MHOS010010852018	Presented on :	27.04.2018
	Registered on:	05.05.2018
	Decided on :	06.07.2026
	Duration :	08Y.02M.01D

BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL OSMANABAD.

(Presided over by Rajesh K. Khomane, Member)

M.A.C.P. No.199 OF 2018 **Exh. :**

Balaji Angad Kaldate
Age 35 years, Occu. Private Service, (Now Nill)
R/o.Yedshi, Tq. Osmanabad
Dist. Osmanabad. ... **CLAIMANT**

V E R S U S

1] Baban Nivrutti Shinde,
Age Major, Occu. Agriculture
R/o. Naigaon, Tq. Jamkhed,
Dist. Ahmednagar
(Owner of M/Cycle No.MH-16/BW-2188)

2] Bajaj Allianz General Insurance Co. Ltd.Ahmedngar
Through : The Manager
Bajaj Allianz General Insurance Co. Ltd.
City Pride, Office no.4-8, 2nd Floor
162 Railway Lines, near employment chowk
Solapur. ... **RESPONDENTS**

Claim : **Under section 166 of the M.V. Act, 1988 for compensation of Rs.7,00,000/-**
Restricted up to Rs.5,00,000/-

Shri. S.J. Pritime, Adv. for the claimant.
Shri. U.B. Talke, Adv. for the respondent no.1
Shri. A.A. Danve, Adv. for the respondent no.2

<u>J U D G M E N T</u>

(Delivered on this 06th day of July, 2026)

1] This is a petition filed under Section 166 of Motor Vehicle Act, claiming compensation for bodily injuries sustained to Balaji Angad Kaldate, caused in vehicular accident arising out of motorcycle bearing no. MH-16/BW-2188 owned by respondent no.1.

2] Briefly stated, the case of the claimant is that on 17.11.2017, the claimant along with his brother Amol Kaldate was proceeding towards village Jamkhed on a motorcycle bearing registration No. MH-16/BD-2158. At the relevant time, Amol Kaldate, the brother of the claimant, was driving the said motorcycle at a moderate speed, slowly, cautiously, and by keeping to the extreme side of the road. When they reached near Loni Phata at about 06.30 p.m., another motorcycle bearing registration No. MH-16/BW-2188 (hereinafter referred to as the *offending vehicle*) came from the opposite direction at a high speed, in a rash and negligent manner. The rider of the offending vehicle lost control and came onto the wrong side of the road, thereby violently dashing against the claimant's motorcycle. Due to the impact, both riders fell on the road and sustained multiple grievous injuries on vital parts of their bodies. The accident occurred solely due to the rash and negligent driving of the rider of the offending vehicle. Pursuant thereto, Crime No. 226/2017 for offences punishable under Sections 279, 337 and 338 of the Indian Penal Code was registered with Jamkhed Police Station.

3] After the accident, the claimant was admitted to Indumati Super Speciality Hospital, Jamkhed, where he remained as an indoor patient from 17.11.2017 to 26.12.2017. The claimant incurred medical expenditure to the tune of Rs. 3,50,000/-.

4] Respondent No.1 has resisted the petition by filing a written statement at Exhibit 19. He has denied the averments made in the petition. Respondent No.1 specifically denied that the accident occurred due to his rash and negligent driving of the offending vehicle. He contends that the accident occurred due to rash and negligent driving of the motorcycle bearing registration No. MH-16/BW-2188. Therefore, he asserts that he is not responsible for the accident in question. It is further submitted that the claimant has not impleaded the insurance company and owner of the said motorcycle as parties to the proceedings, and hence the claim is bad for non-joinder of necessary parties. Respondent No.2 has also disputed the age, occupation, and income of the claimant. It is further submitted that the offending vehicle was duly insured with respondent No.2 at the relevant time. Therefore, respondent No.1 seeks exoneration from liability and prays that, if any liability is to be fastened, the same be imposed upon the insurance company. On these grounds, the petition is resisted.

5] Respondent No.2 has contested the claim by filing a written statement at Exhibit 21. The age, income, and occupation of the claimant are disputed. It is denied that the alleged accident occurred as a result of rash and negligent driving by the driver of the offending vehicle. It is also contended that the driver of the offending vehicle was not holding a valid and effective driving licence, thereby committing a breach of the terms and conditions of the insurance policy. Hence, the insurer has prayed for dismissal of the claim petition with costs.

6] The issues vide Exh.22 are framed. Those issues are reproduced below alongwith reasons and findings thereon.

Sr. No.	**Issues**		**Findings**
1)	Whether claimant has proved that he has sustained grievous injuries in the vehicular accident occurred on 17.11.2017 at about 06.30 p.m., on Loni Phata to Loni village road?	:	Yes
2)	Whether the claimant has further proved that due to the aforesaid accident, he has received permanent disablement?	:	Yes, 5 % permanent disability
3)	Whether claimant has proved that due to rash and negligent driving of the driver of motor-cycle bearing No.MH-16/BW-2188 the said accident was accused?	:	Yes
4)	Whether respondent no.2 proves that there is any breach of condition of insurance policy?	:	No
5)	Are claimants entitled for compensation ? If yes, to what extent and from whom ?	:	Yes; As per final order.

6) What award ? : As per final order

<u>: R E A S O N S :</u>

<u>AS TO ISSUE NO.1 and 3:</u>

7] To substantiate the claim petition, claimant Balaji Angad Kaldate has placed on record his evidence affidavit at Exh.29. In addition to that, claimant has placed on record the copy of FIR (Exh.33), copy of spot panchanama (Exh.34), copy of Suppl. statement (Exh.35), copy of statement of Ganesh Ugale (Exh.36), copy of Spot Panchanama (Exh.37), Discharge Card Injury certificate (Exh.38), Discharge Card (Exh.39), copy of R.C.Book (Exh.40) and Insurance Policy (Exh.41). Those documents being police papers are admissible in evidence as per the decision in ***<u>United India Insurance Co. Ltd. .V/s. Sayaji Mhasuji Shinde : 2009 (3) Mh.L.J. 539</u>.*** It was held that :-

> *" The certified copies of police papers like inquest, FIR, spot panchnama go in evidence without any additional proof. "*

8] On the other hand, the respondents have neither examined any witness nor adduced any documentary evidence.

9] In order to prove the rash and negligent act of the driver of the offending vehicle, the claimant has examined himself and narrated the occurrence of the accident. He deposed that on 17.11.2017, he and his brother Amol Kaldate were proceeding towards village Jamkhed on a motorcycle bearing registration No. MH-16/BD-2158. At that time, Amol Kaldate, who is the brother of the claimant, was driving the motorcycle at a moderate speed, cautiously, and by keeping to the extreme side of the road. When they reached near Loni Phata at about 06.30 p.m., another motorcycle bearing registration No. MH-16/BW-2188 came from the opposite direction at a high speed and in a rash and negligent manner. The rider of the offending vehicle lost control, came onto the wrong side of the road, and violently dashed against their motorcycle.Due to the impact, both riders fell on the road and sustained multiple grievous injuries on vital parts of their bodies. The accident occurred due to rash and negligent driving of the rider of the offending vehicle. Pursuant thereto, Crime No. 226/2017 for offences punishable under Sections 279, 337 and 338 of the Indian Penal Code was registered at Jamkhed Police Station. During cross-examination, nothing material has emerged to discard or disbelieve the testimony of the claimant.

10] On the basis of the above evidence, Shri S.J. Pritime, learned Advocate for the claimant, submitted that the accident occurred due to rash and negligent driving of the offending vehicle. He argued that the evidence on record clearly establishes negligence and, therefore, the claimant is entitled to compensation. He prayed that the claim petition be allowed.

11] On the other hand, Shri A.A. Danwe, learned Advocate for respondent No.2, argued that the initial burden of proof lies upon the claimant to establish negligence. According to him, liability cannot be fastened in the absence of cogent and reliable evidence. He further submitted that the accident occurred due to the rash and negligent driving of the motorcycle itself. Hence, he prayed for dismissal of the claim petition. Learned counsel for respondent No.2 contended that the claim petition is not maintainable in law and on facts, and that the claimant has failed to discharge the initial burden of proving rash and negligent driving on the part of the driver of the offending vehicle.

12] I have carefully considered the submissions advanced by the learned advocates appearing for both sides and have meticulously gone through the oral and documentary evidence available on record. The principal question that arises for consideration is whether the accident occurred due to rash and negligent driving of the driver of the offending vehicle.In order to establish his case, the claimant has entered the witness box and deposed on oath that on the date of the accident, he was travelling as a pillion rider on the motorcycle driven by his brother, Amol Kaldate. According to him, while they were proceeding towards Jamkhed, the offending vehicle came from the opposite direction at a high speed and dashed against their motorcycle. The claimant, being an injured survivor of the accident, is the most natural and material eyewitness to the incident. It is a settled position of law that the evidence of an injured witness stands on a higher footing and carries an inherent stamp of truthfulness, as such a witness has no reason to shield the real culprit or falsely implicate the respondents.Although neither the claimant nor the respondents have examined any independent, third-party eyewitnesses, the non-examination of public witnesses is not fatal to a summary claim inquiry. The claimant's oral testimony regarding the manner of the accident is duly supported by the police records, including the FIR (Exh.33) and the Spot Panchnama (Exh.37), which clearly point to the rash and negligent driving of the offending vehicle. On a preponderance of probabilities, this Court finds no reason to disbelieve the uncontroverted ocular evidence of the injured claimant.Accordingly, Issue Nos. 1 and 3 are answered in the affirmative.

AS TO ISSUE NO.2 :

13] It is the contention of the claimant that due to the aforesaid accident, he has suffered permanent disablement. In support of this contention, the claimant has produced on record a Certificate issued by Dr. Rajendra R. Hange at Exhibit 60. On careful perusal of the said certificate, it appears that the doctor has not mentioned the exact percentage of disability sustained by the claimant. The certificate merely records that the claimant has sustained permanent impairment of the right knee joint.

14] Moreover, the claimant has not examined Dr. Rajendra Hange to prove the nature and extent of disability by way of oral evidence. In the absence of medical testimony establishing the precise percentage of disability, this Tribunal is required to assess the functional disability on the basis of available material and surrounding circumstances.Considering the nature of injuries, the impairment of the right knee joint, and the impact on the claimant's earning capacity, this Tribunal is of the considered opinion that assessment of functional disability at 5% would be just, reasonable, and appropriate in the facts and circumstances of the present case. Accordingly, permanent disability of the claimant is assessed at 5%. Hence, I record my finding on **Issue No.2** accordingly.

AS TO ISSUE NO.4 :

15] Shri A.A. Danve, learned Advocate appearing for respondent No.2–Insurance Company, vehemently contended that the claimant has deliberately manipulated the identity of the driver of the offending vehicle with a view to overcome the defence available to the insurer. According to him, the First Information Report specifically mentions the name of the driver as Santosh Pandurang Ugle, whereas subsequently, by way of a supplementary statement, the name of Ganesh Balu Ugle was introduced as the driver. It is submitted that Santosh Ugle was not possessing a valid and effective driving licence on the date of the accident and, therefore, with an oblique motive to fasten liability upon the insurer, the claimant subsequently projected Ganesh Balu Ugle as the driver of the offending vehicle. It is further argued that the investigation conducted by the investigator appointed by the insurance company also disclosed that the identity of the driver had been changed after the accident. On these premises, it is urged that the claim petition suffers from material suppression and manipulation and, therefore, deserves to be dismissed.

16] I have considered the submissions advanced on behalf of respondent No.2 and have carefully scrutinized the oral as well as documentary evidence available on record. It is true that in the First Information Report, the name of the driver of the offending vehicle is mentioned as Santosh Ugle. However, it is equally well settled that the FIR is not an encyclopaedia of all the facts relating to the occurrence and cannot be treated as substantive evidence. The object of lodging an FIR is merely to set the criminal law into motion. Any omission or incorrect description in the FIR by itself cannot be treated as conclusive, particularly when subsequent investigation reveals the true facts.In the present case, the claimant himself, who is also the informant, has explained the discrepancy by giving a supplementary statement during the course of investigation. In the said statement, he has categorically stated that after making enquiries, he came to know that the actual rider of the offending motorcycle was Ganesh Balu Ugle, whereas Santosh Ugle was travelling only as a pillion rider. This explanation appears to be natural and probable. There is nothing on record to indicate that the supplementary statement was recorded under suspicious circumstances or that it was fabricated with an ulterior motive.

17] It is pertinent to note that, the Investigating Officer did not rest content with the supplementary statement alone, during the course of investigation, he recorded the statement of Ganesh Balu Ugle under Section 161 of the Code of Criminal Procedure. In his statement, Ganesh Balu Ugle unequivocally admitted that he himself was driving the offending motorcycle at the relevant time and that Santosh Ugle was merely the pillion rider. The Investigating Officer, after considering the entire material collected during investigation, accepted the said version and ultimately filed the charge-sheet against Ganesh Balu Ugle as the driver responsible for the accident. The filing of the charge-sheet against Ganesh Balu Ugle demonstrates that the investigating agency, after conducting an independent investigation, found sufficient material to conclude that he was the person driving the offending vehicle. Though the charge-sheet is not conclusive proof, it is certainly a relevant circumstance which lends considerable corroboration to the claimant's case.

18] On the contrary, except making a bald allegation that the identity of the driver was manipulated, respondent No.2 has failed to place on record any reliable or convincing evidence to substantiate such allegation. The investigator appointed by the insurance company has merely expressed his opinion regarding the alleged change of driver. However, such an opinion cannot outweigh the official investigation carried out by the police, particularly when the investigating agency, after recording statements of the concerned witnesses, found Ganesh Balu Ugle to be the actual driver and prosecuted him accordingly. The insurance company has neither examined any independent witness having personal knowledge of the occurrence nor produced any documentary evidence demonstrating that Santosh Ugle was, in fact, driving the offending vehicle at the relevant time.It is a settled principle of law that allegations of fraud, manipulation or fabrication must be proved by cogent, reliable and convincing evidence. Such allegations cannot be accepted on mere suspicion or conjectures. The burden to establish such serious allegations squarely lies upon the party making them. In the present case, respondent No.2 has utterly failed to discharge that burden. Mere discrepancy between the contents of the FIR and the subsequent investigation, without any substantive evidence of manipulation, is wholly insufficient to reject the claimant's version.The evidence available on record, namely the supplementary statement of the informant, the statement of Ganesh Balu Ugle recorded during investigation, and the charge-sheet filed against him, consistently points towards the conclusion that Ganesh Balu Ugle was the driver of the offending vehicle at the time of the accident. There is no legally admissible evidence to take a contrary view.Accordingly, the contention raised by respondent No.2 regarding the alleged manipulation in changing the identity of the driver is devoid of merit and deserves to be rejected. There is no evidence on record about breach of terms and condition of insurance policy.Hence, I answer Issue No.4 in the Negative.

AS TO ISSUE NO.5 and 6 :

19] The claimant has not produced any documentary proof of his age on record. However, in his testimony on oath, he stated that at the time of the accident his age was 35 years. In the discharge summary card (Exh.39) issued by Indumati Superspeciality Hospital, Jamkhed, the age of the claimant is mentioned as 35 years. Thus, it is established that the claimant was 35 years old at the time of the accident.

20] It is the contention of the claimant that he was doing private service as a Manager with Sawaleshwar Construction. To substantiate his income neither any document is tendered nor witness is examined. So notional income will have to be considered and that will have to be quantified at Rs.6,000/-. His disability has been assessed at 5%, which results in a monthly loss of income of Rs.300/-. The annual loss thus comes to Rs. 3600/- (Rs. 300/- × 12). Considering his age, a multiplier of 16 is applicable for the age group of 31 to 35 years. By applying this multiplier, his future loss of income amounts to Rs.57,600/- (Rs. 3600/- × 16).

21] With regard to granting future prospects in injury cases, the law on this point is well settled. Reliance may be placed on ***Gangadhar Mallappa Bablad vs. Vikas Ambrushi Gangavane*** **(First Appeal No. 3684 of 2022)** and ***Jagdish vs. Mohan,*** **AIR 2018 SC 1347**. Considering the age of the claimant at the time of the accident, 40% of the income needs to be added towards future prospects.

22] Claimant has produced on record the hospital and medical bills. The hospital bills/medical bills/lab charges are filed vide list Exh.31. So also discharge card is filed on record. Those bills are computerized bill. Respondent no. 2 has not challenged to those bills. Therefore, claimant is entitled for reimbursement of the hospital of Rs.1,84,500/- and medical bills of Rs.2,73,944/-. Therefore, the claimant is entitled to reimbursement of the hospital and medical expenses to the tune of Rs.4,85,444/- (i.e. Rs.1,84,500/- + Rs.2,73,944/-).

23] In the circumstances the claimant is entitled to get the compensation under following heads :-

1	Loss of future earnings (Rs.300/- x 12 x 16)	Rs.	57,600/-
2	Future prospects (40% of Rs.57,600/-)	Rs.	23,040/-
3	Hospital and Medical bills (Rs.1,84,500/- + Rs.2,73,944/-)	Rs.	4,85,444/-
4	Pains and sufferings	Rs.	50,000/-
5	Special diet	Rs.	25,000/-
6	Transportation	Rs.	25,000/-
	Total	Rs.	6,66,084/-

24] Under such circumstances, therefore, the claimant is entitled to get the compensation of Rs.6,66,084/- from the respondents with interest @ 7% per annum from the date of petition till depositing of the amount. Hence, I answer issue no.5 and 6 accordingly and pass the following order.

ORDER

1) The petition is partly allowed with costs.

2 Respondent nos.1 and 2 do pay jointly and severally Rs.6,66,084/- (Rs. Six Lakh Sixty Six Thousand Eighty Four Only) to the claimant inclusive of amount of 'no fault liability' with interest @ 7% per annum from the date of petition till the date of depositing of the said amount, in the account of District Judge and Member MACT, Osmanabad i.e. current Account no.40460537496 in S.B.I., Br. District Court, Osmanabad, I.F.S.C. Codeno. SBIN0020039.

3) Out of the amount of compensation, Rs.1,00,000/- (Rs. One Lakh Only) be invested in fixed deposit for the period of three years in the name of claimant in any nationalized bank of his choice.

4) The remaining compensation amount be deposited by account payee cheque in the bank account of claimant.

5) Claimant shall pay deficit court fees within 15 days, if any, from the date of this order, if not paid within stipulated period, interest be stopped till depositing of the same.

6) Award be drawn up accordingly.

DISTRICT COURTS MAHARASHTRA

Digitally signed by RAJESH KADUBAL KHOMANE
Date: 2026.07.06 17:35:08 +0530

Date : 06.07.2026

(Rajesh K. Khomane)
Member
M.A.C.T.,Osmanabad

CERTIFICATE

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

Name of Stenographer	-	Golhe P.V. Stenographer Grade - I
Court	-	Shri. R. K. Khomane, MACT Osmanabad
Date	-	06.07.2026
Order signed by the Presiding Officer on	-	06.07.2026
Order uploaded on	-	06.07.2026