

MHNG010086752023



Presented on : 01.08.2023
 Registered on : 02.08.2023
 Decided on : 30.03.2026
 Duration : 02Y. 07M. 29D.

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

(Presided over by P. B. Naikwad)

M.A.C.P NO. 752/2023**Exh. 64**

PETITIONER : Ankita D/o Ghanshyam Khawale,
 Age : 24 years, Occu. Student,
 Through Power of Attorney
 Ghanshyam S/o Rajaram Khawale,
 Age : 54 years, Occ : Pvt. Work,
 Both R/o : House No.1687/A,
 Ward Road, Datta Mandir Road,
 Chichbhavan Basti, Khapari,
 Nagpur-441108.

VERSUS

RESPONDENTS : 1) Iffco-Tokio General Ins. Co. Ltd.,
 Through its Manager, Fidvi Tower,
 7th Floor, Opp. Income Tax Office,
 Mount Road, Sadar, Nagpur.

2) Aman Anil Shriwas,
 Age : Major, Occ. :
 R/o : Near Hanuman Mandir,
 Modi Club, Kamptee, Nagpur-441002.

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

.....
 Shri P. S. Mirache, Advocate for petitioner.

Shri G. D. Gadewar, Advocate for Respondent No.1.

Respondent No.2 : Without written statement.

.....

J U D G M E N T

(Delivered on 30th March 2026)

This is a petition under section 166 of the Motor Vehicles Act 1988 for grant of compensation of Rs.20,00,000/- (restricted to Rs.1,00,000/-) on account of injuries/disablement sustained by petitioner in a vehicular accident.

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

That on 19.07.2023 at 14:20 hrs. petitioner was riding Activa No.MH-31-EZ-5069 and was proceeding towards Manish Nagar. At that time at Ujjwal Nagar, Baleno Car bearing registration No.MH-40-CH-9894 came at a high speed and in rash and negligent manner and gave dash to her Activa. Therefore petitioner sustained grievous injury. She was admitted in Life Care Hospital, Nagpur where she was treated and operated. She spent Rs.3,00,000/- on medical treatment and her treatment is still continued. Due to accident petitioner become permanently disabled. Police station Sonegaon registered Crime No.220/2023 against the driver of Baleno Car.

3] Petitioner was aged 24 years only and was student of M.CA. She was clever in her stud but due to accident she is unable to concentrate and continue her studies. Respondent No.2 is owner and respondent No.1 is insurer of the offending vehicle. Therefore they are jointly and severally liable to pay compensation. Petitioner lastly prayed to grant compensation along with interest.

4] Respondent No.1 by written statement Exh.9 denied the

contentions made by petitioner and averred that, Baleno Car No.MH-40-CH-9894 was not involved in the said accident. Accident occurred due to negligence of petitioner. She was not holding driving license and had not worn helmet. However respondent admitted the fact of ownership and insurance, but contended that there was breach of policy condition as driver of Baleno was not holding valid and effective diving license. Respondent lastly prayed to dismiss petition with costs.

5] Respondent No.2 though appeared but failed to file written statement within stipulated period, therefore as per order dated 30.11.2024 matter proceeded without his written statement.

6] In view of rival pleadings of the parties following issues are framed vide Exh.16 and I record my findings against each of them for the reasons recorded hereinafter.

SR.No	ISSUES	FINDINGS
1	Does petitioner prove that, at the time of incident/accident, the driver of vehicle i.e. Baleno Car bearing registration No. MH-40-CH-9894 was driving his vehicle in rash and negligent manner ?	Yes
2	Does petitioner prove that she sustained permanent disablement/ grievous injuries in a vehicular accident and the Baleno Car bearing registration No. MH-40-CH-9894 was involved in it ?	Yes
3	Does respondent No.1 prove that accident took place due to negligence of petitioner and she contributed the accident ?	No

4	Does respondent No.1 prove that there was breach of terms and conditions of insurance policy ?	No
5	Whether petition is bad for non-joinder of necessary parties ?	No
6	Whether petitioner is entitled for the compensation as claimed and from whom ?	Yes, From respondents
7	What order and award ?	As per final order

REASONS

7] In order to prove her claim petitioner Ankita Ghanshyam Khawale examined herself as PW-1 at Exh.17. PW-2 Dr. Ritesh Haribhau Girde is examined at Exh.27, PW-3 Nilofar Sayyad is examined at Exh.35, PW-4 Mathew Joseph is examined at Exh.38, PW-5 Dr. Nilesh Baburao Giripunje is examined at Exh.43 and PW-6 Dr. Harsha Vishwas Zodpe is examined at Exh.45. Then petitioner closed her evidence vide pursis Exh.47.

8] Respondents did not adduce any evidence. Respondent No.1 passed pursis Exh.48 to that effect. Thereafter argument of both the learned counsels were heard.

As to Issues No.1 To 3 :

9] It has come in the evidence of PW-1 Ankita that, at the time of incident she was riding Activa No.MH-31-EZ-5069 and was proceeding towards Manish Nagar. At that time at Ujjwal Nagar, Baleno Car bearing registration No.MH-40-CH-9894 came at a high speed and in rash and negligent manner and gave dash to her Activa. Therefore she sustained grievous injuries i.e. comminuted

compound grade-II fracture and other fracture injuries. She was admitted in Life Care Hospital, Nagpur and was operated. She suffered 40% permanent disablement. She spent Rs.3,00,000/- on medical treatment and her treatment is still continued. Police station Sonegaon registered Crime No.220/2023 against the driver of Car.

10] To support her testimony petitioner also filed on record documents i.e. Form-AA Exh.20, FIR Exh.21, spot panchanama Exh.22, copy of insurance Exh.23, Adhar card Exh.24, discharge summary Exh.28, hospital bill Exh.40, OPD bill Exh.41, pharmacy bills Exh.37/1 to 37/22, receipts Exh.46/1 to 46/3 and disability certificate Exh.44 etc. and also examined the doctors, pharmacist and billing clerk.

11] PW-2 Dr. Ritesh deposed that Ankita was admitted in his hospital on 19.07.2023. She was operated and was discharged on 26.07.2023. He proved discharge card Exh.28. PW-5 Dr. Nilesh also stated that he had treated Ankita. He assessed disability as 40% and issued certificate Exh.44. Whereas PW-3 Nilofar and PW-4 Mathew so also PW-6 Dr. Harsha proved the hospital, pharmacy and physiotherapy bills.

12] Learned counsel for petitioner argued that from oral and documentary evidence on record it is proved that petitioner sustained grievous injuries/permanent disablement in a vehicular accident and accident occurred due to rash and negligent driving of driver of Baleno. In view of evidence of petitioner and other witnesses so also disability certificate Exh.44 it is duly proved that,

petitioner suffered 40% permanent disablement in a vehicular accident. No evidence is adduced by respondent. Petitioner has discharged her burden to prove issues No.1 and 2. Hence they may kindly be answered in the affirmative and issue No.3 in the negative.

13] Whereas learned counsel for respondent No.1 argued that involvement of Baleno car in the said accident is not proved at all. FIR was registered against unknown vehicle. Spot panchnama is also silent about offending vehicle. No charge sheet is filed on record. Accident occurred due to negligence of petitioner and she contributed the same. She was not holding driving license and had not worn helmet. No disablement is caused to her. No rashness or negligence of driver of Baleno car is proved. Therefore issues No.1 and 2 may kindly be answered in the negative and issue No.3 in the affirmative.

14] Having regard to the submissions made by both learned counsels and after going through the material on record I found that PW-1 Ankita being witness to the incident, her testimony carries much weightage. Moreover her evidence is also duly supported and corroborated by the documents filed on record. FIR Exh.21 and spot panchnama Exh.22 demonstrate and established that accident occurred due to rash and negligent driving of the driver of Baleno car bearing No.MH-40-CH-9894 and the same was involved in it. Petitioner later on also filed charge sheet as per Exh.63. Charge sheet also demonstrate that accident occurred due to rash and negligent driving of Baleno car No,MH-40-CH-9894 and the same was involved in it.

15] From evidence of PW-2 Dr. Ritesh so also PW-5 Dr. Nilesh, it is also proved that petitioner Ankita sustained grievous injuries in the said accident. They have proved the discharge card Exh.28 and disability certificate Exh.44. Therefore it is also duly established and proved that petitioner sustained grievous injuries/permanent disablement in an accident arising out of the use of motor vehicle. Disability certificate Exh.44 is issued by PW-5 Dr. Nilesh who is treating doctor. He assessed disability as 40%.

16] Therefore in view of said material on record it is clear that petitioner has discharged her burden to prove issues No.1 and 2. Respondent No.1 though claimed that accident occurred due to negligence of petitioner and she contributed the same, still no evidence is adduced by respondent. Therefore there is nothing material to prove issue No.3. Hence I record my findings to issues No.1 and 2 in the ***Affirmative*** and issue No.3 in the ***Negative***.

As to Issue No.4 :

17] Respondent No.1 averred that, there was breach of terms and conditions of insurance policy as driver of offending Baleno car was not holding valid and effective driving license. However to discharge its burden no evidence is adduced by respondent No.1. On the other hand the documents on record shows contrary. Charge sheet Exh.63 nowhere disclosed that driver of Baleno is prosecuted under Section 3/181 of the Motor Vehicles Act. Therefore no breach of policy condition is made out and proved. Hence I record my findings to issue No.4 in the ***Negative***.

As to Issue No.5 :

18] Respondent No.1 also contended that petition is bad for non joinder of necessary parties. However from record it is clear that owner and insurer of the offending vehicle are joined as party. Though Acura No.MH-31-EZ-5069 was also involved in the said accident, still from record it is established that accident took place due to negligence of driver of Baleno. Owner and insurer of said Baleno are joined as party. It is settled law that claimant can sue any of the tort-feasors. Therefore even though driver of Baleno and the owner and insurer of Acura are not made parties, still petition cannot be said to be bad for non joinder of necessary parties. At the most they are proper parties but not necessary parties, as in their absence also present claim can be decided legally and correctly. Hence I record my findings to issue No.5 in the ***Negative***.

As to Issue No.6 :

19] Learned counsel for petitioner argued that, at the time of accident petitioner Ankita was aged 24 years. Due to accidental injuries 40% disablement is caused to her which caused permanent loss to her earning capacity. She is unable to do any work as earlier and has lost future prospects of her life. She has incurred expenses more than Rs.3,00,000/- on treatment and her treatment is still going on. Petitioner has filed on record hospital and medical bills and has examined doctors and pharmacist and has proved the same.

20] He further argued that, due to accidental injuries petitioner is unable to perform her studies and work. She was

brilliant and clever student but due to accident she has lost her future. She was admitted in hospital for considerable period. There is 100% functional disability to petitioner. Therefore her notional income be considered as Rs.10,000/- p.m. She is entitled to compensation as claimed. Hence petition be allowed and compensation as claimed may kindly be awarded.

21] Per contra learned counsel for respondent No.1 argued that, no permanent disablement is caused to petitioner. Both the doctors so also petitioner have given material admissions to that effect. No documents like mark sheet are filed on record. As petitioner was student, she had no income. Accident occurred due to her negligence only. The bills filed on record are exaggerated and shall not be taken into consideration. There was breach of policy condition. Therefore respondent No.1 is not liable to pay any compensation.

22] I have given my anxious consideration to the submissions made by both learned counsels. As discussed earlier I have recorded my findings to Issues No.1 and 2 in the affirmative therefore in view of the same petitioner is entitled to compensation.

23] However petitioner though claimed that, she suffered 100% functional disability, still in view of admissions given by petitioner so also doctors it is difficult to consider and rely that, there is 100% permanent loss of earning to petitioner. PW-1 Ankita admitted that she is doing her daily routine work. She was not student of M.CA. Similarly PW-2 Dr. Ritesh admitted that at the time of discharge condition of patient was stable. PW-5 Dr. Nilesh

so also PW-6 Dr. Harsha admitted that patient can perform her daily routine activities and is able to do table work and job. Considering her young age the injury is likely to be healed in future.

24] Therefore in view of said admissions it is difficult to consider that there is 100% functional disability to petitioner. On the contrary, record shows that petitioner is recovered and she is able to carry out her day to day pursuits. The disability assessed by PW-5 Dr. Nilesh is also not more than 40%. Therefore it is not proved that there is 100% functional disability to petitioner. However there is abundant material to prove that due to accidental injuries petitioner suffered permanent disablement and has lost functional ability to some extent.

25] It is clear from record that petitioner is not able to perform her work as earlier. She has lost her capacity and power to some extent. PW-5 Dr. Nilesh also assessed permanent disablement as 40%. Therefore considering the principles of assessment of functional disability, laid down by Hon'ble Supreme Court time and again, certainly functional disability of petitioner cannot be said to be less than 20%. Therefore in view of settled principles of law regarding assessment of disability, I hold functional disability of petitioner as 20%.

26] From discharge card Exh.28 and evidence of PW-2 Dr. Ritesh it is established and proved that petitioner was indoor patient from 19.07.2023 to 26.07.2023. She was required to undergo surgery and to spent expenses on medicine and treatment. Petitioner has also filed on record bills issued by hospital and

pharmacy vide Exh.40, 37/1 to 37/22, Exh.41, Exh.46/1 to 46/3. PW-4 Mathew, PW-3 Nilofar and PW-6 Dr. Harsha have proved the same. From their evidence and the bills filed on record it is duly proved that petitioner incurred expenses of Rs.2,69,253/- on medical treatment.

27] Petitioner has also filed on record other bills total amounting to Rs.17,372/-. However no witness is examined to prove the same. Still the fact remains that petitioner incurred said expenses for medical treatment. All the said bills are originals and are of the period of her admission in hospital. Therefore there is no reason to take doubt about the same and to discard the same. Therefore including said bills petitioner is certainly entitled to medical expenses of Rs.2,86,625/- and accordingly the same is awarded to her towards medical expenses.

28] Petitioner claimed that she was aged 24 years and was doing M.CA. But no document to that effect is filed on record. However Adhar card Exh.24 disclosed her birth date as 30.09.1998. Therefore it is proved that at the time of accident petitioner was aged 24 years 9 months. Therefore in view of said age multiplier of 18 is applicable.

29] Petitioner has claimed Rs.10,00,000/- towards loss of future earning, however there is no evidence to prove that she had any income. On the contrary from pleadings it is clear that petitioner was pursuing her studies and had no income. As per settled law compensation in injury cases also is to be determine as per multiplier method. Therefore in view of the same, to determine

compensation notional income needs to be taken into consideration. As accident occurred on 19.07.2023, therefore considering prevalent rates of minimum wages and submissions made by learned counsels, notional income of petitioner needs to be considered as not less than Rs.8,000/- p.m. Therefore I hold her income as Rs.8,000/- p.m. As petitioner was under the age of 40 years therefore she is also entitled to future prospects @ 40%.

30] Record shows that petitioner was admitted in hospital two times and was indoor patient for eight days each. Therefore in view of the same, petitioner is entitled to compensation on account of diet, attendance and conveyance. In view of facts and circumstances of the present case petitioner is entitled to Rs.30,000/- towards diet and attendance and Rs.20,000/- towards conveyance.

31] Petitioner was indoor patient for considerable period. PW-6 Dr. Harsha also stated that petitioner had undergone physiotherapy in her clinic for about one year. Therefore certainly petitioner suffered pains and agony. Therefore she is also entitled to compensation for the same. Accordingly Rs.50,000/- is awarded towards pains and suffering and Rs.50,000/- for loss of amenities.

32] After concluding evidence petitioner has produced on record documents below list Exh.57 including discharge summary, final bill and pharmacy bills. However no witness is examined to that effect. Said documents prima facie disclosed that as there was non union of right distal femur, petitioner was again admitted in Life Care Hospital on 26.01.2026 and plate fixation with bone

grafting was done. Thereafter she was discharged on 02.02.2026. From all the said documents it is clear that they have direct nexus with the accident dated 19.07.2023 and the injuries sustained by petitioner are not yet totally healed. Therefore interest of justice requires to grant certain amount to petitioners under the head of future expenses, as petitioner has already incurred the same. Admittedly no witness to that effect is examined, still in accident claims as no strict proof/evidence is required and facts are required to be proved on the touchstone of preponderance of probabilities, therefore no strict evidence is warranted. Therefore said bills cannot be discarded.

33] Moreover being social and beneficial legislation, just compensation needs to be awarded to petitioner to place her in original position before the accident. Therefore to achieve the ends of justice, it is expedient to award said expenses under the head of future medical treatment. Therefore petitioner is also entitled to Rs.2,00,000/- towards the expenses she already incurred under the head of future expenses and the same is accordingly awarded.

34] Therefore in view of discussion made above, the compensation worked out becomes as under :

Yearly income	8,000 x 12	=	96,000/-
Future prospects	@ 40%	(+)	38,400/-
Total			1,34,400/-
Loss of earning due to disability	20%	(+)	26,880/-

As multiplier of **18** is applicable. Therefore,

26,880 X 18	=	4,83,840/-
Expenses incurred in medical treatment	(+)	2,86,625/-
Diet and attendance	(+)	30,000/-
Conveyance and Transportation	(+)	20,000/-
Pains and suffering	(+)	50,000/-
Loss of amenities	(+)	50,000/-
Future medical expenses (already incurred)	(+)	2,00,000/-
Total		11,20,465/-

35] Therefore in view of calculations made above so also facts of the present case **Rs.11,20,465/-** is just, fair and reasonable compensation for permanent disablement suffered by petitioner in vehicular accident. In view of settled law, it is the duty of this Tribunal to award just and reasonable compensation to petitioner to mitigate her hardship and agony. Therefore even though petitioner has restricted her claim to Rs.1,00,000/- due to financial constraints and though she did not amend the prayer, still she is entitled to enhanced compensation, though not claimed, on payment of deficit court fees.

36] In the case of ***Sidram 2023 (1) TAC 8 (S.C.)***, Hon'ble Supreme Court observed that,

“ The Courts should be mindful that a serious injury not only permanently imposes physical limitations and disabilities, but too often inflicts deep mental and emotional scars upon the victim. The attendant trauma of the victim's having to live in a world, entirely different from the one she or he is born into, as an invalid, and with degrees of dependence on others, robbed of complete personal choice or autonomy, should forever be in the judges mind, whenever tasked to adjudge compensation claims. Severe limitations inflicted due to such injuries, undermine the dignity of the individual, thus depriving the person of the essence of the right to a wholesome life, which she or he had

lived, hitherto. From the world of the able bodied, the victim is thrust into the world of the disabled, itself most discomfiting and unsettling. If Courts nit-pick and award niggardly amounts oblivious of these circumstances, there is resultant affront to the injured victim.”

therefore in view of the ratio laid down and observations made by Hon'ble Supreme Court also, which are binding upon this Tribunal, petitioner is entitled to the said compensation.

37] As ownership and insurance of the offending vehicle is not disputed and as no breach of policy condition is made out and proved, therefore respondent No.2 being owner and respondent No.1 being insurer of the offending vehicle are jointly and severally liable to pay said compensation to petitioner along with interest. Therefore I record my findings to Issue No.6 ***Accordingly*** and in sequel pass the following order.

ORDER

- 1) Petition is allowed with costs.
- 2) Respondents shall jointly and severally pay the compensation of **Rs.11,20,465/- (Eleven Lac Twenty Thousand four Hundred Sixty Five Rupees only)** to petitioner along with simple interest @ 7.5% p.a. from the date of institution of the claim, i.e. from 01.08.2023, till its final realization.
- 3) Respondents are hereby directed to transfer the said amount into the Bank account of petitioner, by NEFT/RTGS, details of which are furnished as under, on due verification and identification.
- 4) Respondents are further directed to deposit separately the

amount to be invested in fixed deposit in the name of petitioner, as per directions given below :

Sr. No.	Name of petitioner	Name of Bank, Branch and IFSC Code	Savings Account Number	Amount
1	Ankita Ghanshyam Khawale Mob.No. 7020684217	Union Bank of India, Branch at Besa, Nagpur UBIN0557781	577802010005478	₹.11,20,465/- + Interest, Out of which Rs.1,00,000/- in F.D. for three years. (Out of it Rs.10,205/- be deducted towards deficit Court fees)

- 5) Petitioner is entitled to receive quarterly interest on the amount deposited in fixed deposit in her name.
- 6) Respondents are directed to issue specific directions to the concern bank of petitioner, about the amount to be invested in fixed deposit in the name of petitioner for the specified period, as per award and make the bank aware about the award.
- 7) Respondents are further directed to intimate this Tribunal/ report compliance, about the payment made to petitioner within 15 days from the date of payment, without fail.
- 8) The concerned bank shall ensure that such specified portion is kept in fixed deposit in the name of petitioner as per award and shall report compliance to this Tribunal.
- 9) If the FD is not withdrawn/enchased on maturity or before maturity, in that event concern bank is directed to renew the same after periodical intervals.

10) In case of maturity of the fixed deposit, concerned bank is directed to pay the amount of fixed deposit with interest to the concerned applicant/holder, on due verification and identification, without seeking any further order/direction from this Tribunal.

11) Respondents are hereby directed to re-verify the account details of the petitioner from the documents provided by her and on satisfaction of its correctness, then only transfer the awarded amount into her bank account.

12) Respondent No.1/insurer is further directed to deduct Rs.10,205/- from the final amount payable to petitioner and the same be deposited in the account of MACT towards deficit Court fees, the details of which are given as under :

Name of Account Holder	Name of Bank, Branch and IFSC Code	Current Account Number	Amount
Member, MACT, Nagpur	Union Bank of India, Branch at DBA, Civil Lines, Nagpur UBIN0544248	442401010036699	10,205/-

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

Dictated and pronounced this in open Tribunal, today.

Date : 30.03.2026

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

Endorsement

Case Argued on	30.03.2026
Judgment dictated on	30.03.2026
Transcription ready on	30.03.2026
Judgment checked and signed on	30.03.2026

Date : 30.03.2026

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

CERTIFICATE

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

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