

MHNG010111182022



Presented on : 07.11.2022
 Registered on : 09.11.2022
 Decided on : 11.03.2026
 Duration : 03Y. 04M. 04D.

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

(Presided over by P. B. Naikwad)

M.A.C.P. NO.1036/2022

Exh.44

PETITIONER : Janardhan Eknath Sidam,
 Age : 36 years, Occ : Driver,
 R/o : Vaigaon, Bhandara,
 Bhuyar, Maharashtra-441910.

VERSUS

RESPONDENTS : 1) Dinesh P. Bhange,
 Age : Major, Occ : Private,
 R/o : P. No.5/A, Ladokar Layout,
 Subhash Nagar, Ring Road,
 Manewada, Nagpur- 440012.

2) National Insurance Co. Ltd.,
 Fidvi tower, Mount Road,
 Sarafa Chamber, Sadar, Nagpur.
 Registered and Head office
 3, Middleton Street, Kolkatta.

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

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 Shri G. D. Mankar, Advocate for Petitioner.
 Shri A. D. Patil, Advocate for Respondent No.1.
 Smt. Vaishali Bagde, Advocate for Respondent No.2.

J U D G M E N T

(Delivered on 11th March 2026)

This is a petition under section 166 of the Motor

Vehicles Act 1988 for grant of compensation of Rs.22,70,000/- (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 15.06.2010 at about 06:00 a.m. petitioner was driving Mahindra Pick-up loaded by vegetables. At that time near Bhiwapur crossing Truck bearing No.MH-31-CQ-5661 came at a high speed and in rash and negligent manner and gave forcible dash to his Mahindra Pick-up. As a result petitioner sustained grievous injuries. He was admitted in Government Hospital, Umrer where he was treated and operated. He has spent Rs.2,60,000/- on medical treatment and his treatment is still continued. Police station Umrer registered Crime No.76/10 against the driver of Truck.

3] Petitioner was aged 36 years and was driver and thereby earning of Rs.10,000/- per month. Due to accident he is unable to do any work, as earlier. Respondent No.1 is owner and respondent No.2 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] Respondents by written statement Exh.23 and 19 denied the contentions made by petitioner and averred that, petition is not maintainable as is barred by limitation. Accident occurred due to rash and negligent driving of petitioner and he contributed the same. Petition is bad for non joinder of necessary parties.

Respondent No.2 also contended that truck was plied without valid permit and the driver was not holding driving license. There was breach of policy condition. Whereas respondent No.1 admitted ownership and insurance of the truck but contended that insurer alone is liable to pay compensation. Respondents lastly prayed to dismiss petition with costs.

5] In view of rival pleadings of the parties, following issues are framed vide Exh.24 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 offending vehicle i.e. Truck bearing registration No.MH-31-CQ-5661 was driving his vehicle in rash and negligent manner ?	Yes
2	Does petitioner prove that he sustained permanent disablement/ grievous injuries in a vehicular accident and the Truck bearing registration No. MH-31-CQ-5661 was involved in it ?	Yes, but injuries only
3	Do respondents prove that accident took place due to negligence of petitioner and he contributed the accident ?	No
4	Does respondent No.2 prove that there was breach of terms and conditions of the 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

6] In order to prove his claim petitioner Janardhan Eknath Sidam examined himself as PW-1 at Exh.25 and closed his evidence vide pursis Exh.34.

7] No evidence is adduced by respondents. They filed pursis Exh.39 and 40 to that effect. Thereafter argument of respective learned counsels were heard. Learned counsel for respondent No.1 also filed his written notes of argument vide Exh.41.

As to Issues No.1 To 3 :

8] It has come in the evidence of PW-1 Janardhan that he was driving Mahindra Pick-up loaded by vegetables. At that time near Bhiwapur crossing Truck bearing No.MH-31-CQ-5661 came at a high speed and in rash and negligent manner and gave forcible dash to his Mahindra Pick-up. As a result he sustained grievous injuries i.e. fracture to both hands. He was admitted in Government Hospital, Umrer where he was treated and operated. He has spent Rs.2,60,000/- on medical treatment and his treatment is still continued. Police station Umrer registered Crime No.76/10 against the driver of offending Truck.

9] To support his oral testimony, petitioner also filed on record documents i.e. Form AA Article-A, FIR Article-B, spot

panchnama Article-C, injury report Article-D, copy of insurance Article-E, driving license Article-F, registration certificate Article-G, permit Article-H, Adhar card Exh.27 and driving license Exh.28 etc.

10] Learned counsel for petitioner argued that, from oral and documentary evidence it is proved that, petitioner sustained grievous injuries/permanent disablement in a vehicular accident and accident took place due to rash and negligent driving of the truck. No rashness or negligence of petitioner is proved. Therefore issues No.1 and 2 be answered in affirmative and issue No.3 in negative.

11] Whereas learned counsel for respondent No.1 by his written notes of argument Exh.41 submitted that, the claim itself is not tenable as barred by limitation. No rashness or negligence of the truck driver is proved. No disablement is proved. He also placed his reliance on the following authorities;

- i) Minu B. Mehta Vs. Balkrushna Ramchandra Nayan (1977) 2 SCC 441;*
- ii) Sudhir Kumar Rana Vs. Surinder Singh (2008) 12 SCC 436.*
- iii) Purohit and Company Vs. Khatoonbee and Another (2017) 4 SCC 783;*
- iv) Rajkumar Vs. Ajaykumar (2011) 1 SCC 343,*

and submitted that petition is barred by limitation.

12] Similarly learned counsel for respondent No.2 argued that except evidence of petitioner nothing is on record. Petitioner neither examined any doctor nor filed disability certificate nor discharge summary nor hospital papers. Only photocopies are filed on record. Therefore issues No.1 and 2 are not proved at all.

Accident occurred due to sole negligence of petitioner. Therefore issue No.3 be answered in the affirmative and issue No.1 and 2 in the negative.

13] Having regard to the submissions made by both learned counsels and after going through the material on record I found that prima facie the petition appears to be filed belatedly i.e. after about twelve years of the accident. Therefore certainly there is inordinate delay in filing the same.

14] Though such appears to be the position on record, however during cross examination of PW-1 Janardhan explanation about the delay is brought on record. He stated that he filed claim when he had received notice of DAR proceeding from tribunal. In view of his said admission, when the record of this tribunal is verified, at that time it is found that, police station officer Umred had forwarded the report of the accident to this tribunal on 15.07.2010 itself i.e. within limitation, as per provision of Sub-section 6 of Section 158 of the Motor Vehicles Act and the same was registered as Misc. Claim Appln. No.46/10.

15] Thereafter tribunal had issued notices to the owner and insurer so also the victim/injured. However it appears that the insurer and owner did not appear but petitioner appeared and informed the tribunal that he is filing separate petition and then filed the same. Accordingly this tribunal by order dated 05.11.2022 disposed off the said DAR proceeding which was registered as Misc. Claim Appln.46/10.

16] As per provision of 166 (4) of the Motor Vehicles Act,

the then existing, the claims tribunal shall treat any report of accidents forwarded to it under Sub-section (6) of Section 158 as an application for compensation under this Act. As present petitioner informed the tribunal that he is filing separate application, therefore it appears that instead of treating the said report as an application for compensation, the then presiding officer of this tribunal disposed off the said miscellaneous application. Thereafter present petition came to filed immediately i.e. on 07.11.2022.

17] Therefore in view of said position on record, present petition though prima faice appears to be filed after the period of twelve years of the accident, still in view of pendency of the DAR proceeding i.e. (M.C.A. No.46/10), which was filed well within limitation, present claim cannot be said to be barred by limitation. On the contrary it is clear that petitioner has explained the delay satisfactorily in filing the same. The record and proceeding of Misc. claim Appln.46/10 also disclosed the said fact. Therefor in view of the same also petition cannot be thrown over board, treating it as barred by limitation.

18] Hon'ble Supreme Court in the case of ***Purohit and Company*** cited supra, in Para 14 of the judgment also specifically ruled that the question of reasonability would naturally depend on the facts and circumstances of each case. In that matter the explanation tendered was not acceptable, therefore Hon'ble Supreme Court held that the petition being hopelessly barred by limitation, treated it as dead claim.

19] Such is not the position in the case on hand. Here as per provision of Sec.166 (4) of M.V. Act, the then existing the claim of petitioner was certainly within limitation and that application ought to have treated as application for compensation. But as applicant preferred separate application after receipt of notice, therefore in view of the same present claim cannot be considered to be a dead claim. The authority cited supra is binding upon this tribunal. However as the facts therein have not resemblance with the facts of the present case, the same is not helpful to respondents and the claim cannot be said to be barred by limitation.

20] Now I turn to the main issue of rashness and negligence so also involvement of offending vehicle in the accident. So far as accident is concerned, respondents did not dispute the same. The police papers filed on record established and proved that accident occurred due to rash and negligent driving of the driver of truck. Admittedly petitioner has filed photo copies only on record, which are not exhibited. However as discussed earlier the PSO Umred had submitted the detailed accident report which was registered as Misc. Claim Appln. No.46/10. The record and proceeding of the same is available on record.

21] After going through the said DAR proceeding it is clear that certified copies of police documents are on record. Therefore in view of said certified copies and DAR proceeding, even though petitioner only filed photo copies, still it makes no difference as certified copies are already available on record. The FIR and spot panchnama therein clearly demonstrate that accident occurred due

to rash and negligent driving of Truck No.MH-31-CQ-5661 and the same was involved in the accident. Therefore involvement of the offending vehicle and rash and negligent driving of its driver is duly proved.

22] So far as permanent disablement or grievous injuries suffered by petitioner is concerned, there is nothing material on record to prove the same. Petitioner neither examined any doctor nor produced on record the disability certificate nor the discharge summary. Therefore for want of required evidence neither disability nor grievous injury is proved. However from injury report Article-D, the certified copy of which is annexed to DAR proceeding established and proved that in the said accident petitioner sustained injuries to both hands. FIR though disclosed fracture injuries to both hands but there is nothing material on record in this respect. Therefore in view of Medico Legal Injury Report issued by Rural Hospita, Umrer, it is only established and proved that petitioner had sustained injuries in an accident arising out of the use of motor vehicle. Therefore I record my findings to issues No.1 and 2 in the in the ***Affirmative*** in respect of injuries only.

23] Respondents though contended that accident occurred due to negligence of petitioner and he contributed the same, still no evidence is adduced by respondents. Nothing is brought on record to discharge their burden in this respect. Therefore I record my findings to issue No.3 in the ***Negative***.

As to Issue No.4 :

24] Respondent No.2 averred that, there was breach of

terms and conditions of insurance policy as driver of offending truck was not holding valid and effective driving license and truck was plied without fitness and permit. However to discharge its burden no evidence is adduced by respondent No.2. On the other hand documents on record shows contrary. 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 :

25] Respondents though 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 Mahindra Pick-up was also involved in the said accident, still from record it is established that accident took place due to negligence of the driver of offending truck only. As owner and insurer of truck are joined as party, therefore petition cannot be said to be bad for non joinder of necessary parties. Offence is also registered against driver of offending truck only. Therefore owner and insurer of Mahindra pick-up so also driver of truck cannot be termed to be necessary parties. At the most they are proper parties, in absence of whom 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 :

26] Learned counsel for petitioner argued that, as petitioner suffered grievous injuries in vehicular accident therefore compensation as claimed may be awarded. Petitioner was driver and was aged 36 years. No breach of policy condition is made out

and proved. Petitioner has incurred expenses on medical treatment. Therefore respondents are jointly and severally liable to pay compensation to petitioner. Hence petition may kindly be allowed and just and reasonable compensation be awarded.

27] Whereas learned counsel for respondent No.1 by his written notes Exh.41 submitted that, no permanent disablement is caused to petitioner. He had sustained simple injuries only which are now healed. There is no loss of earning to him. No rashness and negligence is proved. Accident occurred due to negligence of petitioner himself. He was not holding driving license. No income and age of petitioner is proved. Therefore he is not entitled to any compensation. He also placed his reliance on the following authorities;

- i) Ramchandrappa Vs. Royal Sundaram Alliance Insurance Company (2011) 13 SCC 236;*
- ii) National Insurance Company Vs. Swarna Singh (2004) 3 SCC 297;*

and submitted that insurer alone is liable to pay compensation hence petition against respondent No.1 be dismissed.

28] Learned counsel for respondent No.2 also argued in the same manner and submitted that petitioner has failed to establish and prove his claim, hence petition be dismissed with costs.

29] As discussed earlier, I have recorded my findings to issues No.1 and 2 in the affirmative, therefore petitioner is entitled to certain compensation on account of injuries sustained by him in vehicular accident. 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 166 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.

30] In the case on hand as from material on record it is proved that Janardhan sustained injuries therefore certainly he is entitled to compensation. However as no permanent disablement and functional disability so also grievous injury is proved, no compensation can be awarded by applying multiplier method. Similarly as no discharge card, hospital bill or pharmacy bills are filed on record therefore medical expenses as claimed cannot be granted.

31] However as petitioner had sustained injuries only in an accident arising out of the motor vehicle, therefore certain compensation on account of pecuniary and non pecuniary damages needs to be awarded to achieve the ends of justice. Therefore in absence of required material, petitioner is only entitled to lumpsum compensation on account of the injuries sustained by him so also the pains and suffering suffered by him in consequence of the same.

32] It is no doubt true that petitioner has failed to prove grievous injuries or permanent disablement. Still the fact remains that he met with vehicular accident and sustained injuries. FIR

prima facie disclosed that he had sustained fracture injuries to both hands. However for want of required material the same is not proved. Still being social and beneficial legislation interest of justice requires to award some compensation to petitioner. In the facts and circumstances of the case, in my opinion Rs.15,000/- will be just, fair and reasonable compensation for the injuries sustained by petitioner and he is entitled to the same.

33] 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 said authority so also the authorities cited supra, which are binding upon this Tribunal, it is the duty of this Tribunal to award just and reasonable compensation. Therefore petitioner is entitled to the same.

34] As ownership and insurance of the offending vehicle is

not disputed, therefore respondent No.1 being owner and respondent No.2 being insurer are jointly and severally liable to pay said compensation to petitioner.

35] Thus petitioner has established and proved his claim to the extent noted above. Therefore I record my findings to issue No.6 ***Accordingly*** and in reply to issue No.6, pass the following order.

ORDER

- 1) Petition is partly allowed with proportionate costs.
- 2) Respondents shall jointly and severally pay the compensation of **Rs.15,000/- (Fifteen Thousand Rupees only)** to petitioner inclusive of the amount of 'No Fault Liability', along with simple interest @ 7.5% per annum from the date of petition i.e. from 07.11.2022 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 :

Sr. No.	Name of petitioner	Name of Bank, Branch and IFSC Code	Savings Account Number	Amount
1	Janardhan Eknath Sidam Mob.No. 9325462017	Allahabad Bank, Branch at Bhuyar, Block Pauni, Dist. Bhandara IDI8000b805	50369524897	₹.15,000/- + Interest

- 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) 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 : 11.03.2026

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

Endorsement

Case Argued on	10.03.2026
Judgment dictated on	11.03.2026
Transcription ready on	11.03.2026
Judgment checked and signed on	11.03.2026

Date : 11.03.2026

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)