

MHNG010103702022



Presented on : 13.10.2022  
 Registered on : 14.10.2022  
 Decided on : 10.03.2026  
 Duration : 03Y. 04M. 28D.

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

(Presided over by P. B. Naikwad)

**M.A.C.P. NO. 938/2022****Exh.84**

**PETITIONER** : Deepak S/o Dyandev Kamble,  
 Age : 44 years, Occ : Service,  
 R/o : Flat No.581, New Subhedar  
 Layout, Uday Nagar, Nagpur.

**VERSUS**

**RESPONDENTS** : 1) Parag S/o Pralhad Potdar,  
 Age : 42 years, Occ : Private job,  
 R/o : Plot No.28, Flat No.202,  
 Sholwak residency, NIT Layout,  
 Surve Nagar, Near Bhavans School,  
 Pratap Nagar, Nagpur.

2) Mr. Eugene Alic Michael,  
 Age : 70 years, Occ : Nil/Owner,  
 R/o : Zole Compound, behind  
 Saraf Chember, Sadar, Nagpur.

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

.....  
 Shri G. N. Shinde, Advocate for petitioner.  
 Shri S. C. Mishra, Advocate for Respondent No.1.  
 Shri V. N. Mate, Advocate for Respondent No.2.  
 .....

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

(Delivered on 10<sup>th</sup> March 2026)

This is a petition under section 166 of the Motor

Vehicles Act 1988 for grant of compensation of Rs.65,60,000/- (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 01.03.2022 at about 08:35 a.m. when petitioner was proceeding by his Two wheeler Royal Enfield Classic-350 bearing No.MH-49-AU-9703, at that time near Pride Hotel square, he met with an accident with Two wheeler Bajaj Auto KTM 390 bearing registration No.MH-31-EZ-3219 and sustained grievous injuries. He was admitted in Orange City Hospital and then was shifted to Wockhard Hospital, Nagpur. His treatment is still continued. Police station Sonegaon registered Crime No.33/2022 for the same. Petitioner was aged 44 years and was in service. Respondents are driver and owner of offending vehicle. Petitioner lastly prayed for grant of compensation.

3] Respondents by written statement Exh.17 and 53 denied the contentions made by petitioner and averred that accident occurred due to rash and negligent driving of petitioner and he also contributed the same. However respondents admitted ownership of the offending vehicle. Respondent No.1 contended that the manner of accident is not established. Neither any disablement nor grievous injury is caused to petitioner. Accident occurred due to fault of petitioner only. He was driving vehicle ignoring traffic rules and regulations. The claim is false and baseless. Respondents lastly prayed to dismiss petition with costs.

4] In view of rival pleadings of the parties following issues are framed vide Exh.19 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. Bajaj Auto KTM 390 bearing registration No.MH-31-EZ-3219 was driving his vehicle in rash and negligent manner ?	<b>Yes</b>
2	Does petitioner prove that he sustained permanent disablement/ grievous injuries in a vehicular accident and the vehicle i.e. Bajaj auto KTM 390 bearing registration No.MH-31-EZ-3219 was involved in it ?	<b>Yes, grievous injuries only</b>
3	Does respondent No.1 prove that accident took place due to negligence of petitioner and he contributed the accident ?	<b>No</b>
4	Whether petition is bad for non joinder of necessary parties ?	<b>No</b>
6	Whether petitioner is entitled for the compensation as claimed and from whom ?	<b>Yes, From respondents</b>
7	What order and award ?	<b>As per final order</b>

### **REASONS**

5] In order to prove his claim petitioner Deepak Dyandev Kamble examined himself as PW-1 at Exh.20. PW-2 Santosh Samsheer Thakur is examined at Exh.56, PW-3 Gopal Parshuramji Gajbe is examined at Exh.57 and PW-4 Dr. Nitin Uday Kimmatkar is

examined at Exh.59. Then petitioner closed his evidence vide pursis Exh.61.

6] Respondent No.1 Parag Pralhad Potdar examined himself as RW-1 at Exh.64 and closed his evidence vide pursis Exh.76. Respondent No.2 failed to adduce evidence though sufficient opportunity was given. Therefore his evidence came to be closed as per order dated 25.02.2026.

7] Thereafter argument of respective learned counsels were heard. Learned counsel for respondent No.1 also filed his written notes of argument vide Exh.78.

**As to Issues No.1 to 3 :**

8] It has come in the evidence of PW-1 Deepak that at the time of accident he was proceeding by his Two wheeler Royal Enfield Classic-350 bearing No.MH-49-AU-9703. At that time near Pride Hotel square, respondent No.1 Parag drove his vehicle Bajaj Auto KTM 390 in rash and negligent manner and gave dash to his bike from back side. Therefore he sustained grievous injuries. He was admitted in Orange City Hospital and then was shifted to Wockhard Hospital, Nagpur. Due to accident he is unable to do his work. His treatment is still continued. Police station Sonegaon registered Crime No.33/2022 against respondent No.1.

9] To support his oral testimony petitioner also filed on record documents i.e. Form AA Exh.22, FIR Exh.23, spot panchanama Exh.24, charge sheet Exh.25, PAN card Exh.26, Adhar card Exh.27, disability certificate Exh.60, MLC Article-A, discharge

summary Article-E etc. and also examined the witness to the incident and doctor issuing disability certificate.

10] PW-2 Santosh and PW-3 Gopal deposed that when the motorcyclist was taking turn towards Airport at the time one two wheeler came from Sonegaon police station side and gave dash to the motorcyclist. Therefore he fell down and sustained injuries to his legs. He was taken to hospital in auto rickshaw. Whereas PW-4 Dr. Nitin deposed that he had clinically examined Deepak Kamble and issued permanent disability certificate Exh.60 of 25%. He had sustained fracture of right femur and both bone leg. There was decreased range of movement of right knee.

11] Learned counsel for petitioner argued that, in view of evidence of petitioner and his witnesses so also documents placed on record, petitioner has proved that accident occurred due to rash and negligent driving of respondent No.1. Petitioner sustained permanent disablement in an accident arising out of the use of motor vehicle. PW-4 Dr. Nitin has proved the disability certificate. He assessed 25% disablement. Therefore issues No.1 and 2 may kindly be answered in the affirmative. No negligence on the part of petitioner is proved. No material evidence is adduced by respondents. Hence issue No.3 be answered in the negative.

12] Whereas learned counsel for respondent No.1 by his written notes of argument Exh.78 submitted that accident took place due to sole negligence of petitioner. He was driving his vehicle in rash and negligent manner. His vehicle had given dash to the motorcycle of respondent No.1. No rashness or negligence of

respondent No.1 is proved. Evidence of PW-2 Santosh and PW-3 Gopal shall not be considered as they are interested witnesses. They have given material admissions.

13] He further argued that neither any disability nor grievous injury is suffered by petitioner. He is still working and earning. He has given material admissions to that effect. Neither discharge summaries nor hospital bills are filed on record. No disablement is proved. PW-4 Dr. Nitin though has assessed disability as 25% but he is neither treating doctor nor provided any treatment to petitioner. He issued disability certificate after more than one year of the accident. He has given material admissions to that effect. Therefore disability certificate Exh.60 shall not be considered and relied upon.

14] He further argued that no rashness or negligence of respondent No.1 is proved. Learned JMFC has acquitted respondent No.1 of the offence of rash and negligent driving. Respondent No.1 has filed certified copy of judgment and statement Exh.42 to 44 to that effect. Therefore in view of judgment of acquittal issues No.1 and 2 are not proved at all. On the other hand there is abundant material to prove that accident occurred due to sole negligence of petitioner. He also placed his reliance on the following authorities;

- i) *Minu B. Mehta Vs. Balkrushna Ramchandra Nayan (1977) S.C.;*
- ii) *Oriental Insurance Company Limited Vs. Meena Variyal (2007);*
- iii) *Raj Kumar Vs Ajay Kumar (2011) 1 S.C.C 343;*
- iv) *Laxmi Devi and Others Vs. Mohammad Tabbar (2008 SC);*

and submitted that manner of accident and negligence is not proved. Disability certificate is also not in proper form. Therefore issues No.1 and 2 be answered in the negative and issue No.3 in the affirmative. Learned counsel for respondent No.2 also made similar submissions.

15] Having regard to the submissions made by respective learned counsels and considering the material on record and authorities cited supra, I found that, respondents have neither denied the accident nor the injuries sustained by petitioner. From written statement Exh.17 and 13 so also admission given by DW-1 Paras it is clear that respondents admitted the accident and the injuries sustained by petitioner in it. It is only their defence that accident occurred due to sole negligence of petitioner.

16] However to prove the same, no material evidence is adduced. Respondent No.1 Paras though examined himself, still in view of admissions given by him and the documents placed on record, so also evidence of PW-2 Santosh and PW-3 Gopal, it is duly established and proved that accident occurred due to rash and negligent driving of respondent No.1.

17] Learned counsel for respondent No.1 though argued that in view of judgment and order passed by learned JMFC (Exh.42) respondent No.1 has been acquitted. Therefore his rashness and negligence is not proved, still after going through the certified copy of judgment Exh.42 it is clear that the judgment of acquittal came to be recorded only because the material on record is contradictory and there was every scope of doubt. Therefore by

extending benefit of doubt order of acquittal appears to have been passed. Therefore it is clear that there is no finding or comment about the rash or negligent driving of petitioner.

18] On the contrary from charge sheet and other documents it is established and proved that accident occurred due to rash and negligence of respondent No.1. It is settled law that the judgment of criminal court is not binding upon this tribunal. Moreover being inquiry proceeding, the facts are to be proved on the touchstone of preponderance of probabilities only. No strict evidence is required. As the material on record is sufficient to establish and prove rashness and negligence of respondent No.1, therefore it is clear that petitioner has discharged his burden to prove issues No.1 and 2. However there is no material evidence to prove issue No.3. RW-1 Parag though adduced his evidence to prove rashness and negligence of petitioner, still as discussed earlier his evidence in this respect is not supported by any other material. On the other hand there is sufficient material to prove contrary.

19] Therefore as accident is admitted, involvement of Bajaj KTM 390 bearing No.MH-31-EZ-3219 and Bullet No.MH-49-AU-9703 is duly established and proved. As the rashness and manner of accident is proved, therefore the authority in the case of *Minu B. Mehta* cited supra, is not helpful to respondent No.1, as having no resemblance with the facts of the present case. Therefore I am of the opinion that petitioner has discharged his burden to prove issue No.1 whereas respondents failed to prove issue No.3. Hence I record my findings to issue No.1 in the *Affirmative* and issue No.3 in the *Negative*.

20] However petitioner though claimed that he suffered permanent disablement in the said accident and though PW-4 Dr. Nitin has assessed the disability as 25%, still in view of admissions given by him and petitioner so also the authorities cited supra, said disability certificate Exh.60 is difficult to accept and rely.

21] Petitioner Deepak in his cross examination has candidly admitted that presently he used to drive four wheeler vehicle and is performing his duties regularly. He is getting regular salary. He came in Court by walking. Therefore from said material admissions, it is clear that no functional disability is caused to petitioner and he is still able to perform his duty and has continued the same. PW-4 Dr. Nitin also admitted that there was recovery to the patient and both the fractures were healed.

22] Therefore from said material admissions, it is clear that there is neither permanent disablement nor functional disability to petitioner. Whatever injuries he had sustained the same are now healed and he is able to perform his day to day activities. Therefore the disability certificate Exh.60 cannot be considered and relied upon. Moreover PW-4 Dr. Nitin is neither the treating doctor nor he provided any treatment to petitioner. He only issued certificate Exh.60 that too after about 1½ year of the accident. Therefore in view of authority in the case of *Rajkumar* cited supra, disability certificate Exh.60 cannot be relied upon. Therefore no permanent or functional disability is proved.

23] Though such is the position, still there is abundant material to establish and prove that petitioner had sustained

grievous injuries as his both legs were fractured. Respondents did not deny the same. PW-4 Dr. Nitin also stated about the same. Record also shows that petitioner was indoor patient for about twelve days. Therefore even though no functional or physical disability is proved, still it is proved that petitioner had sustained grievous injuries in an accident arising out of the use of motor vehicle. Therefore I record my findings to issue No.2 in the ***Affirmative in respect of grievous injuries*** only.

**As to Issue No.4 :**

24] As owner and driver of the offending vehicle are joined as party and as the offending vehicle was not insured at the time of accident, therefore petition cannot be said to be bad for non joinder of necessary parties. Hence I record my findings to issue No.4 in the ***Negative.***

**As to Issue No.5 :**

25] Learned counsel for petitioner argued that as petitioner suffered permanent disablement, he is entitled to the compensation as claimed. He incurred Rs.12,00,000/- on medical expenses. There was also loss of earning to him. Hence compensation as claimed be awarded.

26] Per contra learned counsel for respondent No.1 vide his written notes of argument Exh.78 submitted that there is no functional disability and loss of earning to petitioner. He is still performing his duty. All the medical expenses incurred by him have been reimbursed to him by his employer. No hospital and pharmacy bills are filed on record. During the period of treatment also

petitioner received regular salary. Therefore there was no loss of earning to him. Hence compensation as claimed shall not be awarded and the petition is liable to be dismissed. Learned counsel for respondent No.2 also adopted the same argument.

27] As discussed earlier I have recorded my findings to issues No.1 and 2 in the affirmative, therefore in view of the same certainly petitioner is entitled to compensation for grievous injuries. In view of provision of Section 166 of the Motor Vehicles Act also he is entitled to certain compensation. Plain reading of Section 166 makes it clear that, application for compensation arising out of an accident of the nature specified in Sub-Section 1 of Section 165 may be made by the person injured. Similarly Section 165 speaks about adjudication of claim for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of motor vehicle. Therefore from said provisions it is clear that, either death or injury is required to be proved to claim compensation.

28] In the case on hand for want of reliable material, no permanent disablement and loss of earning capacity is proved. On the contrary from admissions given by petitioner it is proved that he is getting regular salary and he is doing the same work as earlier. Therefore petitioner is not entitled to get compensation for any disability. Therefore for want of functional disablement, no multiplier method can be applied.

29] However as I hold that petitioner had sustained grievous injuries in an accident arising out the use of motor vehicle,

therefore he is entitled to compensation for pecuniary and non pecuniary damages.

30] From record it is clear that petitioner was indoor patient for the period 01.03.2022 to 12.03.2022. Admittedly no original discharge summary is produced on record. However from other material on record it is proved that petitioner was indoor patient for in all twelve days. Petitioner though claimed that he incurred expenses of Rs.12,00,000/- on medical treatment, still neither any hospital bill nor pharmacy bills are filed on record. On the contrary petitioner admitted that the medical expenses are reimbursed to him. Therefore in view of the same for want of hospital and pharmacy bills petitioner is not entitled for the expenses claimed.

31] Though such is the position, still as petitioner was indoor patient for twelve days, therefore certainly he incurred expenses on diet, attendance and conveyance. Therefore in view of material on record petitioner is entitled to Rs.25,000/- towards diet and attendance and Rs.15,000/- towards conveyance and transportation.

32] As petitioner was indoor patient for twelve days and thereafter was treated in OPD therefore certainly he had suffered pains and agony. Therefore he is also entitled to get compensation for pains and agony so also hardship and inconvenience. Therefore petitioner is entitled to Rs.75,000/- towards pains and agony and Rs.50,000/- for hardship and inconvenience.

33] Petitioner admitted that he was on leave for 130 days and he was paid leave salary. Therefore it is clear that there was no

loss of income to him during the period of treatment. Though such is the position, still fact remains that due to accidental injuries petitioner was required to avail paid leaves for which he was otherwise entitled for payment. Therefore interest of justice requires to grant him certain amount for the same.

34] Petitioner though claimed that his monthly income was Rs.1,57,000/-, still no document to that effect is filed on record. Therefore said income cannot be considered. Still the fact remains that petitioner was and is in service with Indian Oil Corporation. Therefore considering the same interest of justice requires to grant him at least Rs.60,000/- for the loss of his leave, for which he was otherwise entitled to encash. Therefore the same is accordingly awarded to him.

35] Therefore even though multiplier method cannot be applied, still being social and beneficial legislation, compensation needs to be awarded to mitigate the hardship and agony suffered by petitioner due to grievous injuries in a vehicular accident.

36] Considering facts and circumstances of the present case and the submission made, in my opinion the compensation worked out becomes as under :

Loss of leaves	=	60,000/-
Pains and suffering	(+)	75,000/-
Diet and attendance	(+)	25,000/-
Inconvenience and hardship	(+)	50,000/-
Conveyance and transportation	(+)	15,000/-
	<b>Total</b>	<b>2,25,000/-</b>

37] Therefore in view of calculations made above and the submissions made **Rs.2,25,000/-** is just, fair and reasonable compensation for grievous injuries 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 his hardship and agony. Therefore even though petitioner has restricted his claim to Rs.1,00,000/- due to financial constraints and though he did not amend the prayer, still he is entitled to enhanced compensation though not claimed, on payment of deficit court fees.

38] In view of amended provisions of Motor Vehicles Act also said compensation become just and reasonable. The amended provisions of Sec.164 of M.V. Act came into force on 01.04.2022 wherein fixed compensation of Rs.2,50,000/- is provided for the victim who sustained grievous injuries in an accident arising out of the use of motor vehicle. It is no doubt true that said provision has no retrospective effect. Still in view of settled law the Court or Tribunal cannot overlooked or ignore the changes made in law. Therefore considering the same as guiding principle, amount of Rs.2,25,000/- awarded to petitioner is certainly just, reasonable and proper and petitioner is entitled to the same.

39] 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.

40] Apart from this for want of proper pleadings also, petitioner cannot be held entitled to the compensation as claimed. No specific pleadings regarding the claim are made. Therefore in view of the same also, the compensation as awarded would be just and fair.

41] As ownership of the offending vehicle is not disputed therefore respondent No.1 being driver and respondent No.2 being owner are jointly and severally liable to pay said compensation to petitioner along with interest.

42] Thus petitioner has established his claim to the extent noted above. Therefore I record my findings to Issue No.5 ***Accordingly*** and in sequel pass the following order.

### **ORDER**

- 1) Petition is allowed with costs.

2) Respondents No.1 and 2 shall jointly and severally pay the compensation of **Rs.2,25,000/- (Two Lac Twenty Five Thousand Rupees only)** to petitioner along with simple interest @ 7.5% p.a. inclusive of 'no fault liability' amount from the date of institution of the claim, i.e. from 13.10.2022, till its final realization.

3) Respondents are hereby directed to transfer the said amount into the Bank account of petitioner, details of which are furnished as under, on due verification and identification.

Sr. No.	Name of petitioner	Name of Bank, Branch and IFSC Code	Savings Account Number	Amount
1	Deepak Dyandev Kamble Mob. No. 9975456597	State Bank of India, Branch at Manewada, Nagpur SBIN0011419	10660760589	<b>₹.2,25,000/-</b> + Interest, (Out of it <b>Rs.1250/-</b> be deducted towards deficit Court fees)

4) 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.

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

6) Respondents are further directed to deduct Rs.1250/- 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 Rs.
Member, MACT, Nagpur	Union Bank of India, Branch at DBA, Civil Lines, Nagpur UBIN0544248	442401010036699	1250/-

7) 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 : 10.03.2026

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

#### Endorsement

Case Argued on	09.03.2026
Judgment dictated on	10.03.2026
Transcription ready on	10.03.2026
Judgment checked & signed on	10.03.2026

Date : 10.03.2026

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)