MHOS010013632020	Presented on :	11.09.2020
	Registered on:	09.10.2020
	Decided on :	09.06.2026
	Duration :	05Y08M00D

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL OSMANABAD

(Presided over by Rajesh K. Khomane, Member)

M.A.C.P. No.193/2020

Exh. :

Yogeshwari Khandu Hamal,
Age - 27 years Occ. - Tailoring &
Tailoring class now nil.
R/o. Bembli ,Tq& Dist. Osmanabad. ... **CLAIMANT**

V E R S U S

1] Shivaji Jagannathrao Pawar,
Age – Major, Occu. Business
R/o.H2,2475,Deep Jyoti Nagar,
MIDC Latur, India Nagar, Latur
Owner of Car no.MH24/AS-0155

... **RESPONDENT NO.1**

2] The Branch Manager
Liberty General Insurance Co. Ltd.
Towar A, Peninsula Business Park,
Ganpatro Kadam Marg, Lower,
Parel, Mumbai 400013.
Policy no. 201140030419700085700000
Validity 28.02.2020 to 27.02.2021.
Insurer of Car No. MH-24/AS-0155

... **RESPONDENT NO.2**

Claim : **Under section 166 of the M.V. Act, 1988 for compensation of Rs.20,00,000/-
(Restricted up to Rs.1,00,000/-)**

Shri. N.S. Patil, Ld. Adv. for the claimant.
Ex-parte against the respondent no.1
Shri.P. V. Saraf Adv. for the respondent no.2

J U D G M E N T

(Delivered on this 09th day of June 2026)

1] This is a petition under Section 166 of Motor Vehicle Act, claiming compensation for bodily injuries and permanent disability caused to the claimant in vehicular accident arising out of Car bearing No. MH-25/AS-0155 owned by respondent no.1.

2] In brief, the case of the claimant is that on 17.07.2020, claimant Yogeshwari Khandu Hamal, along with her husband, was proceeding to Keshegaon for the purchase of grocery articles on a motorcycle bearing Registration No. MH-25/EC-2179, owned by her husband's brother. At the relevant time, her husband, Khandu Goroba Hamal, was riding the said motorcycle and the claimant was travelling as a pillion rider.When they reached the Nandurga–Keshegaon Road near Village Bamani at about 11.00 a.m., a car bearing Registration No. MH-24/AS-0155 (hereinafter referred to as the "offending vehicle") came from behind at a high speed and was being driven in a rash and negligent manner. The offending vehicle dashed against their motorcycle from the rear side. Due to the impact, both the claimant and her husband sustained grievous injuries to their heads and other vital parts of their bodies. According to the claimant, the accident occurred solely due to the rash and negligent driving of the driver of the offending vehicle.Pursuant to the accident, Crime No. 94 of 2020 came to be registered with Bembli Police Station for offences punishable under Sections 279, 337 and 338 of the Indian Penal Code, 1860, and Section 184 of the Motor Vehicles Act.

3] After the accident, the claimant was admitted to Pulse Hospital, Osmanabad, where she remained as an indoor patient from 17.07.2020 to 21.07.2020. According to the claimant, she incurred medical expenses of approximately Rs.2,00,000/- towards her treatment.

4] At the time of the accident, the claimant was about 27 years of age and was in good health. It is her case that she was engaged in tailoring work and was also conducting tailoring classes, earning approximately Rs.10,000/- per month therefrom. Due to the bodily injuries sustained in the accident and the resulting permanent disability, she has been unable to continue her tailoring work and conduct tailoring classes as before. Accordingly, the claimant has sought compensation from Respondent No.1, the owner of the offending vehicle, and Respondent No.2, the insurer thereof, holding them jointly and severally liable to compensate her for the losses suffered on account of the accident.

5] Respondent no.1 was duly served with notice but failed to appear. Ex-parte order is passed against him below Exh.1 and matter is proceeded ex-parte.

6] The respondent No. 2 has contested the claim by filing a written statement at Exhibit-14. The age, occupation, and income of the claimant have been specifically disputed. A plea of non-joinder of necessary parties has also been raised.It is denied that the alleged accident occurred due to the rash and negligent driving of the driver of the offending vehicle. The respondent has further contended that the driver of the offending vehicle was not holding a valid and effective driving licence and that the vehicle was not covered by a valid fitness certificate and permit at the relevant time. According to the respondent, there was a breach of the terms and conditions of the insurance policy.It is further contended that the rider of the motorcycle on which the claimant was travelling was also driving the vehicle in a rash and negligent manner and had contributed to the occurrence of the accident. On these grounds, Respondent No. 2 has prayed for dismissal of the claim petition with costs.

7] I have heard both the sides.

8] The issues vide Exh.15 are framed. Those issues are reproduced below alongwith my findings thereon with reasons.

Sr. No.	Issues		Findings
1)	Whether claimant proves that he has sustained injuries in the vehicular accident dated 17.07.2020 due to rash and negligent driving of the driver of Car bearing registration No. MH-24/AS-0155?	:	Yes.
2)	Whether the respondent no.2 proves that the respondent no.1 has committed breach of terms and conditions of insurance policy?	:	No
3)	Whether claimant is entitled to get the compensation, if yes, from	:	Yes. As per final

	whom ? What quantum ?		order.
4)	What award ?	:	As per final order

: R E A S O N S :

AS TO ISSUE NO.1 :

9] To substantiate the claim petition, claimant Yogeshwari Khandu Hamal examined herself as CW1 at Exh.27. Claimant examined Dr. Santosh Patil, as CW2 at Exh.35, Dinesh Dilip Patil, as CW3 Pharmasists of Parwati Hospital at Ex.39, Ashif Raj Mohhamad Sayyad as CW4 at Exh.41, Someshwar Suresh Shinde as CW5 at Exh.45. In addition to that, claimant has placed on record the copy of FIR (Exh.52), complaint (Exh. 52), spot panchanama (Exh.53), injury certificate (Exh.54), discharge card (Exh.56), CT scan reports (Exh.57 and 58), Report of Ultra Sonography (Exh.59), RC Book (Exh.60), Insurance Policy (Exh.61), driving licence of respondent no.1 (Exh.62). The documents being police papers are admissible in evidence as per the decision in ***United India Insurance Co. Ltd. .V/s. Sayaji Mhasuji Shinde : 2009 (3) Mh.L.J. 539.*** It was held that :-

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

10] To prove negligence, the initial burden lies upon the claimant. In order to discharge this burden, the claimant has deposed to the facts as stated in the claim petition. She has stated that on 17.07.2020, claimant Yogeshwari Khandu Hamal, along with her husband, was proceeding to Keshegaon for the purchase of grocery articles on a motorcycle bearing Registration No. MH-

25/EC-2179, owned by the brother of her husband.She has further deposed that at the relevant time, her husband, Khandu Goroba Hamal, was riding the said motorcycle and the claimant was travelling as a pillion rider. When they reached the Nandurga–Keshegaon Road in the vicinity of Village Bamani at about 11.00 a.m., a car bearing Registration No. MH-24/AS-0155 came from behind at a high speed in a rash and negligent manner and dashed against their motorcycle from the rear side.She further stated that due to the said impact, both the claimant and her husband sustained grievous injuries to the head and other vital parts of the body. According to the claimant, the accident occurred due to the rash and negligent driving of the driver of the offending vehicle.In cross-examination, the claimant admitted that at the time of the accident she was not wearing a helmet and that her husband lodged the police report after three days of the accident.

11] On the other hand, the respondent No.2 has not adduced any oral or documentary evidence on record to rebut the claimant's case.

12] On the basis of the above evidence, learned Advocate Mr. N.S. Patil, for the claimant submitted that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle and as a result thereof, the claimant fell on the road and sustained grievous injuries as well as permanent disability.

13] On the other hand, learned Advocate Mr. P.V. Saraf for respondent No.2 argued that the claimant's husband, who was riding the motorcycle at the time of the accident, was responsible for the accident. Therefore, there was no negligence or rashness on the part of the driver of the offending vehicle. It is further contended that the offending vehicle was not having a valid permit at the time of the accident, which amounts to breach of the terms and conditions of the insurance policy. On this ground, it is submitted that respondent No.2 is liable to be exonerated.

14] 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. At the outset, it is pertinent to note that the involvement of the offending vehicle bearing Registration No. MH-24/AS-0155 in the accident is not in dispute. It is also an admitted position that the claimant sustained bodily injuries in the said vehicular accident. Therefore, the principal question that arises for consideration is whether the accident occurred due to the rash and negligent driving of the driver of the offending vehicle.In order to establish her case, the claimant has entered the witness box and deposed on oath regarding the manner in which the accident occurred. Being an injured witness, her testimony carries considerable evidentiary value. The claimant has specifically stated that on the date of the accident she was travelling as a pillion rider on the motorcycle driven by her husband. According to her, while they were proceeding towards

Keshegaon, the offending vehicle came from behind at a high speed and dashed against their motorcycle from the rear side.

15] The version of the claimant appears natural, consistent and trustworthy. Nothing substantial has been brought on record during her cross-examination to discredit her testimony or to create any doubt regarding the manner of the accident. There is no material contradiction or omission which would render her evidence unreliable.It is significant to note that the collision was from the rear side. Ordinarily, when a moving vehicle hits another vehicle from behind, a presumption of negligence arises against the driver of the vehicle coming from the rear, unless there is evidence explaining the circumstances otherwise. In the present case, no such evidence has been adduced by the respondents. The very nature of the impact clearly indicates lack of due care and caution on the part of the driver of the offending vehicle.Apart from the oral testimony of the claimant, the police papers produced on record lend corroboration to her version. The registration of the crime against the driver of the offending vehicle immediately after the accident also supports the claimant's case regarding the manner of occurrence of the accident. Though the contents of the police papers are not conclusive proof of negligence, they certainly constitute a relevant piece of evidence and can be considered along with the other material on record.The respondent-insurer has denied the negligence attributed to the driver of the offending vehicle and has attempted to raise a plea of contributory negligence. However, except for making a bald allegation, no cogent oral or documentary evidence has been placed on record to establish that the rider of the motorcycle had contributed to the occurrence of the accident. Mere suggestions in cross-examination, unsupported by substantive evidence, are insufficient to dislodge the positive and convincing testimony of the claimant.On an overall appreciation of the evidence, this Tribunal is satisfied that the claimant has successfully established that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle and that she sustained bodily injuries as a result thereof.Accordingly, Issue No.1 is answered in the affirmative.

<u>AS TO ISSUE NO.2 :</u>

16] It is the contention of respondent No. 2 that the driver of the offending vehicle was not holding a valid driving licence at the time of the accident. However, respondent No. 2 has not adduced any oral or documentary evidence to prove this contention. On the contrary, a copy of the driving licence of the driver of the offending vehicle is placed on record. Therefore, there was no breach of the terms and conditions of the insurance policy. Hence, Issue No.2 is answered in the negative.

<u>AS TO ISSUE NO.3 and 4 :</u>

17] To prove permanent disability, the claimant examined Dr. Santosh Patil (CW-2) at Exhibit-35. He assessed the claimant’s permanent disability at 25%. The disability certificate is on record at Exhibit-36.Dr. Patil deposed that he had physically examined the claimant and found that she had sustained a fracture of the right tibia and the left occipital bone. He further stated that there was flexion of 95 degrees at the right knee joint and extension limitation of 5 degrees. There was moderate pain during movement of the joints and while walking. Grade IV weakness in the right thigh muscles was also noted, and limping was observed.He further testified that the patient was experiencing intermittent memory loss for short durations and was unable to perform her routine work. In his cross-examination, Dr. Patil admitted that he had not personally treated the patient. He is not a neurosurgeon. However, he denied the suggestion that he is not competent to assess the disability of the patient merely on the ground that he is not a neurosurgeon.

18] From the evidence on record, it is clear that the claimant sustained accidental injuries in the said vehicular accident. Dr. Patil has deposed that the claimant suffered a fracture of the right tibia. He has further stated that due to the said injury and resultant disability, the claimant is unable to perform her routine work as she was doing prior to the accident.

19] In the present case, the claimant was engaged in tailoring work and was also conducting tailoring classes. The injury sustained by her is a fracture of the right tibia. Though such an injury is likely to cause difficulty in performing her day-to-day tailoring activities, the medical evidence on record does not indicate complete functional incapacity or total loss of earning capacity.Thus, considering the nature of the injury, the occupation of the claimant, and the medical evidence on record, the functional disability assessed at 25% appears to be on the higher side. In the considered opinion of this Tribunal, assessment of functional disability at 20% would be just, reasonable, and appropriate in the facts and circumstances of the present case.

20] The claimant has not produced any documentary proof of her age on record. However, in her testimony on oath, she stated that at the time of the accident her age was 27 years. In discharge summary issued by Sahyadri Multispeciality Hospitals the age of claimant is mentioned as 27 years. Thus, the claimant was 27 years old at the time of accident.

21] In the application, it is stated that she was doing tailoring work and taking tailoring classes. Repondent no.2 filed purshis vide Exh.51 stating that notional income of the patient may be considered as Rs.6,000/-. Considering her nature of work a notional income of Rs.6,000/- per month is required to be considered for determining compensation. Her disability has been assessed at 20%, which results in a monthly loss of income of Rs.1,200/-. The annual loss thus comes to Rs. 14,400 (Rs. 1,200/- × 12). Considering her age, a multiplier of 17 is applicable for the age group of 26 to 30 years. By applying this multiplier, her future loss of income amounts to Rs. 2,44,800/- (Rs. 14,400/- × 17).

22] 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.

23] The claimant has produced on record the discharge card issued by Sahyadri Multi Speciality Hospital, Osmanabad and Parwati Hospital, Osmanabad. So also, claimant produced medical bills and laboratory bills on record. On perusal of same it appears that claimant was admitted in Sahyadri Hospital, Dharashiv from 21.07.2020 to 28.07.2020 and in Parwati Hospital, Osmanabad from 28.07.2020 to 01.08.2020. Thus certain amount has been exhausted on hospitalization expenditure. The hospital and medical bills are proved on record by examining CW3 Dinesh Dilip Patil, CW4 Ashif Raj Mohhamad Sayyad and CW5 Someshwar Suresh Shinde. However, considering the admission period the claimant is entitled to reimbursement of the hospital and medical expenses to the tune of Rs.95,878/-

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

1	Loss of future earnings (Rs.1,000/- x 12 x 17)	Rs.	2,44,800/-
2	Future prospects (40% of Rs.2,44,800/-)	Rs.	97,920/-

3	Pains and sufferings	Rs.	5,000/-
4	Hospital and medical bill	Rs.	95,878/-
	Total	**Rs.**	4,43,598**/-**

25] Under such circumstances, therefore, the claimant is entitled to get the compensation of Rs.4,43,598**/-** from the respondents with interest @ 7% per annum from the date of petition till depositing of the amount. Hence, I answer issue no.3 and 4 accordingly and pass the following order.

<u>O R D E R</u>

1) The petition is partly allowed with costs.

2) Respondent nos.1 and 2 do pay jointly and severally Rs.**4,43,598/-** (Rs. Four Lakhs Forty Three Thousand Five Hundred Ninety Eight 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. Code no. SBIN0020039.

3) Out of the amount of compensation, Rs.1,00,000/- (Rs. One Lac 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: 2026.06.09 17:01:50 +0530

Date : 09.06.2026 (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	-	09.06.2026
Order signed by the Presiding Officer on	-	09.06.2026
Order uploaded on	-	09.06.2026