidelines laid dawn by Honourable Supreme Court in the case of **CIT vs. P. Krishna Warriar [(1997) 228 ITR 429 (SC)]**, and if TDS is intended to deducted over interest over compensation amount, it shall be done by prior information to account section of court (MACT Nagpur) and only after obtaining PAN details of petitioner. Whenever TDS is deducted, its receipt shall be submitted to Court while depositing the amount. This direction shall be scrupulously followed.

Deduction of no fault payment:-

52) For the above stated reasons, it is held that, the petitioner is entitled to compensation amount with interest as above stated. After adding interest over the amount so awarded, amount paid (if any) towards no fault liability under Section 140 of Motor Vehicles Act,

1988 shall be reduced from it.

Recovery of Court Fees :-

53) In the present case, the amount awarded exceeds the amount originally claimed in the petition. Therefore, the petitioners are required to pay the deficit court fees as directed in the final order and, in any case, before applying for withdrawal of the awarded amount from the Court. If the deficit court fees are paid within 15 days, the same shall be included in the bill of costs. Necessary directions have been issued to ensure recovery of dues payable to the State Exchequer. As per Rule 257 of the Maharashtra Motor Vehicles Rules, 1989, the court fee is computed in a structured manner. For the first Rs.1,00,000/-, the court fee is Rs.372.50 and thereafter, for every additional amount of Rs.1,00,000/-, the court fee is 1%, subject to the maximum limit of Rs.15,000/-. In the present case, considering the amount of compensation granted, the petitioner is liable to pay court fees of Rs.15,000/-. After deducting Rs.375/- already paid along with the petition, the petitioner is in deficit of Rs.14,625/- towards payment of court fees.

54) The petitioner is directed to pay the said deficit court fees within 15 days from the date of this order. In case the deficit court fees remain unpaid within the stipulated period, the same shall be deducted from the awarded amount before disbursement. However, no execution proceedings shall be entertained unless and until the deficit court fees are duly paid.

Apportionment of the compensation amount:-

55) The compensation amount be distributed equally amongst the petitioners.

Fixed deposits:

56) In order to safeguard the long-term financial interests of the

claimants and to ensure that the compensation amount is judiciously invested—particularly in cases where the beneficiaries may lack financial literacy—this Court directs that the amount from the shares of the claimants shall be deposited in fixed deposits in State Bank of India. However, considering the age of Applicant No.4, no fixed deposit is directed in respect of her share. The remaining amount of the respective shares of the claimants, along with accrued interest, shall be disbursed to their bank accounts by way of electronic transfer.

Directions as to payment:

57) As there was no insurance coverage for the offending vehicle, the entire compensation amount shall be deposited before this Tribunal by the liable parties. After deduction of the unpaid court fees, if any, the remaining amount shall be disbursed to the petitioners in accordance with the directions contained in this award.

Costs :-

58) In the light of discussion under forgoing issues this petition is allowed. As the rightful claim was denied, which caused the petitioner to incur expenses, the petitioner is held entitled to costs from the contesting respondents.

Destruction of record and returning of original documents: -

59) Parties are informed about right to take back the documents. Parties are further informed about forum of appeal and limitation of appeal as compliance to Order-20 Rule-5A of The Code of Civil Procedure, 1908.

60) This award will be uploaded to Courts Website in CIS system; the respondent can avail copies from website, and it shall be treated as compliance of Section 168(2) of Motor Vehicles Act, 1988 as to making its copies available. The certified copies can be availed following the procedure laid down in Bombay High Court Civil

Manual.

61) As the bank account details of the petitioners are not available on record, this Tribunal directs that the decretal amount be deposited in this Tribunal to ensure proper execution and recovery of the awarded sum. Since this Tribunal maintains its designated account with State Bank of India, Akashwani Branch, and in order to avoid any confusion or multiplicity in financial transactions, it is further directed that the disbursement as well as investment in fixed deposit, if any, shall be effected through the said single bank account. Necessary directions are issued accordingly.

62) In the light of above discussion, **in answer to issue No.4 following order is passed.**

ORDER

Vide empowerment of Section 166 of the Motor Vehicles Act, 1988 it is awarded as follows:-

1. The Non-applicant **Anil Dayaram Sawarbandhe** shall pay compensation of **Rs.18,03,598/- (Rupees Eighteen Lakh, Three Thousand, Five Hundred and Ninety Eight only)** to the petitioners.
2. The petitioners are entitled to interest on the said compensation amount at the rate of **9% per annum** from the date of institution of the petition i.e. **21.08.2021** till the date of the Award..
3. Compensation amount so awarded be paid within period of prescribed 30 days period (excluding time between date of pronouncement of judgment and date of signing of award) under section 168 (3) from the date of Award; however considering the appeal period, this period is extended by further 60 days, failing which the petitioner shall be entitled to interest over the decretal amount from the date of Award till it's realization at the rate of 12% per *annum* from the date of Award till the entire realization of amount.

4. Amount of Rs. 50,000/- awarded as interim compensation as per section 140 of the Motor Vehicles Act, 1988, if paid, be reduced from the amount awarded as above.
5. The Non-applicant do pay costs of the petitioner and shall bear its own costs.
6. The entire amount of the award along with the interest accrued thereon shall be deposited before this Tribunal. Upon such deposit, after deduction of the deficit court fees, if any, the Nazir shall first cause the amount directed to be kept in fixed deposit to be invested accordingly, and thereafter the remaining amount shall be disbursed to the petitioners in accordance with the directions contained hereinabove.
7. **Direction as to deposit of deposit amount in Tribunal :**
 - (a) Amount of award along with interest accrued till the date of payment be deposit amount (as directed above) be deposited in account of this Tribunal maintained in the name of in the Saving Account of **Member, Motor Accident Claims Tribunal, Nagpur i.e. Account No. 40799142551, IFSC Code - SBIN0051191** of State Bank of India, Branch Akashwani Chowk, Poonam Plaza, Civil Lines, Nagpur by NEFT/RTGS only.
 - (b) Once the amount is deposited in Court, after deduction of Court fees, if any, the same shall be converted into Fixed Deposits in the name of the petitioner forthwith, in accordance with the guidelines laid down by the Hon'ble Supreme Court in ***Parmindar Singh v. Honey Goyal & Ors.*, [2025 SCC OnLine SC 567]**. It shall be the responsibility of the Insurance Company to ensure compliance and complete the process of placing the amount in Fixed Deposit. The Nazir is cast with the duty to supervise and ensure that the Fixed Deposits are created within the stipulated period of 30 days.
8. **Direction as to payment of deficit court fees:**
 - (a) The petitioner is in deficit of Rs.14,625/- towards payment of court fees. The petitioner is directed to pay the said deficit court fees within a period of 15 days from the date of this order.

- (b) If the deficit court fees remain unpaid within the stipulated period, the same shall be deducted from the awarded amount before disbursement.
- (c) No execution proceedings shall be entertained unless and until the deficit court fees are duly paid.
9. For purpose of deduction of TDS, the Non applicant shall follow guidelines laid down by Honourable Supreme Court in the case of **CIT vs. P Krishna Warriar (Civil Appeal No. 1162** of 1997 decided on 20 February 1997) [228 ITR 429 (SC)], and if TDS is intended to be deducted over interest accrued, it shall be done with permission of court and only after obtaining PAN details of petitioner.
 10. Parties are hereby informed as per mandate of Order 20 Rule 5-A that this order is appealable and appeal lies before Honourable Bombay High Court. The limitation for preferring an appeal is 90 days as per section 173(1) of The Motor Vehicles Act, 1988.
 11. The parties to the petition are hereby informed that they shall take back the original documents as per the procedure laid down in Paragraph No. 524 to 528 of the Bombay High Court Civil Manual, failing which, those may be destroyed on expiry of time frame as to destruction of documents as laid down in Paragraph No. 524 of the Bombay High Court Civil Manual.
 12. This AWARD will be uploaded to Courts Website in CIS system within 3 working days from date of signing of judgment; the parties to proceeding can avail copies of Judgment from website, and it shall be treated as compliance of Section 168 (2) of M.V.Act, 1988 as to making its copies available. As per judgment of Honourable Bombay High Court (Aurangabad Bench) in the case of **Shital Krushna Dhake vs. Krushna Dagadu Dhake** [Misc. Civil Application No. 244 of 2017 decided on 6/10/2018]. Copy obtained from CIS system are having status at par with certified copies for purpose of appeal, parties to take note of this legal position for computing appeal period.
 13. This is an AWARD under Section 168 of M.V. Act, 1988 for all legal purposes including appeal and execution.

14. Bill of costs shall follow the AWARD, and the deficit court fees if paid within 15 days, it shall be calculated in bill of costs.

Date :12/03/2026

Place: Nagpur

(R. S. Salgaonkar)
Member, Motor Accident
Claims Tribunal-2 Nagpur

Office endorsement	Date
Judgment pronounced on	12/03/2026
Transcript signed on	12/03/2026
Uploaded to website on/03/2026
Note: Details of this case can be accessed by logging into the official website of Honorable Bombay High Court for Nagpur District Court by scanning the QR Code given as above in JustIS App.	
I affirm that the contents of this P.D.F file of judgment are word to word, as per original judgment. Name of Stenographer : Sau. N. N. Manthanwar Stenographer(Gr.1)	

