

MHNG010097952022



Presented on : 28.09.2022

Registered on : 29.09.2022

Decided on : 23.03.2026

Duration : 03Y. 05M. 26D.

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

(Presided over by P. B. Naikwad)

M.A.C.P No. 895/2022

Exh. 45

PETITIONERS : 1) Rajabeti Wd/o Surendrakumar,
Age : 43 years, Occu. Household,
2) Ashish S/o Surendra,
Age : 16 years, Occu. Student,
3) Arpit S/o Surendra,
Age : 14 years, Occu. Student,
4) Harshit S/o Surendra,
Age : 11 years, Occu. Student,
Petitioners No.2 to 4 are minors through
Next guardian mother i.e. petitioner No.1,
All R/o : Karbai, Dist. Banda,
Uttarpradesh-210001
At present : Near Hanuman Mandir,
Gorewada, Nagpur.

VERSUS

RESPONDENTS : 1) Vina W/o Anilrao Ashtikar,
Age : Major, Occ : Not known,
Owner of Activa No.MH-31-PR-3283
2) Kartik S/o Anilrao Ashtikar,
Age : Major, Occ : Not known,
Driver of Activa No.MH-31-PR-3283,
All R/o : Plot No.85, Vrundavan Colony,
Katol Raod, Nagpur.

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

.....
Shri P. D. Naukarkar, Advocate for petitioners.
Shri L. C. Meshram, Advocate for Respondents.
.....

JUDGMENT

(Delivered on 23rd March 2026)

This is a petition under section 166 of the Motor Vehicles Act 1988 for grant of compensation of Rs.20,89,000/- (restricted to Rs.1,00,000/- only) on account of death of husband of petitioner No.1 and father of petitioners No.2 to 4 namely Sruendrakumar Acchelal Sahu, in a vehicular accident.

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

That on 17.07.2022 at about 14:00 hours Surendrakumar was returning to home on his bicycle. At that time on Gorewada road near Sanju Kirana Stores, Activa bearing registration No.MH-31-ER-3233 gave a forceful dash to his bicycle. Therefore Surendrakumar fell down and sustained injury to head and other organs. He was shifted to Meyo Hospital and then to Medical College and Hospital, where he died on 23.07.2022 during treatment. Police station Mankapur registered Crime No.176/2022 against the driver of offending Activa.

3] That Surendrakumar was aged 50 years and was doing business of scrap and thereby getting income of Rs.15,000/- per month. He was the only earning member of the family. Due to his sudden death petitioners have sustained huge loss. They were dependent upon him. Therefore they are entitled to compensation.

4] Respondents by written statement Exh.12 denied the contentions made by petitioners and averred that, Activa was not involved in the said accident. Deceased was under the influence of liquor. Due to heavy raining, while taking turn, due to invisibility he fell down on the road and sustained injuries. In fact deceased was under the influence of liquor and he had fallen down in his own bathroom on 17.07.2022 at about 01:30 p.m. and sustained injuries on head. Therefore he was taken to Meyo hospital. Petitioners have concocted false story and have suppressed material facts. The son of deceased was not present on the day of accident and spot. Deceased was heavy drunkered and had abandoned his family and residing alone on footpath and used to begging and collecting garbage. The claim is false and fabricated. Respondent lastly prayed to dismiss petition with compensatory costs.

5] In view of rival pleadings of the parties following issues are framed vide Exh.13 and I record my findings against each of them for the reasons recorded hereinafter :

Sr.No.	ISSUES	FINDINGS
1	Do petitioners prove that Surendrakumar Acchelal Sahu died in a vehicular accident and the vehicle i.e. Car/Activa bearing Registration No.MH-31-ER-3283 was involved in it ?	Yes
2	Do petitioners prove that at the time of incident/accident, the driver of offending vehicle i.e. Car/Activa bearing Registration No.MH-31-ER-3283 was driving his vehicle in rash and negligent manner ?	Yes

3	Do respondents prove that accident took place due to negligence of deceased Surendrakumar ?	No
4	Whether petitioners are entitled for the compensation as claimed and from whom ?	Yes, From respondents
5	What order and award ?	As per final order.

REASONS

6] In order to prove their claim petitioner No.1 Rajabeti Surendrakumar examined herself as PW-1 at Exh.14 and closed their evidence vide pursis Exh.32.

7] Respondents dis not adduce any evidence and closed their evidence vide pursis Exh.33. Thereafter argument of both the learned counsels were heard. Learned counsel for respondents also filed his written notes of argument vide Exh.44.

As to Issues No.1 To 3 :

8] It has come in the evidence of PW-1 Rajabeti that deceased Sruendrakumar was her husband. At the time of incident her husband was returning to home on bicycle. At that time on Gorewada road near Sanju Kirana Stores, Activa bearing registration No.MH-31-ER-3233 gave a forceful dash to his bicycle. Therefore her husband fell down and sustained injury to his head and other organs. He was shifted to Meyo Hospital and then to Medical College and Hospital, where he died on 23.07.2022 during treatment. Police station Mankapur registered Crime No.176/2022 against the driver of offending Activa.

9] To support her oral testimony petitioners also filed on record documents i.e. Form AA Exh.19, FIR Exh.20, spot panchanama Exh.21, Inquest panchnama Exh.22, postmortem report Exh.23, registration certificate Exh.24, driving license Exh.25, Adhar cards Exh.26 to 28, PAN card Exh.29 and charge sheet Exh.30 collectively etc.

10] Learned counsel for petitioners argued that in view of oral and documentary evidence placed on record petitioners have discharged their burden to prove issues No.1 and 2. It is also proved that accident took place due to rash and negligent driving of the driver of Activa and the same was involved in the accident. Postmortem report though prima facie disclosed history of incident as fall in bathroom, still in view of charge sheet filed on record it is proved that Surendrakumar died in an accident arising out of the use of motor vehicle. Charge sheet also disclosed that in the said accident Activa driver i.e. respondent No.2 had also sustained injuries and therefore was admitted in Alexis Hospital. No evidence is lead by respondents to disprove involvement of Activa in the said accident. Therefore issues No.1 and 2 are duly proved. Hence said issues may kindly be answered in the affirmative. As no evidence is lead by respondents, therefore issue No.3 is not proved.

11] Per contra learned counsel for respondents by his written notes of argument Exh.44 submitted that involvement of Activa in the said accident is not proved at all. FIR came to be lodged belatedly and there is no explanation for delay. Involvement of Activa in the accident is not proved. Neither son of petitioner nor petitioner No.1 were present at Nagpur on 17.07.2022. They came

to Nagpur on 18.07.2022. PW-1 Rajabeti has given material admissions to that effect. Still their presence is shown at the time of spot panchanama, which clearly shows the concoction of false story of vehicular accident.

12] He further argued that Surendrakumar did not die due to vehicular accident. In column 5 of postmortem report Exh.23 it is mentioned that “as per police inquest and requisition, history of fall in bathroom floor on 17.07.2022 as 01:30 p.m. then brought to Meyo Hospital, Nagpur.” Therefore it is clear that Surendrakumar died due to fall in bathroom and not due to vehicular accident. Therefore involvement of Activa in the said accident is not at all established and proved.

13] He further argued that the claim of petitioners is based on police papers i.e. FIR. FIR is not a conclusive proof. Except oral testimony of Rajabeti nothing is on record regarding happening. She was also not present on spot. Her evidence is hearsay, which is not admissible. No eye witness is examined. Therefore no manner and negligence is proved. No fault liability provision is also not invoked. Relevant of FIR in claim petition is virtually for limited purpose. It is not substantive piece of evidence. Therefore merely because said documents are exhibited, that itself is not sufficient and they cannot constitute proof. Unless their author is examined they shall not be considered and are not proved. Therefore issues No.1 and 2 are not proved at all.

14] He further argued that there is material discrepancy in respect of vehicle and its number. In petition Para 15 vehicle is mentioned as car. Vehicle number is mentioned as MH-31-ER-3233.

So different numbers of offending vehicles are given. Therefore on this count also involvement of vehicle is not proved. He also placed his reliance on authority in ***National Insurance Company Limited Vs. Islavath Chinnamma and Others 2007 ACJ 1529*** and submitted that no rashness and negligence is proved and FIR is not conclusive proof of negligence. Hence issues No.1 and 2 be answered in the negative and issue No.3 in affirmative.

15] Having regard to the submissions made and after going through the documents filed on record so also authority cited supra, I found that though FIR Exh.20 disclosed that it came to be registered on 18.07.2022 at 02:00 p.m., still from contents of FIR Exh.20, it is clear that informant PSI Chetan Makode had received the information of accident on 17.07.2022 itself, from Meyo Hospital. Thereafter on recording statement of son of deceased Surendra Shahu FIR came to be registered having registration number of the offending vehicle. Therefore it is clear that information about accident was received by police station Mankapur on the day of accident itself. Therefore the submissions made by learned counsel for respondents that FIR is fabricated hence came to be registered belatedly cannot be accepted.

16] It is necessary to note here that petitioners have also filed on record the copy of charge sheet vide Exh.30 collectively. After going through the said charge sheet also it is clear that Activa No.MH-31-ER-3283 was involved in the said accident and accident occurred due to rash and negligent driving of its driver i.e. respondent No.2. Respondents also did not specifically denied the accident. On the contrary it is their defence that deceased was

under influence of liquor and on turning he fell from bicycle in a pit and sustained injuries. However there is nothing material to probablize said defence version. Respondents did not adduce any evidence in rebuttal. Moreover postmortem report Exh.23 nowhere disclosed that deceased had consumed liquor and alcohol was found present in blood or stomach content. There is nothing in this respect on record.

17] Learned counsel for respondents by referring column No.5 of postmortem report also submitted that the history of incident is fall in bathroom floor on 17.07.2022 at 01:30 p.m. Therefore deceased did not die due to vehicular accident but due to fall. Still his said submission is difficult to accept in view of charge sheet Exh.30 collectively filed on record.

18] It needs to be noted here that though column No.5 of postmortem report Exh.23 prima facie disclosed that as per police inquest and requisition history of fall in bathroom floor on 17.07.2022 at 01:30 p.m. is recorded, still inquest panchnama Exh.22 is totally silent about said contents. On the contrary inquest panchnama prima facie disclosed that Surendra met with an accident and died. Therefore in view of contents of inquest panchnama Exh.22 it appears that the contents of column No.5 of the postmortem report Exh.23 about history of fall in bathroom is the result of cut and paste and nothing more than that.

19] Postmortem report Exh.23 disclosed the cause of death as head injury. From charge sheet Exh.30 also it is clear that in the said accident both cyclist i.e. Surendrakumar and the driver of Activa i.e. respondent No.2 Kartik got injured. After accident they

were referred to Meyo Hospital and Alexis Hospital respectively where respondent No.2 Kartik was admitted as an indoor patient. MLC information on admission issued by Alexis Hospital is annexed to the charge sheet. It prima facie disclosed that Kartik Ashtikar was admitted on 17.07.2022 at 16:40 hrs., with history of road traffic accident. The history is also mentioned therein as dash with cycle rider.

20] Therefore in view of charge sheet Exh.30 (colli.) it is duly established and proved that Surendrakumar met with an accident arising out of the use of motor vehicle and died due to head injury. There is no reason to take doubt about the entire charge sheet Exh.30 (colli.). Therefore the defence of fall in bathroom has not been probablized at all. Moreover no evidence is adduced by respondents to probablize their defence version so also to disprove accidental death of Surendrakumar. There is no explanation on the part of respondents as to how and why respondent No.2 Kartik was admitted in Alexis hospital on the same day and relevant time after accident. If really no vehicular accident had occurred, then there was no reason for admission of Kartik in Alexis hospital on the same day and time of accident. Therefore his admission in hospital speak volumes about the vehicular accident dated 17.07.2022. Therefore in view of charge sheet Exh.30 (Colli), it is clear that petitioners have discharged their burden to prove issues No.1 and 2.

21] Learned counsel for respondents relying upon the authority in the case of *Islavath Chinnamma* cited supra, though argued that FIR is not conclusive proof of negligence, still the

submissions made cannot be accepted. Admittedly FIR is not a conclusive proof of negligence, as ruled by Hon'ble Andhra Pradesh High Court, still in the case on hand charge sheet is filed on record, which is certainly considered to be the conclusive proof. Therefore in view of charge sheet Exh.30, the authority cited supra, cannot be said to be helpful to respondents.

22] Though there appears some discrepancy and variance in pleadings and evidence regarding the registration number of offending vehicle, still as respondent has admitted ownership of Aactiva No.MH-31-ER-3283 and as the said vehicle was seized by police during investigation and lateron was released on the supratnama of its owner, therefore even though there appears discrepancy or variance about registration number of offending vehicle, still in view of charge sheet Exh.30 no much importance can be attached to the said discrepancy.

23] Learned counsel for respondents also argued that in view of admissions given by PW-1 Rajabeti it is clear that petitioner No.2 was not present in Nagpur on 17.07.2022, therefore his presence shown at the time of drawing spot panchnama has been falsified and the police papers on record are fabricated. Still his said submission cannot be accepted in view of detail charge sheet filed on record. Present being a Social and Beneficial legislation, no standard of proof as required in criminal proceeding is required in the claims. Here the facts are to be proved on the touchstone of preponderance of probabilities only. As charge sheet clearly established and proved involvement so also rash and negligent diving of the offending vehicle, therefore issues No.1 and 2 are duly

proved. So far as issue No.3 is concerned, as no evidence is laid by respondents, the same is not proved. 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 :

24] Learned counsel for petitioners argued that, at the time of accidental death Surendrakumar was aged 50 years. He was doing scrap business and thereby earning Rs.15,000/- p.m. However for want of evidence in this respect notional income as per prevalent rates of minimum wages be considered. Surendrakumar was sole karta of the family. Deceased was the main support of the family. Due to his sudden death petitioners have sustained huge loss. They were dependent upon him. Therefore petitioners are entitled to compensation as claimed. Hence the same may kindly be awarded.

25] Whereas learned counsel for respondents by his written notes of argument Exh.44 submitted that age and income of deceased is not proved. No document is produced on record to that effect. No witness is examined. Accident occurred due to fall of deceased in bathroom. No involvement so also rashness and negligence of the Aactiva and its driver is proved. Petitioners failed to establish their claim. Therefore petition be dismissed with compensatory costs.

26] As discussed earlier I have recorded my findings to issues No.1 and 2 in the affirmative and issue No.3 in the negative therefore in view of the same petitioners being legal representatives i.e. wife and children were certainly dependent upon deceased Surendrakumar. Therefore they are entitled to compensation.

27] Petitioners claimed that deceased was earning Rs.15,000/- p.m. by doing scrap work. Still no material evidence is adduced by petitioners to prove the same. Except oral testimony of PW-1 Rajabeti there is nothing on record in this respect. Therefore in absence of specific evidence about income, notional income needs to be considered. As accident occurred on 17.07.2022, therefore considering prevalent rates of minimum wages, so also age of deceased and the settled law in this respect, monthly income of deceased certainly would not have been less than Rs.12,000/- p.m. There is no reason to take doubt about the same. Therefore in view of the same, I hold monthly income of deceased as Rs.12,000/-.

28] Petitioners claimed that deceased was aged 50 years. But no document like birth certificate is filed on record. However postmortem report Exh.23 disclosed the age of deceased as 55 years. Said document being prepared by public servant during the discharge of his official function, therefore it cannot be discarded and disbelieved. On the contrary same is authentic. Therefore in view of the same I hold age of deceased as 55 years at the time of accident. In view of said age multiplier of 11 is applicable.

29] Deceased was self employed and was aged more than 50 years, therefore in view of settled law, petitioners are also entitled to future prospects @10%. As deceased left behind in all four dependents, therefore 1/4th deduction is to be made from the income towards personal expenses of deceased.

30] Petitioners have also lost company and love and affection of deceased. Therefore in view of settled law petitioners

are also entitled to compensation on conventional heads i.e. loss of consortium, loss of estate and funeral expenses etc.

31] Therefore in view of proved facts and income on record and discussion made above, the compensation worked out becomes as under :

Monthly income	12,000 x 12	=	1,44,000/-
Future prospects	10%	(+)	14,400/-
		Total	1,58,400/-
Personal Expenses	1/4 th	(-)	39,600/-
		Total	1,18,800/-

As multiplier of **11** is applicable. Therefore,

1,18,800 x 11	=	13,06,800/-
Loss of consortium for each petitioner	44,000 x 4 (+)	1,76,000/-
Loss of Estate	(+)	16,500/-
Funeral Expenses	(+)	16,500/-
	Total	15,15,800/-

32] Therefore in view of calculations made above and the submissions made by learned counsels, **Rs.15,15,800/-** is just, fair and reasonable compensation for accidental death of Surendrakumar. In view of settled law it is the duty of this Tribunal to award just and reasonable compensation to petitioners to mitigate their hardship and agony. Therefore even though petitioners have restricted their claim to Rs.1,00,000/- due to financial constraints and though they did not amend the prayer, still they are entitled to enhanced compensation though not claimed, on payment of deficit court fees.

33] As respondents No.1 and 2 are owner and driver of the offending vehicle and as the same was not insured, therefore they both are jointly and severally liable to pay said compensation to petitioners.

34] Thus petitioners have established their claim to the extent noted above. Hence I record my findings to Issue No.4 *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.15,15,800/- (Fifteen Lac Fiftten Thousand Eight Hundred Rupees only)** to petitioners, along with simple interest @7.5% per annum, from the date of institution of the claim, i.e. from 28.09.2022, till its final realization.
- 3) Out of the total amount of compensation, **Rs.3,00,000/- each** along with interest be paid to petitioner No.2 Ashish, petitioner No.3 Arpit and petitioner No.4 Harshit, whereas remaining amount of **Rs.6,15,800/-** be paid to petitioner No.1 Rajabeti, along with interest.
- 4) Petitioner No.2 Ashish, petitioner No.3 Arpit and petitioner No.4 Harshit being minors, the compensation awarded to them shall be invested in fixed deposit account in their names with the Bank of their natural guardian i.e. mother (details of which are given in the table), till they attain the age of majority.
- 5) Respondents are hereby directed to transfer the said

amount into the Bank account of petitioner No.1 details of which are furnished as under, on due verification and identification.

6) Respondents are further directed to deposit separately the amount to be invested in fixed deposit in the name of respective petitioners as per directions given below :

Sr. No.	Name of petitioner	Name of Bank, Branch and IFSC Code	Savings Account Number	Amount
1	Rajabeti Surerendra kumar	Union Bank of India, Branch at Civil Lines, Nagpur UBIN0544248	442402010936455	₹.6,15,800/- + Interest, (Out of total amount Rs.14,158/- be deducted towards Court fees)
2	Ashish Surendra kumar	Union Bank of India, Branch at Civil Lines, Nagpur UBIN0544248	442402010936455 Fixed deposit till attaining majority	₹.3,00,000/- + Interest
3	Arpit Surendra kumar	Union Bank of India, Branch at Civil Lines, Nagpur UBIN0544248	442402010936455 Fixed deposit till attaining majority	₹.3,00,000/- + Interest
4	Harshit Surendra kumar	Union Bank of India, Branch at Civil Lines, Nagpur UBIN0544248	442402010936455 Fixed deposit till attaining majority	₹.3,00,000/- + Interest

7) Petitioner No.1 Smt. Rajabeti is entitled to receive quarterly interest on the amount deposited in fixed deposits in the names of petitioners No.2 to 4.

8) Respondents are directed to issue specific directions to the concern bank of petitioner No.1, about the amount to be invested in

fixed deposit in their respective names for the specified period, as per award and make the bank aware about the award.

9] Respondents are further directed to intimate this Tribunal/ report compliance, about the payment made to petitioners within 15 days from the date of payment, without fail.

10) The concerned Bank shall ensure that such specified portion is kept in fixed deposit in the name of petitioners as per award and shall report compliance to this Tribunal.

11) 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.

12) 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. No separate order from Tribunal will be required to pay the fixed deposit amount to the minor on attaining majority.

13] Respondents are hereby directed to re-verify the account details of the petitioners from the documents provided by them and on satisfaction of their correctness, then only transfer the awarded amount into their bank account.

14) Respondents are further directed to deduct Rs.14,158/- from the final amount payable to petitioner No.1 Rajabeti 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 Rs.
Member, MACT, Nagpur	Union Bank of India, Branch at DBA, Civil Lines, Nagpur UBIN0544248	442401010036699	14,158/-

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

Dictated and pronounced this in open Tribunal, today.

Date : 23.03.2026

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

Endorsement

Case Argued on	13.03.2026
Judgment dictated on	23.03.2026
Transcription ready on	23.03.2026
Judgment checked and signed on	23.03.2026

Date : 23.03.2026

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)