MHOS010015782010	Presented on :	23.07.2010
	Registered on:	28.07.2010
	Decided on :	03.07.2026
	Duration :	15Y 11M 05D

BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL OSMANABAD.

(Presided over by Shri. R. K. Khomane)

M.A.C.P. No.190 OF 2010

Exh. :

1] Ram Chagul Totappa
Age 30 years Occ. Labour

2] Kashinath Chagul Totappa
Age 40 Years, Occ. Labour

3] Shalu Chagul Totappa
Age 38 Years, Occ. Labour

4] Nilabai Chagul Totappa
Age 32 Years, Occ. Labour
All R/o. Bamani,
Tq. & Dist. Osmanabad. ... **CLAIMANTS**

V E R S U S

1] Ramesh Gopalrao Dongre
Age Major, Occ. Business
R/o. 74 Kopar, Bhiwandi,
Dist. Thane.
(Owner of Tempo No.MH-04/DK-2846)

2] Reliance General Insurance Company Ltd.
Through Manager
Reliance General Insurance Company Ltd.
ABC Complex, 2nd floor, Adalat Road
Aurangabad. **...RESPONDENTS**

Claim : Under Section 166 of the M. V. Act, 1988 for compensation of Rs.5,00,000/-

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Shri. S. S. Dhumal, Adv. for the claimants
Shri. A. T. Kadam Adv. for respondent no.1
Shri D.V. More, Adv. for respondent no.2.

J U D G M E N T

(Delivered on this day of 03rd July, 2026)

1] This is a petition filed under Section 166 of Motor Vehicle Act, claiming compensation for death of Chagul @ Chagulal Mahadeo Totappa, caused in vehicular accident arising out of Tempo bearing registration no. MH-04/DK-2846.

2] Briefly stated, the case of the claimants is that on 04.05.2008 at about 06.00 p.m., Ram Chagul Totappa along with his father and one Shamal Ramesh Bhairat commenced their journey to Pune in tempo bearing registration No. MH-04/DK-2846 (hereinafter referred to as the *offending vehicle*). When they reached in front of the gate of Pravin Masale ahead of Bhalegaon, the offending vehicle overturned as its left side leaf spring (*pata*) broke. As a result, Ram Chagul Totappa and his father sustained bodily injuries, and his father succumbed to the injuries on the spot. The accident occurred due to the rash and negligent driving of the driver of the offending vehicle. Consequently, Crime No. 79/2008 for offences punishable under Sections 279 and 304(A) of the Indian Penal Code was registered at Yawat Police Station.

3] The deceased was aged about 65 years, hale and hearty, and engaged in labour work such as loading and unloading goods in the offending vehicle with respondent no.1. He was earning Rs. 6,000/- per month. Due to his untimely demise, the claimants have been deprived of their source of future maintenance and financial support. Respondent no.1 is the owner of the offending vehicle and respondent no.2 is the insurer of the said vehicle. Therefore, both respondents are jointly and severally liable to pay compensation to the claimants. Hence, the present application.

4] Respondent No.1 resisted the claim petition by filing a written statement at Exh.57. The age, income, and occupation of the deceased have been disputed. It is specifically denied by respondent no.1 that at the time of the accident, the deceased was engaged in labour work with respondent no.1. It is further denied that the accident occurred due to rash and negligent driving of the offending vehicle. It is submitted that the offending vehicle was duly insured with respondent no.2, and therefore respondent no.1 seeks to be exonerated from liability, fastening the same upon the insurance company. Contending thus, the claim petition is resisted.

5] Respondent No.2 has contested the claim by filing a written statement at Exh.32. The age, income, and occupation of the deceased are disputed. It is denied that the accident was the result of rash and negligent driving of the driver of the offending vehicle. It is further contended that the driver of the offending vehicle was not holding a valid and effective driving licence and thereby committed a breach of the terms and conditions of the insurance policy. Hence, respondent no.2 has prayed for dismissal of the claim petition with costs.

6] I have heard both the sides.

7] The issues vide Exh.23 are framed. Those issues are reproduced below alongwith my findings thereon.

Sr. No.	**Issues**		**Findings**
1)	Whether claimants have proved that Chagul @ Changulal Mahadev Totappa caused death in a vehicular accident occurred on 05.05.2008 at about 02.30 a.m., on Solapur to Pune National Highway at village Bhandgaon and Tempo No.MH-04/BK-2846 was involved in the said accident?	:	Yes.
2)	Whether the claimants have further proved that on the relevant date and time, the driver of Tempo MH-04/BK-2846 driven it in rash and negligent manner?	:	Yes.
3)	Whether the claimants have proved the age, income and occupation of deceased Changulal?	:	Partly Yes
4)	Whether respondent no.2 has proved that the risk of passengers and labourer does not covered under the Insurance Policy?		No.

5)	Whether the claimants are entitled to get compensation U/Sec.166 of the M.V.Act? If yes what is the quantum?	Yes; As per final order.
6)	What Award?	Yes; As per final order.

: R E A S O N S :

AS TO ISSUE NO.1 and 2 :

8] To substantiate the claim petition, claimant no. 1 Ram has examined himself as CW No. 1 by filing his evidence affidavit at Exh.64. In addition to his oral evidence, claimants have filed the copy of FIR (Exh.84), Panchanama (Exh.85), statement of Ram (Exh.86), certificate (Exh.87), P.M.Report (Exh.88), Insurance policy (Exh.89) and RC Book (Exh.90). Those 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. "*

9] To establish negligence, the claimants have relied upon the testimony of Ram Chagul Totappa, son of the deceased, who was examined as Claimants' Witness No.1. He is an eyewitness to the accident. He deposed that on 04.05.2008 at about 06.00 p.m., he, along with his father and one Shamal Ramesh Bhairat, commenced their journey to Pune in tempo bearing registration No. MH-04/DK-2846. When they reached in front of the gate of Pravin Masale ahead of Bhalegaon, the offending vehicle overturned as its left side leaf spring (*pata*) broke. As a result, both he and his father sustained injuries, and his father died on the spot. He categorically stated that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. Consequently, Crime No.79/2008 was registered at Yawat Police Station for offences punishable under Sections 279 and 304(A) of the Indian Penal Code. In cross-examination, nothing material has emerged to discredit or disbelieve his testimony.

10] I have heard Shri S.S. Dhumal, learned counsel for the claimants. He submits that the accident occurred due to rash and negligent driving of the offending vehicle, resulting in grievous injuries to the claimant and the death of his father. He further submits that strict principles of evidence are not applicable to claim proceedings, which must be adjudicated on the basis of the preponderance of probability.

11] On the other hand, Shri D.V. More, learned counsel for respondent no.2, contends that the initial burden lies upon the claimants to prove negligence. He argues that at the time of the accident, claimant no.1, his father, and one lady were travelling in the offending vehicle by paying fare of Rs.300/- to the driver, thereby committing breach of the policy conditions. Hence, according to him, respondent no.2, the insurer, is not liable to indemnify. He further submits that mere production and exhibition of police papers does not dispense with the proof of those documents.Here, however, the respondents have admitted the occurrence of the accident. Claimant no.1 Ram, being an eye-witness, has specifically deposed about the manner in which the accident occurred. The police papers, including the FIR, spot panchanama, and more importantly, the charge-sheet, unambiguously demonstrate the involvement of the offending vehicle in the accident. A charge-sheet is ordinarily filed only after the investigating agency forms a prima facie opinion regarding the driver's rash and negligent act. Though not conclusive proof, such documents carry substantial probative value in claim proceedings. Further, the inquest panchanama and post-mortem report conclusively establish that Chagul @ Chagulal sustained fatal injuries in the accident involving the said vehicle.The respondents have not produced any contrary evidence to rebut the inference of negligence or to suggest contributory negligence on the part of the deceased. In motor accident claim cases, once the involvement of the vehicle is established and the police investigation attributes negligence to the driver, the Tribunal is justified in drawing an inference of rash and negligent driving. In the present case, the undisputed police documents, coupled with the respondent's admission of the accident, are sufficient to hold that the driver operated the vehicle in a rash and negligent manner, causing the death of Chagul.In view of the above discussion, and applying the standard of preponderance of probability, this Tribunal holds that the accident occurred due to the rash and negligent driving of the offending vehicle, resulting in the death of Chagul. Accordingly, Issue Nos.1 and 2 are answered in the affirmative.

As to Issue no.4 :

12] The burden of proof squarely lies upon respondent no.2 to establish that the risk of passengers and labourers travelling in the offending vehicle was not covered under the insurance policy. It is well-settled that the insurer, when seeking to avoid liability, must not only plead but also prove the specific breach of policy conditions.In the present case, respondent no.2 has contended that the deceased, along with other persons, was travelling in the offending vehicle as a passenger by paying fare, and therefore the risk of such passengers and labourers is excluded under the policy. However, except for the bare assertion in the written statement, no cogent evidence has been adduced to substantiate this plea. The insurance company has not produced the insurance policy itself to demonstrate the exclusion clause, nor has it examined any witness to prove that the deceased was travelling as a fare-paying passenger.

13] On the contrary, the claimants have consistently pleaded and proved that the deceased was engaged in labour work of loading and unloading goods in the offending vehicle with respondent no.1, and was travelling in the course of his employment. The testimony of claimant's witness Ram, who is an eye-witness, supports this version. His evidence has remained unshaken in cross-examination. The police papers, including FIR, spot panchanama, and charge-sheet, corroborate the occurrence of the accident and the involvement of the offending vehicle.It is pertinent to note that under the Motor Vehicles Act, 1988, the liability of the insurer extends to all third parties, and labourers engaged in loading and unloading are treated as such unless specifically excluded by the policy. In absence of production of the policy document, the Tribunal cannot presume exclusion of risk. The Hon'ble Supreme Court has repeatedly held that the insurer must prove the terms of the policy to avoid liability, and mere pleading without proof is insufficient.Therefore, respondent no.2 has failed to discharge the burden of proving that the risk of passengers and labourers was not covered under the insurance policy. In view of the above discussion, the issue no.4 is answered in the **negative**.

AS TO ISSUE NO.3, 5 and 6 :

Determination of age of deceased :

14] Claimant no. 1 Ram who is the son of the deceased on oath testified that at the time of accident the age of deceased was 65 years. On perusal of cause of death certificate issued by Rural Hospital, Yawat, it appears that the age of deceased is shown 70 years. Therefore, age of deceased at the time of accident was 70 years.

Determination of income of the deceased :

15] Ram (C.W.1) has stated that he along with his father was doing the labour work of loading and uploading good in the offending vehicle and his father was earing Rs.3,000/- per month.

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.3,000/- p.m.

Number of dependency and multiplier :

16] Claimant nos.1 and 2 are son of the deceased and claimant no.3 and 4 are daughters of the deceased. As per **Sarla Verma's** case, 1/4 income i.e. Rs.750/- will have to be deducted towards personal and living expenses of the deceased. So, his monthly contribution towards family would be Rs.2250/- (Rs.3,000/- - Rs.750/-). Thus, his annual contribution comes to Rs.27,000/- (Rs.2250/- x 12). The deceased was 70 years old at the time of accident. As per **Sarla Verma's** case, multiplier of 05 is applicable to the age group of 66 to 70 years. By applying multiplier of 05, the loss of future earnings would be (Rs.27,000/- x 5) = Rs.1,35,000/-.

Compensation under Conventional Heads :

Loss of estate		Rs. 16,500/-
Funeral expenses		Rs. 16,500/-
Loss of consortium		Rs. 44,000/-
Total	**:**	**Rs. 77,000/-**

So the total compensation to which the claimants are entitled is Rs.2,12,000/- (Rs.1,35,000/- + Rs.77,000/-).

17] Under such circumstances, the claimants are entitled to get the compensation of Rs.2,12,000/- from the respondents with interest @ 7% per annum from the date of petition till depositing of the amount. Hence I answer issue nos.3, 5 and 6 accordingly. Hence, I pass the following order.

O R D E R

1) The petition is partly allowed with costs.

2) The respondents do pay jointly and severally Rs.2,12,000/- (Rs. Two Lakhs Twelve Thousand Only) to the claimants 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 State Bank of India, District Court Branch, Osmanabad, I.F.S.C. Code no. SBIN0020039.

3) Out of the total amount of compensation Rs.53,000/- (Rs. Fifty Three Thousand only) each be given to claimant nos.1 to 4.

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

5) Award be drawn up accordingly.

Digitally signed by RAJESH KADUBAL KHOMANE
Date: 2026.07.03 17:43:09 +0530

Date : 03.07.2026

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

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same as per the original Judgment.

Name of the Stenographer	:	Golhe P.V. Stenographer Gr. I
Name of the Court	:	District Judge-4, Osmanabad.
Date of Judgment	:	03.07.2026
Judgment signed by the presiding officer	:	03.07.2026
Judgment uploaded on	:	03.07.2026