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| MHNG010124832019  | Presented on : 20/12/2019 |
| | Registered on: 21/12/2019 |
| | Decided on : 08/05/2026 |
| | Duration : 6 Y : 4 M : 17 Days |
| | <u>Exhibit No.46</u> |

**BEFORE THE CHAIRMAN, MOTOR ACCIDENT CLAIMS
TRIBUNAL, NAGPUR**

[Presided over by Dinesh P. Surana]

M.A.C.P. No.1237 of 2019

Shri Rahul S/o Ganeshrao Dhote,
Age 27 years, Occu. Pvt. Service.
R/o. Behind Railway Station,
Sant Kabir Ward, Hinganghat,
Distt. Wardha.

...Petitioner

// **Versus** //

1] **The United India Insurance Co. Ltd.,**
Through Its Divisional Manager,
Secretariate Building, 1st floor,
East Wing, Opp. VCA Stadium,
Civil Lines, Nagpur.

...Respondents.

2] **Shri Shankar S/o. Tanbaji Kande,**
Age 58 years, Occ. Business,
R/o. New Amar Nagar, Plot No.99,
Manewada, Nagpur.

**[CLAIM PETITION FOR GRANT OF COMPENSATION U/SEC. 166 OF
THE MOTOR VEHICLES ACT (AS AMENDED ACT)].**

Appearances:

Adv. S.P. Lolusare for the petitioner.

Adv. Neeta P. Chandak for the respondent No.1.

Ex parte against respondent No.2.

J U D G M E N T

[Delivered on 08.05.2026]

By this petition under Section 166 of the Motor Vehicles Act, compensation of Rs.5.8 lakhs is claimed by the petitioner on account of the vehicular accidental injuries resulting in his losses.

2] It is the case of the petitioner that on 01.12.2019 at 09:30 p.m., he was riding his TVS Scooty moped bearing registration No.MH32-AA-6312 (in short, "Scooty") from Butibori to Nagpur. When he reached near Satgaon, a 407 pickup Van bearing registration No.MH40-AK-6162 (in short, "Van"), driven by its driver on the wrong side, in high speed, carelessly and negligently gave dash to his Scooty. In the said accident, he suffered fracture injuries to his right knee, left leg, left hand and ankle. He was treated and operated on at Chandak Nursing Home, Sitaburdi, Nagpur. Due to the vehicular accidental injuries, he became permanently disabled. His normal activities were badly affected. His working capacity was reduced considerably. At the time of the accident, he was 21 years old. He was in private service and was earning Rs.12,000/- pm. Towards pecuniary and non-pecuniary damages, the petitioner claimed above amount of compensation jointly and severally from respondent insurer and respondent No.2 owner of the offending Van.

3] The respondent No.2 was proceeded ex parte. The respondent No.1 insurance company by way of written statement Exh.9, by taking general denials and defences, resisted the claim of the petitioner. They have also taken a specific plea that at the time of the accident, the petitioner was riding a Scooty under the influence of liquor on the wrong side of the road and therefore, he was solely negligent or contributory negligent in causing the said accident. The driver of the Van was not holding a valid and effective driving licence at the time of the accident, resulting in a breach of policy terms and conditions of the policy of the Van. The registration number of the Van was valid from 10.10.2016 to 09.10.2018; therefore, on the date of the accident, i.e., 01.12.2019, the registration of the Van was expired, which is contrary to the provisions of the Motor Vehicles Act and again resulting in a breach of policy terms and conditions. Therefore, they contended that they are not liable to pay any compensation to the petitioner.

4] To substantiate his claim, the petitioner examined himself and reiterated his pleadings by way of evidence affidavit at Exh.15. Apart from his oral testimony, he also placed his reliance on the following documents.

- i] Exh.16 (Form Comp. AA);
- ii] Exh.17 (First Information Report / FIR);
- iii] Exh.18 (Crime Details Form / Spot Panchnama);
- iv] Detailed Accident Report (DAR) filed by the police.

5] In support of his contentions, the petitioner has also examined the following witnesses.

PW-2 Manoj Agrawal, at Exh.30, owner of Jindal Medicos, who deposed that the petitioner had purchased medicines of around Rs.12,500/- from his medical shop, under medicine bills Exh.13 colly.

PW-3 Dr Varsha Chandak, at Exh.35, whose husband, Dr. Rajendra Chandak, is an orthopaedic surgeon, and runs Chandak Nursing Home. She is the in-charge medical officer in the said hospital. She deposed about the admission, discharge, injuries, treatment and the medical expenses incurred by the petitioner of around Rs.43,500/-. She proved the Discharge Card of petitioner Exh.36, issued by her hospital, and the hospital Bill Exh.37.

PW-4 Dr Abhinav Bhatnagar, at Exh.38, an orthopaedic surgeon and owner of Abhinav Multi-Speciality Hospital, Nagpur, who examined the petitioner on 10.09.2025 and assessed his permanent disability to the extent of 19% and issued him permanent disability certificate Exh.39 in Form Comp. B.

6] None was examined for and on behalf of the respondent insurance company. However, the respondent insurance company placed their reliance on the registration particulars Exh.43 and the Fitness Certificate Exh.44, of the Van, issued by the RTO Rural, Nagpur.

7] Adv. S.P. Lolusare for the petitioner prayed for grant of just compensation to the petitioner on account of his vehicular accidental injuries resulting in his permanent disability and loss of earnings and the expenses incurred by him.

8] Per contra, Adv. Neeta Chandak for the respondent insurance company submitted that at the time of the accident, the registration of the Van had lapsed, as seen from the registration particulars of the Van (Exh. 43), and there was no permit or fitness certificate of the Van on the date of the accident as per Exh.44. Therefore, there was a violation of the statutory provisions, which resulted in a breach of policy terms and conditions. As such, she prayed for exonerating the respondent insurance company from the payment of liability for compensation. She also submitted that at the most compensation, awarded if any, should be ordered on the principles of pay and recover.

9] Based on the rival contentions and material available on record, I record my findings on the Issues at Exh.12 for the reasons discussed thereunder.

| | <u>ISSUES</u> | | <u>FINDINGS</u> |
|----|-----------------------------------------------------------------------------------------------------------------------|----|----------------------------------|
| 1] | Does the petitioner prove that the driver of Van drove it rashly and in a negligent manner and committed an accident? | .. | <u>In the Affirmative</u> |
| 2] | Does the petitioner further prove that in said accident he sustained injury? | .. | <u>In the Affirmative</u> |

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|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----------------------------------|
| 3] | Whether the petition is bad in law for non-joinder of necessary and proper parties? | .. | <u>In the Negative</u> |
| 4] | Whether respondent No.2 proves that the driver of the Van was not possessing a valid and effective driving licence and also plied said vehicle without holding a valid permit and fitness certificate and thereby breached the terms and conditions of the policy? | .. | <u>In the Negative</u> |
| 5] | Whether the petitioner is entitled to compensation? If yes, what would be the amount of compensation? | .. | <u>As per final order</u> |
| 6] | What order? | .. | <u>As per final order</u> |

REASONS

As to Issue No.1:

10] The petitioner himself is an eyewitness to the alleged accident. He pleaded and testified as to the manner of the accident. According to him, on the given date, time, and place, when he was riding his Scooty, the Van, being driven by its driver in an excessive speed, rashly and in negligent manner and to the wrong side of the road, dashed to his Scooty. There is no cross-examination of the petitioner by the respondent insurance company on the manner of the accident. Therefore, the testimony of the petitioner as to the manner of the accident has gone unchallenged. So also, the testimony of the petitioner as to the manner of the accident is further corroborated from the police case papers. In form Comp.AA Exh.16, the police has specifically mentioned that the petitioner was

proceeding from Butibori towards Nagpur. The Van came from the wrong side, being driven by its driver at high speed, rashly and negligently, gave dash to Scooty of the petitioner from the front side.

11] Based on the First Information Report Exh.17, given by the petitioner within a few hours of the accident, Crime No.888 of 2019 was registered against Shankar Kande, driver of the Van, for the offences punishable under Sections 237, 337 and 338 of the I.P. Code and Section 184 of the Motor Vehicles Act, for causing the said accident and accidental injuries to the petitioner due to rash and negligent driving of the Van.

12] The spot panchanama Exh.18, drawn by the police in the presence of panchas, also demonstrates that the driver of the Van was at fault in causing the said accident. Therefore, I do not find any evidence which points out the negligence or contributory negligence of the petitioner in causing the said accident. As such, my answer to Issue No.1 is in the affirmative.

As to Issue No.2:

13] The petitioner pleaded and testified that in the said vehicular accident, he suffered fracture injuries to his right knee, left leg, left hand and ankle with other bodily injuries. The testimony of the petitioner as to the injury caused to him to some extent corroborate by the Discharge Card Exh.36, issued by Chandak Nursing Home to the petitioner, wherein, the petitioner was diagnosed with multiple lacerated wounds and a fracture to the distal end of the left radius. PW-3 Dr Chandak deposed that the petitioner

was admitted to their Chandak Nursing Home on 02.12.2019, was operated on 04.12.2019, and was discharged on 05.12.2019. He was having multiple lacerated wounds to the distal end of the left radius. As such, the petitioner has proved that in the said vehicular accident he suffered fracture injury, which falls under the definition of grievous hurt, as defined under Section 320 of the I.P. Code.

14] It is contended by the petitioner that due to the vehicular accidental injuries, he suffered permanent disability. However, in his cross-examination, he admitted that since 2017 he is serving at Butibori after completing his mechanical engineering in 2013. In June 2024, he joined service at Nagpur. Recently, he got married. After discharge from the hospital in 2019, he was not admitted to any hospital. He is able to do all his routine work. He had also purchased a new bike. He had not surrendered his licence before RTO. His wife and daughter are dependent on his income. He was suggested in his cross-examination, though he denied, that he did not suffer permanent disability.

15] PW-3 Dr. Chandak categorically opined that the petitioner, if in a private job, will not require to leave the job. The injuries caused to the petitioner require 6 months to heal. After 6 months, the fracture gets united, and such a patient can do his normal routine day-to-day activities. PW-3 Dr Chandak, in her cross-examination by the respondent insurance company, admitted that the fracture injury caused to the petitioner is restricted to his left wrist. A person with such injuries can perform all activities.

16] As such, from the testimony of the petitioner and PW-3 Dr. Chandak, where the petitioner was treated and operated, it does not seem that the petitioner has suffered permanent disability. However, PW-4 Dr. Abhinav Bhatnagar, an orthopaedic surgeon, deposed that he examined the petitioner in his Abhinav Multi-Speciality Hospital, Nagpur, on 10.09.2025. His fracture injury to the distal end of the left radius was healed. He was having restricted movement to his left wrist, for which he assessed his permanent disability to the extent of 3%, for restricted grip strength, he assessed his disability to the extent of 6%; and for impact implant impingement, he assessed his disability to the extent of 4%, i.e. total 19%. However, the accidental injuries caused to the petitioner were in the year 2019. The petitioner was examined by PW-4 Dr. Bhatnagar after around more than 5 years of the accident. Moreover, PW-4 Dr. Bhatnagar has not deposed that such disability assessed by him was only due to the vehicular accidental injuries. PW-4 Dr. Bhatnagar admitted that he is not the treating or operating doctor of the petitioner. Only for his permanent disability, the petitioner approached him. The disability assessed by him is only for the limb and not the body. The petitioner can perform his daily routine activities like a normal man. The permanent disability certificate issued by PW-4 Dr. Bhatnagar Exh.39 does not bear the photograph of the petitioner.

17] Under such circumstances, the testimony of PW-4 Dr. Bhatnagar, regarding the disability of the petitioner, assessed by him, cannot be attributed to the vehicular accidental injuries. As such, the

petitioner has proved that in the said vehicular accident, he suffered grievous fracture injuries but has failed to prove that such injuries resulted in his permanent or functional disability. As such, my answer to issue No.2 is in the affirmative.

As to Issue No.3:

18] The petitioner has rightly joined the owner and insurer of the Van as a party to the claim petition. Therefore, the petition cannot be said to be bad for non-joinder of necessary parties. As such, my answer to issue No.3 is in the negative.

As to Issue No.4:

19] The basic contention of the respondent insurance company is that (i) the driver of the Van was not holding a valid and effective driving licence at the time of the accident, (ii) the Van was plied without holding a valid permit and fitness, and (iii) the registration of the offending Van had lapsed on the date of the accident. Thereby, there was breach of the terms and conditions of the policy of insurance of the Van at the time of accident, hence they are not liable to pay any compensation to the petitioner.

20] Though the respondent insurance company has not examined any witness, but they have relied upon the documentary evidence, i.e., registration particulars of the Van. The said registration particulars are issued by RTO, Rural, Nagpur. The said vehicle registration particulars, Exh.43, clearly show that the fitness of the Van was only upto 09.10.2018. Its registration was also valid upto

09.10.2018. The fitness certificate Exh.44, issued by RTO, Rural, Nagpur, also shows that the certificate of fitness of the Van was valid from 10.10.2016 to 09.10.2018 and thereafter from 09.03.2020 to 08.03.2022. Without there being further validity of the registration of the Van, the RTO Nagpur Gramin might not issue the fitness certificate of the Van valid from 09.03.2020 to 08.03.2022. Therefore, the respondent insurance company has failed to prove that the driver of the Van was not holding a valid and effective driving licence or that the validity of the registration of the Van was only upto 09.10.2018, but they have proved by leading cogent documentary evidence that on the date of the accident, i.e., 01.12.2019, the Van was being plied without there being any fitness certificate.

21] The counsel for the respondent insurance company has not disputed that at the time of the accident the Van was insured with them under the valid policy of insurance. Along with DAR, the police has also filed Goods Carriage Commercial Package Policy Schedule of the Van. In the said schedule, under the heads (1) "PERSONS OR CLASSES OF PERSONS ENTITLED TO DRIVE", (2) "LIMITATIONS AS TO USE", and (3) "LIMITS OF LIABILITY", it is specifically mentioned "As narrated under the certificate of policy attached herewith." However, the certificate of the insurance of the Van is neither filed by the respondent insurance company nor filed by the police along with DAR, or is part of the record. Under such circumstances, it cannot be said that only because, the Van was being plied at the time of accident, without there being any fitness

certificate, resulted in fundamental breach of the contractual policy of insurance of the Van. As such, the respondent insurance company has failed to prove that there was fundamental breach of the terms and conditions of the policy of insurance. As such, my answer to issue No.4 is in the negative.

As to Issue No.5:

22] The petitioner pleaded and testified that at the time of the accident he was 27 years old. He was doing private service and was earning Rs.12,000/- per month. However, the petitioner neither pleaded nor deposed about who was his employer or what was the nature of his job, at the time of the accident. The income of the petitioner is also not mentioned in Part VII of the DAR. The petitioner has not examined any witness to prove the nature of his work, details of his employer or his income. On the contrary, the petitioner in his cross-examination by the respondent insurance company has specifically deposed that since 2017, he is in service at Butibori and now he is serving at Nagpur. In 2024 he left his service from Butibori and joined at Nagpur. He has also admitted that he is able to do his routine work. He is maintaining his wife and daughter from his income.

23] The PW-3 Dr. Chandak has also opined that such person in private job is not required to leave his job. According to her, such injury requires six months to heal. After six months the fracture gets united and such patient can do his normal routine day-to-day activities. PW-4 Dr. Bhatnagar also opined that the petitioner can

perform his daily routine activities like a normal man. Under above circumstances, the petitioner is not entitled to future loss of earnings, but is entitled to lumpsum amount of Rs.50,000/- towards loss of earning for 6 months, period required to heal his fracture injury.

24] As per PW-2 Manoj Agrawal, petitioner incurred medicine expenses of Rs.12,500/- for purchasing medicines. As per PW-3 Dr. Chandak, the petitioner had paid Rs.43,500/- to their hospital under Bill Exh.37. Therefore, the petitioner is entitled to reasonable medicine, medical, radiological and pathological expenses of Rs.60,000/-. Towards pain and sufferings, the petitioner is entitled for Rs.20,000/- and towards special diet and travelling expenses etc, the petitioner is entitled for Rs.20,000/-. Therefore, the just compensation, for which the petitioner is entitled for, is as follows.

| | | |
|----------------------|----|------------------------------------------------------------------------------|
| Rs.60,000/- | .. | Loss of earning for 6 months. |
| Rs.56,000/- | .. | Total Medicine & Medical expenses. |
| Rs.20,000/- | .. | Pain and sufferings. |
| Rs.20,000/- | .. | Special diet & travelling expenses etc. |
| <u>Rs.1,56,000/-</u> | .. | <u>Total amount of compensation</u> <u>(including NFL amount, if any)</u> |

25] The Hon'ble Supreme Court in the case of ***Ram Murti and others Vs. Punjab State Electricity Board***, [2023 ACJ 631] was pleased to give the benefit to the claimants in the claim under Section 166 of the Motor Vehicles Act, 1988, of the beneficial provisions of

the Chapter XI of the substituted Section 164 (substituted to Section 140) and awarded compensation of Rs.5 Lacs to the claimants on account of death. As such, in the case in hand, the petitioner is entitled for fixed compensation of **Rs.2.5 Lacs** on account of the grievous injury caused to him.

26] It is apparent from the record that the petitioner too was instrument in dragging the claim petition from 2019 till date. Therefore, he is entitled to the interest @ 7% per annum only on the above amount of just compensation.

27] The fact is not disputed and otherwise seen from the documentary evidence on record that at the time of accident the Van was owned by the respondent No.2 and was insured with the respondent insurance company. Therefore, both the respondents are jointly and severally liable to pay the above amount of just compensation along with interest thereon to the petitioner. Therefore, the Issue No.5 is answered accordingly. As such, I proceed to pass the following order.

ORDER

- i] Claim Petition is partly allowed with proportionate costs.
- ii] The Respondent Nos.1 & 2 jointly and severally do pay to the petitioner, an amount of just compensation of **Rs.2.5 Lacs** (Rupees Two Lacs Fifty Thousand only) (including the amount received by the petitioner towards the 'No Fault Liability', if any) along with

interest thereon at the rate of 7% per annum, from the date of petition, till its realization.

- iii] The Registrar (MACT), Nagpur, to take the account details of the petitioner, which shall be of any Nationalized Bank only, and send it to the respondent Nos.1 & 2, for compliance.
- iv] The respondent Nos.1 & 2 shall deposit the entire amount of compensation, in the bank account of the petitioner.
- v] Award be drawn accordingly, but only after the petitioner affixes the deficit court fees, if any, on the amount of awarded just compensation.

Nagpur.
Date : 08/05/2026

[Dinesh P. Surana]
Chairman, MACT &
Principal District Judge, Nagpur.

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|------------------------------------------|---|------------|
| Case argued on | : | 21/04/2026 |
| Judgment dictated on | : | 08/05/2026 |
| Transcription ready on | : | 08/05/2026 |
| Judgment checked and digitally signed on | : | 08/05/2026 |

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CERTIFICATE

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

| | | |
|--------------------------------|---|---------------|
| Name of Stenographer (Grade I) | : | Ajay P. Bothe |
|--------------------------------|---|---------------|