MHRT130008692020

Received on : 17.04.2019
Registered on : 22.04.2019
Decided on : 08.05.2026
Duration : Ys. Ms. Ds.
: 07 00 24

BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, AT CHIPLUN.

(**Presided over by Dr. Anita S. Newase**)

M.A.C.P. No.62/2020
(Old Case No.MACP No.31/2019)
Exh. No. 97

1. Suresh Sakharam Tambe
   Age: 55 years, Occupation: None
   R/at. Tambewadi, Malan, Post Malan,
   Guhagar, Tal. Guhagar, Dist. Ratnagiri.

Claimant

Versus

1. Venubhai Yashwant Shejvale
   Age: Major, Occupation: Business
   R/at. Shantinivas, Pawar Lane, Uran,
   Islampur, District Sangli 416416
   (Owner of Tata 407 Tempo bearing
   No.MH-10/AQ- 9878)

2. Amit Arun Nagvekar
   Age: Major, Occupation: Business
   R/at. Kalambaste, Taluka Chiplun,
   District Ratnagiri 415605
   (Driver of Tata 407 Tempo bearing
   No.MH-10/AQ-9878)

3. Branch Manager,
   New India Insurance Company Ltd.,
   Address: 2 Maal Naka, Ratnagiri,
   District Ratnagiri
   (Insurance Company of Tata 407 Tempo
   bearing No.MH-10/AQ-9878)

Respondents

4. Branch Manager, Reliance General Insurance Company Ltd., Address: 2nd Floor Aavirahi Building, Above Aadidas Showroom, Borivali West, Mumbai - 400092 (Insurance Company of Tata Venture bearing No.MH-04/ET-8772)	}	
5. Nayna Pravin Tambe Age: 37 years, Occupation: Housewife R/at. 107, Ekata C.H.S., S.V. Road, Near Datta Mandir, Jogeshwari West, Mumbai- 400102	}	
6. Purva Pravin Tambe Age: 11 years, Occupation: Education (Respondent No.5 is Natural Guardian Mother for respondent No.6) Nayana Pravin Tambe Age: 37 years, Occupation: Housewife R/at. Ekata C.H.S., S.V. Road, Near Datta Mandir, Jogeshwari West, Mumbai- 400102	}	Respondents
7. Sanjay A. Aambre Age-35, Occupation: Business R/at. - F. No.3, 'A' Wing, Krishna Madhav CHS Boing Road, Virar West, Mumbai, India -401303	}	

Claim : Under section 166 of the Motor Vehicle Act, 1988.

Adv. Shri. S.B.Patil for the Claimants.
Adv. Shri. S.S.Sheth for Respondents No.1 & 2
Adv. Shri. P. A. Damle for Respondent No.3
Adv. Smt. M. M. Jadkar for Respondent No.4
Adv. Shri. P. D. Desai for Respondents No.5 & 6
Claim proceeded exparte against Respondent No.7

JUDGMENT

(Delivered on 08.05.2026)

1. The claimants has filed this claim petition for seeking compensation under section 166 of the Motor Vehicle Act 1988 against the respondents for vehicular accidental death of Milind Suresh Tambe.

2. The factual matrix of the claimants case in brief as under.

According to the claimants on 01.05.2018 Milind Suresh Tambe was proceeding towards Malan Taluka Guhagar for the purpose of religious function i.e. puja after marriage ceremony of Vinayak Suresh Tambe along with other relatives in Tata Venture bearing No.MH-04/ET-8772. At that time he was with newly married son Vinayak Suresh Tambe, his wife Sneha Tambe and other relatives were travelling in the said vehicle. It is contended that when the said vehicle came on Mumbai-Goa highway near Boraj village, Taluka Khed, District Ratnagiri, one Tata 407 Tempo bearing No.MH-10/AQ-9878 came from front side and gave heavy dash to their Tata Venture. The driver of Tata 407 Tempo was carrying perishable milk products and was in hurry therefore driving the said a high speed and rash & negligent manner due to which the accident occurred. However in the said accident the driver and owner of the offending tempo joined hands with police and by taking advantage of situation i.e death of driver of Tata Venture on the spot and other family members in the vehicle were in seriously injured condition, false case of accident lodged against the deceased driver of Tata Venture. Accordingly CR No.99/2018 registered at Khed police station against the deceased driver of Tata Venture. It is further contended that the police have not made proper inquiry with the injured in Tata Venture and not recorded their statements and false offense came to be registered against the deceased driver of the Tata Venture. It is further contended that due to the heavy dash of offending Tata 407 tempo, all persons in same family traveling in Tata Venture sustained grievous injuries and some of the family members died in the said accident.

3. It is further contended that the claimant after the accident the injured Milind Suresh Tambe carried to the Life Care Hospital Chiplun but doctor declared him dead due to the grievous accidental injuries. It is further contended that prior to the accident the deceased Milind Suresh Tambe was healthy person and he was working under Omkar Builders & Devlopers and getting salary of Rs.45,000/- per month. However due to said demise of Milind the claimant lost his life support and earning member of the family. In such circumstances, due to the sudden death of Milind the claimant has suffered tremendous grief & shock and lost a financial as well as mental support of life. The claimant further contended that at the time of accident, the respondent No.1 was the owner, respondent No.2 was the driver and the respondent No.3 was the insurer of the offending tempo bearing No.MH-10/AQ-9878 and therefore they are jointly and severally liable to pay the compensation to the claimant. It is further submitted that on making inquiry if

Tribunal comes to the conclusion about negligence of driver of Tata Venture MH04/ET-8772, the deceased Pravin Shivram Tambe was driver and owner of Tata Venture bearing No. MH-04/ET-8772 and respondent No.4 was insurance company of Tata Venture. The driver and owner of Tata Venture i.e. Pravin Shivaram Tambe died in the said accident on the spot therefore the respondent No. 4 insurance company has liability to pay compensation to the claimant. On all these grounds the claimant has claimed compensation under different heads i.e. for the loss of support, company, love and affection, as well as pain and mental agony etc. the total compensation of Rs.60,00,000/- along with 12% interest on the said amount from the respondents jointly and severally. Hence the claimant has prayed for allowing claim petition.

4. The respondent No.1 & 2 resisted the claim by way of filing written statement vide Exh.12 inter alia denying the contentions in the claim. According to the respondents the accident was not occurred due to the fault on part of the driver of Tata 407 tempo MH-10 AQ-9878 but it was occurred only due to the fault of driver of Tata Venture No.MH-04/ET-8772. It is further averred that after the accident police has made proper inquiry and registered the offence against the driver of the Tata Venture. It is further submitted that the vehicle Tata 407 tempo bearing No.MH-10/AQ-9878 was insured with respondent No.3 & at the time of accident the insurance policy was effective for the period 21.02.2018 to 20.02.2019. Therefore the respondent No.3 who has taken the responsibility by way of insurance policy

is liable to pay compensation to the claimant. In such circumstances the Respondent No.1 & 2 are not liable to pay compensation to the claimant. Accordingly the Respondent No.1 & 2 has prayed for rejection of claim against them.

5. The respondent No.3 The New India Assurance Company resisted the claim by way of filing of written statement vide Exh.21 inter alia denying the contentions in the claim. They specifically denied the manner of occurrence of accident. According to the respondent in the said accident occurred only due to the fault on part of driver of Tata Venture No.MH-04/ET-8772. It is averred that the driver of Tata 407 bearing No.MH-10/AQ-9878 was carrying milk products and proceeding from Chiplun towards Khed in slow speed and left side of the road. At the time of accident the driver of Tata Venture has overtaken the truck in high speed without considering the situation of road in negligent manner and taken the vehicle on opposite direction of the road and dashed to the front side of Tata 407 Tempo MH-10 AQ-9878, therefore the accident occurred. In such circumstances the said accident occurred due to the sole negligence of driver of Tata Venture. Accordingly after making inquiry police lodged FIR against driver of Tata venture. It is further contended that the claim is not maintainable due to non joinder of necessary party that is previous owner of Tata Venture Sanjay Ambre. It is also averred that at the time of accident the Respondent No.1 was not having valid driving license and fitness certificate of the vehicle and therefore there is breech of therms and conditions of the

insurance of policy of respondent No. 3. Hence respondent No. 3 is not liable to pay compensation to the claimant. On all these grounds the Respondent No.3 insurance company has prayed for dismissal of claim.

6. The Respondent No.4 the Reliance General Insurance Company resisted the claim by way of filing of written statement vide Exh.56 inter alia denying the contentions in the claim. According to them the claim is not maintainable as their is breach of terms & conditions of insurance policy. The Respondent No.4 denied the date, time place and manner of occurrence of accident. It is further averrd that the driver of Tata 407 was driving the vehicle without due care and not observing ghat section, curves, steepness and condition of road which resulted in to accident. It is further contended that FIR is lodged against the deceased driver of claimant vehicle as no person was available for lodging FIR and were admitted in the hospital for treatment. According to the respondent No.4 the driver of Tata 407 tempo was in high speed in rash and negligence manner changed his lane and dashed front side to the Tata Venture. At the time of accident driver of Tata 407 tempo was unable to control the speed limit and caused accident. The respondent No.4 denied the age, occupation, employment, earning source, dependency & future prospects of the deceased. It is further submitted that without prejudice the respondent No.4 was not admit the liability but if tribunal consider composite negligence then major responsibility be imposed on Tata 407 driver, owner and insurance company. On all these grounds the respondent

No.4 insurance company has prayed for dismissal of claim.

7. The respondent No.5 & 6 filed there written statement vide Exh.49. They have admitted the occurrence accident dated 01-05-2018 in between Tata Venture bearing No.MH-04/ET-8772 & Tata 407 tempo bearing No.MH-10 AQ-9878. However it is averred that when the Tata Venture came on Mumbai-Goa highway near Boraj village, Taluka Khed, District Ratnagiri, one Tata 407 Tempo bearing No.MH-10/AQ-9878 came from front side and gave heavy dash to their Tata Venture. It is further submitted that Tata 407 Tempo was carrying perishable milk products therefore the driver of the said tempo was in hurry and driving the vehicle in a high speed and rash & negligent manner therefore accident occurred. It is averred that in the said accident the driver and owner of the offending tempo joined hands with police and by taking advantage of death of driver of Tata Venture and other members in the vehicle in seriously injured condition, lodged false case of accident against the deceased driver of Tata Venture. In such circumstances there was sole negligence of driver of Tata 407, therefore the Respondent no.5 & 6 are not liable to pay compensation hence prayed accordingly. It is seen from record the Respondent No.7 Sanjay Aambre not remained present inspite of service of notice vide Exh.47 therefore matter proceeded ex-parte against him by passing order below Exh.1.

8. In view of rival contentions of the parties and considering the attending circumstances of the case my Ld.

Predecessor has framed issues vide Exh.38 and I have given my findings thereon for the reasons stated below :-

	ISSUES	FINDINGS
1]	Whether the claimant proves that due to rash and negligent driving of Tata 407 tempo bearing No.MH-10 AQ-9878 the accident occurred and as a consequences thereof Milind Suresh Tambe died?	In the affirmative
2]	Whether the Respondent No.03 proves that there is breach terms and conditions of the insurance policy?	In the negative.
3]	Whether this petition is bad for non joinder of necessary parties ?	In the negative
4]	Whether the claimant is entitled to get compensation? If yes, what should be the quantum?	Yes, as per final order
5]	Who is liable to pay compensation?	Respondent No.1 to 4 jointly & severally
6]	What Award?	As per final order

R E A S O N S

9. In order to prove the contentions in the claim the claimant Suresh Sakharam Tambe adduced his evidence by way of filing claim affidavit vide Exh. 59 and also examine CW2 Bhanupratap Mishra vide Exh.82. In support of oral evidence the claimants have produced on record the relevant documents vide

Exh.63 to 71, 83 to 85. The claimant has filed evidence close pursis vide Exh.87. In order to prove the contentions in written statement on behalf of respondent no. 1&2 the respondent no. 2 adduced his oral evidence vide exh. 88 and closed evidence vide pursis Exh. 89. The respondent No.3 closed their evidence vide pursis Exh.90. The respondent No.4 closed their evidence vide pursis Exh.91. The respondent No.5 & 6 not adduced their evidence therefore it has been closed by way passing order below Exh.1. The matter proceed ex-parte against Respondent No.7. The Ld.Counsel of claimant submitted written notes of argument vide Exh.92. Heard Ld. Counsel of Claimant and the respondents. Perused Case laws.

AS TO ISSUE NO.1 to 3:

10. In view of the claim u/sec. 166 of the Motor Vehicle Act, at the outset I would like to take recourse of the observation of the Hon'ble Supreme Court in case of **N.K.V.Brothers Pvt. Ltd. Vs. M. Karunamai Ammal, reported in 1980 ACJ 345 (S.C.)** in which it is observed that,

> "The accident claim tribunal must take special care to see that innocent victim do not suffer and the drivers as well as the owners do not escape from liability merely because of some doubts here or some obscurity there. The Court should not succumb to niceties, technicalities and mystic maybes."

11. Similarly Hon'ble Bombay High Court in case of **United India Insurance Company Ltd Vs. Sayaji, reported in**

<u>LAWS (BOM) 2008-8-223</u> has observed that,

> The strict rule of the Evidence Act not applicable and tribunal can very well consider what was the case "Since the motor accident tribunal is the tribunal made out case before the police after the incident. This Court can take into consideration the certified copies of various documents on record. The certified copy of F.I.R., spot panchanama and inquest panchanama can be read in evidence without any additional proof".

12. In view of above prepositions of law & considering the factual aspect of the case now I have to scrutinize the entire evidence on record. It appears that the claimant Suresh Sakharam Tambe has reiterated the contention of the claim and specifically deposed at Exh.59 on 01.05.2018 Milind Suresh Tambe was proceeding towards Malan Taluka Guhagar for the purpose of religious function i.e. puja after marriage ceremony of Vinayak Suresh Tambe along with other relatives in Tata Venture bearing No.MH-04/ET-8772. At that time in the said Tata Venture along with newly married son Vinayak Suresh Tambe, his wife Sneha Tambe and other relatives were travelling in the said vehicle. He further testified that when the said vehicle came on Mumbai-Goa highway near Boraj village, Taluka Khed, District Ratnagiri, one Tata 407 Tempo bearing No.MH-10/AQ-9878 came from front side and gave heavy dash to their Tata Venture. The driver of Tata 407 Tempo was carrying perishable milk products and was in hurry therefore driving the said a high speed and rash & negligent manner due to which the accident occurred.

13. As regards to the false case against the driver of Tata Venture is concerned he further testified that in the said accident the driver and owner of the offending tempo joined hands with police and by taking advantage of situation i.e. death of driver of Tata Venture on the spot and other family members in the vehicle were in seriously injured condition, false case of accident lodged against the deceased driver of Tata Venture. Accordingly CR No.99/2018 registered at Khed police station against the deceased driver of Tata Venture. He specifically deposed that that the police have not made proper inquiry with the injured in Tata Venture and not recorded their statements and false offense came to be registered against the deceased driver of the Tata Venture. He further testified that due to the heavy dash of offending Tata 407 tempo, all persons in same family traveling in Tata Venture sustained grievous injuries and some of the family members died in the said accident. It has further come in his evidence that after the accident the injured Milind Suresh Tambe carried to the Life Care Hospital Chiplun but doctor declared him dead due to the grievous accidental injuries. It has further come in his evidence that the Tata 407 tempo bearing No.MH-10/AQ-9878 respondent No.1 was the owner, respondent No.2 was the driver and respondent No.3 was the Insurer of the offending and the insurance policy was effective at the time of accident. Therefore the respondent No.1 to 3 are liable to pay compensation to the claimants.

14. It is seen from the record that the Ld. Counsel of respondent No.3 cross-examined the claimant at length and

put-forth various suggestions in respect of actual occurrence of accident. However it is significant to note here that he was eye witness of the accident and inspite of putting various suggestions nothing fruitful brought on record, on the contrary during cross-examination he has clarified the situation on the spot at the time of accident. During cross-examination he stated that the vehicle was 9 seater and his family members were occupied all seats. During his cross-examination he has stated gravity of accident was such an extent that in the said accident Pravin Tambe and Milind Tambe died on the spot of accident and Vinayak Tambe, Shubhangi Tambe & Vasanti Tambe died in the hospital. He further stated that Tata 407 bearing No.MH-10/AQ-9878 dashed to Tata Venture from front side and person on front seat died on the spot. Similarly person sitting on second row seat also died and one person on back seat died in the hospital. The Ld. Counsel put-forth suggestion in respect of situation on the spot however he clarified the situation by stating that in the said accident front portion of Tata Venture was completed damaged by pressing inside and after accident as he was seriously injured therefore carried to the Life Care Hospital. He further stated that thereafter police never came to him for inquiry and after 10 days he came to know about lodging the complaint against the deceased Pravin Shivram Tambe the driver of Tata Venture. The Ld.Counsel of respondent No.3 put-forth suggestion and he admitted that in the said accident his daughter-in-law was sitting on front side and sustained grievous head injury and four days prior to the accident the marriage ceremony of Vinayak & Sneha has been performed.

15. During the cross-examination taken by the Ld.Counsel of respondent No.4 he specifically deposed that he has actually seen the accident and their driver Pravin Shivram Tambe was driving Tata Venture No.MH-04/ET-8772 carefully and in moderate speed. So far as the actual situation at the time of accident is concerned, he stated that at the time of accident one ST Bus was coming from Chiplun and behind the said ST Bus offending Tata 407 tempo came in high speed and by overtaking ST Bus gave heavy dash to Tata Venture due to which Tata Venture completely damaged & dragged at some distance and thereafter stopped at right side. He further stated during the cross-examination that the accident occurred due to the sole negligence of the driver of Tata 407 tempo. However he denied that Tata Venture was not having valid driving licence and insurance policy at the time of accident. So far as remaining suggestions are concerned she denied the same.

16. In view of above discussed oral evidence of the claimants now the documentary evidence has to be scrutinized to see that whether there was rash & negligent driving on part of driver of the offending Tata 407 Tempo and situation on the spot at the time of accident. In support of oral evidence the claimant has produced on record relevant documents vide Exh. 63 to 71, 83 to 85. The certified copy of FIR in CR No.99/2018 of Khed Police station is at Exh.63. The certified copy of panchanama of spot of accident is at Exh.64. The certified copy of postmortem

report of Milind Suresh Tambe is at Exh.65. The verified copy of R.C. book of Tata 407 tempo MH-10 AQ-9878 is at Exh.66. The verified copy of Insurance Policy of Tata 407 tempo MH-10/AQ-9878 is at Exh.67. The verified copy of Driving License of Respondent No. 2 is at Exh.67(1). The verified copy of RC Book of Tata Venture bearing No.MH-04/ET-8772 is at Exh.68. The verified copy of Insurance Policy of Tata Venture bearing No. MH-04/ET-8772 is at Exh.69. The verified copy of Driving License of deceased is at Exh. 69(1). The payment slip for the month of January of deceased Milind Suresh Tambe is at Exh.83. The payment slip for the month of February of deceased Milind Suresh Tambe is at Exh.84. The payment slip for the month of March of deceased Milind Suresh Tambe is at Exh.85 etc.

17. In order to rebut the evidence of claimant and to prove the contention in written statement the respondent no. 1&2 have adduced the oral evidence of respondent no. 2 Amit Arun Nagvekar vide Exh. 88. So far as the accident is concerned he deposed that he is working as a driver since last 10 years and he has valid driving license since 2013. He further testified that on 01.05.2018 he was driving Tata 407 Tempo MH-10 AQ-9878 and proceeding from Chiplun towards Khed and that time on the left side the construction work of the road was going on. He specifically deposed that the accident occurred due to fault on part of driver of Tata Venture bearing No.MH-04/ET-8772 and at that time the Venture was overtaking to the truck therefore he has taken his tempo on side strip of the road but driver of Tata Venture dashed on the engine

side of Tempo. He further deposed that after the accident police lodged offence against driver of Tata Venture.

18. It is significant to note here that the Ld. counsel of Applicant cross examined this witness at length and put forth various suggetions in respect of actual occurrence of accident. During the cross examination at the outset he admitted that he is doing the business of milk and milk products and due to their perishable nature he has to provide it at the destination Khed, Dapoli, Mandangad within time till 07.00 a.m. He further admitted that for the purpose of providing the milk and milk products within time he used to drive the vehicle in that manner. He further admitted that in the said accident the radiator of his vehicle was broken and there was damage of the front portion of Tata 407 Tempo. He further admitted that the weight of Tata Venture is less in comparison to the Tata 407 Tempo. During the cross examination it has brought on the record that there was no side strip on right side of the road and construction work was going on. So far as the remaining suggestions are concerned he denied the same.

19. The Ld. counsel of Respondent No. 3 also cross examined him and he admitted that after the accident the vehicles involved in the accident were standing on the spot in a same position and the traffic was going on from open road. He also stated that Tata venture driver suddenly came from white strip towards his vehicle and dashed on front portion of his vehicle due to which door of driver side Tata 407 Tempo has

been locked. The Ld. Counsel of Respondent No. 4 also cross-examined him and put forth various suggestions and he admitted that after the accident more persons in the Tata Venture died and ambulance immediately came on the spot and carried to injured persons to the hospital. He also admitted that in the said accident he sustained minor injuries.

20. While arguing the case the Ld.Counsel of claimants put emphasis on this aspect that the oral as well as documentary evidence of the claimants proved that Milind Suresh Tambe died due vehicular accidental injuries by offending Tata 407 tempo bearing No.MH-10/AQ-9878. It has brought to the notice of this court the driver of offending tempo Tata 407 was in high speed and rash and negligence manner, changed his lane and dashed front side of the Tata Venture and unable to control his speed and caused accident. The Ld. Counsel of Claimant put emphasis on situation of the spot and brought to the notice of this court that after the heavy dash without stopping Tata 407 tempo, driver proceeded the vehicle and dragged Tata Venture which stucked with it due to this situation major casualty and death of five persons from the same family grievous injuries to the remaining persons sustained. Similarly the gravity of the accident itself reflect from the spot panchnama.

21. It has pointed out that in said accident the driver and owner of Tata Venture died on the spot, some of the members died in the hospital and some of the members were

seriously injured, therefore they could not reach on the spot at the time of spot panchnama and their statements have not recorded by police and falsely registered the offence of driver of Tata Venture. As such it was incumbent on the Investigating Officer to record the statement of claimant, his daughter in law and injured persons who were traveling in the said Venture and admitted in the hospital. However the police has used a shortcut method by registering the offence on the deceased driver of Tata Venture and by filing abetted summary avoided the detail investigation of accident case without considering the circumstance and gravity of accident. The Ld.Counsel of claimant urged that it was terrible accident in which five family members on one and same time died and other members grievously injured due to serious vehicular accident. Therefore nobody who remain alive in the said accident were in a mental condition to filed complaint against investigating officer to their higher authority for wrongly registering the offense against the deceased driver of Tata Venture. However the claimant is eye witness of the said accident and given his detail evidence and clarified the situation on spot at the time of accident.

22. The Ld. Counsel vehemently argued that due to sad demise of his son, the claimant has tremendous shock and grief and he has not yet come out of that trauma. The oral evidence of the claimant supported by the voluminous documents and proved in the evidence as per the provisions of law. The respondent No.4 to 7 were impleaded as a party only for the purpose of avoiding further complications and

multiplicity of the proceeding. In such circumstances the claimant is entitled compensation out of love & affection, dependency benefit, future loss of income etc. It has also argued that due to sudden death of Son Milind the claimant is also entitled filial consortium, loss of estate and compensation under different heads from Respondents No. 1 to 3 jointly & severally.

23. However, it is counter argued by the Ld.Counsel of respondent No.3 that the driver of Tata 407 Tempo bearing No.MH-10/AQ-9878 was carrying milk products and proceeding from Chiplun towards Khed in slow speed and left side of the road. At the time of accident the driver of Tata Venture has overtaken the truck in high speed without considering the situation of road in negligent manner and taken the vehicle on opposite direction of the road and dashed to the front side of offending tempo bearing No.MH-10/AQ-9878, therefore the accident occurred only due to the sole negligence of the driver of the Tata Venture. The Ld.Counsel put emphasis on factual position on the spot and brought to the notice of this Court that the negligence on the part of the driver of the Tata Venture itself shows from the position of vehicle standing on the road and therefore the police after making inquiry properly registered the offence against the driver of the offending tempo who died on the spot. In such circumstances the claimant is not entitled to claim compensation from the respondent No.3.

24. Having regard to the arguments advanced by Ld. Counsel of both parties and on carefully scrutinizing the oral

as well as documentary evidence on record it is very much clear that Milind Suresh Tambe Son of claimant died dated 01.05.2018 due to vehicular accidental injuries. It is a matter of record that in the said accident due to religious function i.e. puja after marriage of Vinayak, all the family members and close relatives were traveling in Tata Venture bearing No.MH-04/ET-8772 it is pertinent to note here that the gravity of the accident was to such an extent that after the accident two persons died on the spot, three persons died in the hospital and remaining persons including claimant grievously injured. It has brought to the notice of this Court that the police has used shortcut method by registering the offense against the deceased driver of Tata Venture and by filing abated summary avoided detailed investigation of accident without considering the gravity of offense and circumstances of the case. Admittedly on carefully scrutinizing the oral as well as documentary evidence on record it appears that the statements of eye witnesses and the injured persons in the Tata Venture has not been recorded by the police and 'Abated Summary' has been filed.

25. In view of such submission of Ld.Counsel on disputed aspects of registering the offence against the driver of the Tata Venture at this juncture I found it necessary to carefully scrutinize the spot panchanama Exh.64. It reflects from the spot panchanama Exh.64 that the spot is situated on Mumbai Goa National Highway No.66 within the jurisdiction of Boraj village, Taluka Khed, District Ratnagiri and the width of tar road is 23 feet. In the middle of the road there is white colour divided strip

and on both sides of the road also having white colour strips. The Tata Venture No.MH-04/ET-8772 is standing on the middle of the road on white colour divider strip in slanting position. The driver side of the vehicle on 12 feet from side strip and the rear side wheel of the vehicle is on 8 feet from eastern side strip. The front portion bonnet of Tata Venture was completely damaged by pressing it up to driver seat. The pieces of front glass were lying on the road and the steering, number plate and pieces of fiber, glass etc. were lying on the road with heavy blood stains. The milk was flowing on the road and the pieces of glass & fiber lying in inside the Venture in heavy blood.

26. So far as the situation of offending Tata 407 Tempo is concerned it reflects from the spot panchanama that the offending tempo No.MH-10/AQ-98789 standing from 5 feet distance from Tata Venture in slanting position facing towards Khed. The front wheel of tempo by the cleaner side is on the rough road at 6 feet distance from western direction and rear wheel is on white colour strip. The front glass of tempo has been broken and bonnet & door of driver side of the tempo has been damaged as it has pressed inside. The door glass of tempo has been broken and front portion of cabin has been bended and pressed inside. The driver side headlight has been broken and the chassis of tempo has been pressed. Similarly it was found that the milk and milk products were scattered in the tempo and on the road. In view of such oral as well as documentary evidence on record I found that as per the maxim ‘res ispa loquitur’ the situation and circumstances on the spot of accident

itself speaks in volumes about rash and negligent driving by the driver of the both vehicles i.e. offending Tempo and Tata Venture.

27. In the light of above discussion on considering attending circumstances of the case I found that in order to prove the contentions in the claim the claimant has very well brought on record the maximum possible evidence by way oral as well as documentary evidence. Admittedly the respondent No.4 to 7 have not adduced their oral evidence and also not produced documentary evidence on record to prove their contentions in the written statement. Besides this, on going through the spot panchanama and considering the entire evidence on record I found that there is composite negligence on the part of the driver of the both vehicles.

28. So far as contention of respondent No.3 the insurance company in respect of breach of terms and conditions of insurance policy is concerned, it appears that at one place the respondent No.3 contended that on the date of accident the respondent No.1 was not having valid driving licence and fitness certificate and therefore he has committed breach of terms & condition of policy. However at another place the respondent No.3 averred that present accident occurred due to sole negligence of driver of Tata Venture No.MH-04/ET-8772 as he was not having the driving license and drove the vehicle in high speed, rash & negligent manner and without considering the situation on the road. It is seen from record though the

respondent No.3 have contended these averments but not brought on record sufficient oral as well as documentary evidence to prove the breech of terms and conditions of insurance policy of offending Tata 407 Tempo. On the Contrary the claimant has also brought on the record sufficient documents vide Exh.66, Exh.67 and Exh.67(1) i.e. RC Book, Insurance Policy and Driving License etc. documents pertaining to Tata 407 Tempo. Similarly the documents Exh.68, Exh.69 and Exh 69(1) i.e. RC Book of Tata Venture, Insurance Policy of Tata Venture and Driving License of deceased Pravin Shivaram Tambe the documents pertaining to Tata Venture MH-04/ET-8772 COMP FORM-AA vide Exh.70 and spot panchanama vide Exh.64 etc. which proved negligence of respondent no. 1 and liability of Respondent No.2 and 3. So far as necessary parties of the claim are concerned, it is a matter of record that during the pendency of the claim the claimant has impleaded respondent No.5 to 7 as necessary party vide order dated 13.07.2023. Therefore the claim is not bad for non-joinder of necessary party.

29. In the light of above discussion and considering entire evidence on record it is very much clear that the claimant by way of maximum possible evidence has proved that Milind Suresh Tambe died on 01.05.2018 due to vehicular accidental injuries, due to rash & negligent driving of respondent No.2 the driver of offending 407 Tempo bearing No.MH-10/AQ-9878 which was owned by respondent No.1 and insured with respondent No.3 New India Assurance Company. Besides this, in view of entire evidence on record and attending

circumstances of the case it has been proved that the accident occurred also due to rash & negligent driving of the driver of the Tata Venture bearing No.MH-04/ET-8772 who was also owner of the said vehicle and said vehicle was insured with respondent No.4 Reliance General Insurance Company. It has also proved that the insurance policies of both the vehicles vide Exh.67 & 69 were effective at the time of accident. Accordingly I found that there is composite negligence on the part of both driver of the Tata 407 Tempo No.MH-10/AQ-9878 and Tata Venture No.MH-04/ET-8772. Accordingly I answer the point No.1 in the affirmative and point No.2 & 3 in the negative.

AS TO ISSUES NO. 4 & 5:-

30. It is well settled principle of law that the amount of compensation is required to be determined after considering the various aspects including the age of the deceased, his source of income and number of the persons dependent on the income of deceased. While adducing the oral evidence the claimant Suresh Tambe reiterated the contentions of claim in respect of earning and monthly income of deceased Milind and deposed that prior to the accident the deceased Milind Suresh Tambe was strong and healthy unmarried person and he was working under “Omkar Realtors & Developers” and getting salary of Rs.45,000/- per month. He was intelligent employee having very bright future and there was chances of increment in his salary. In such circumstances, the sudden death of Milind the claimant has suffered tremendous grief & shock

and lost a financial as well as mental support of life.

31. In order to prove the source of income of the deceased Milind claimant has examined PW 2 Bhanupratap Mishra vide Exh. 82. He specifically deposed that he is HR Manager in Omkar Builders and Developers Private Limited Sayan, Mumbai and deceased Milind Suresh Tambe was working in the said company. As per documents of their company the salary certificate of deceased Milind Suresh Tambe issued vide Exh. 83 which bears the stamp of the company and signature of concerned officer of the company. He further testified that the salary of Milind suresh Tambe for the month of February-2018 and March-2018 as per the salary certificates vide Exh.84 & Exh.85.

32. The Ld. Counsel of respondent No.3 cross-examined him at length and put-forth various suggestions. During the cross examination he admitted that the said company is a private company and when Milind Suresh Tambe was working in the company at that time this witness was not in the said company and therefore the documents Exh.83, 84 and 85 bears signature of Tejal Sagavekar who presently working in the company as a HR Executive. So far as group insurance is concerned, he admitted that in their company they used to insured group insurance of their employee. Similarly he admitted that deceased Milind Suresh Tambe was beneficiary of group insurance and after his death his legal heirs has given the said amount of group insurance. He also admitted that the said

amount is minimum Rs.10 lac and maximum Rs.3 crores. He further admitted that there was deduction of professional tax and income tax from the salary of deceased Milind Suresh Tambe. So far as remaining suggestions are concerned he denied the same. It is seen from the record the Ld.Counsel fo respondent No.1, 2 and 4 adopted the cross examination taken by Ld. Counsel of Respondent No.3. In view of oral evidence of the claimant CW2 coupled with the documentary evidence vide Exh.83 to Exh. 85, it can be very well proved that the deceased was getting salary of Rs.45,000/- per month. So far as future prospect towards the income of deceased it is significant to note here that the claimant neither in his oral evidence nor the witness of CW2 Bhanupratp Mishra brought on record that deceased Milind Suresh Tambe was permanent employee of Omkar Realtors & Developers Private Limited Mumbai. Similarly his appointment letter and letter in respect of his permanent employment also not produced on record by the claimant. Therefore though the claimant has proved that the deceased Milind Tambe was getting salary of Rs.45,000/- per month but in view of number of admissions given by the claimant and his witness and for want of sufficient evidence on record future prospect cannot be given. In view of such circumstances at this juncture I would like to take recourse of the observations of the Hon'ble Supreme Court in case of **Bharati Axa General Insurance Company v. Poonam & Anr. reported in 2017 ACJ 67** in which it is observed that

> "In case of fatal accident a quantum has to be decided in view of principles of

> assessments in respect of future prospect. When there is no evidence with regard to the future prospect of the deceased or no proof of permanent employment in such circumstances no addition to be made in the income for future prospect for computing compensation for his death."

33. In view of above prepositions of law on considering the factual & legal aspects of this case it is very much clear that the claimant has failed to prove that the deceased Milind Suresh Tambe was permanent employee in Omkar Realotrs & Developers Private Limited Mumbai, therefore the benefit of future prospects cannot be given to his legal heirs.

34. So far as the age of deceased is concerned, the claimants has produced on record the school leaving certificate of deceased vide Exh.71 which shows that date of of birth of deceased is 08.12.1987 and the accident occurred on 01.05.2018. It means at the time of accident the deceased was 31 years old man. Therefore I found that as per the ruling of Hon'ble Supreme Court in case of **Sarla Varma and others Vs. Delhi Transport Corporation and another, 2009(2) T.A.C. 677 (S.C.)**, the multiplier 16 is applicable to the present case. While arguing the Ld.Counsel of claimant also brought to the notice of this Court that deceased was his son and due to his sad demise he lost his mental and financial support and not yet come out of trauma as in the said accident his 5 family members died and other seriously injured & not yet recovered. In view of such submission at this juncture, I would like to take recourse of

observation of Hon'ble Supreme Court in case of **<u>MAGMA General Insurance Co. Ltd. Vs. Nanu Ram reported in 2019 AIR (Civil) 171</u>** in which the Hon'ble Supreme Court observed that,

> "The Motor Vehicle Act is a beneficial legislation aimed at providing a relief to the victims or their families in cases of genuine claims. Similarly in case where a parent has lost their son and the children who lost their parents the claimants are entitled filial consortium and parental consortium in vehicular accidental death under the provisions of Motor Vehicles Act."

35. In view of the above preposition of law and considering the attending circumstances of the case I am of the view that the deceased was 31 years of age and earning member of his family. So far as the dependency aspect on the income of the deceased is concerned, the claimant has proved that the deceased Milind was married person and contributing his income to the family including claimant is his father. Therefore in view of provisions of Motor Vehicle Act and well settled principle of law the claimant come within purview of dependent. As such considering overall circumstances on record coupled with oral as well as documentary evidence the claimant is entitled for just compensation. As such just compensation is adequate compensation which is fair and equitable on the facts and circumstances of the case to make good the loss suffered as a result of the wrong by applying the well settled principles relating to award of compensation. Therefore following would be the calculations for assessment of the compensation amount towards the loss of dependency.

No.	**Particulars**		**Amount**
A	Total income per year	45000 X 12	5,40,000/-
B	½ deductions towards personal and living expenses	5,40,000 ÷ 2	2,70,000/-
C	Pecuniary loss after applying multiplier of 16 as the deceased was 33 years old.	2,70,000 X 16	43,20,000/-
D	Add : Loss of Love & Affection (Rs1,00,000/- to the claimant)		1,00,000/-
E	Add : Funeral Expenses		15000/-
	Add : Loss of Estate		15000/-
F	Add : Loss of filial consortium for father		40,000/-
	Total sum payable to the claimant		44,90,000/-

36. The claimants have claimed interest @ 12% from the date of accident. However in view of observation of Hon'ble Supreme Court in case of **Smt. Neeta w/o Kallappa Kadolkar and others Vs. The Divisional Manager, MSRTC, Kolhapur reported in 2015(1) T.A.C.340 (S.C.)**, the claimants are entitled to get interest on amount of Rs.44,90,000/- @ 7% from the date of claim i.e. 17.04.2019 till its full realization.

37. The totality of my aforesaid discussion and in view of above findings I come to the conclusion that the claimant has proved his claim for seeking compensation against respondent No.1 to 4, therefore he is entitled the total compensation of Rs. 44,90,000/- from the respondent No.1 to 4 jointly and severally @ 7% interest on the compensation amount. However the claimant has failed to prove the claim

against respondents No.5 to 7 therefore the claim is dismissed against them. Hence I answer issue No.4 & 5 in the affirmative and proceed to pass following order.

ORDER

1] The claim petition is partly allowed with proportionate costs against respondent No.1 to 4 jointly & severally.

2] The respondent No.1 to 4 are jointly and severally liable to pay the compensation amount of Rs.44,90,000/- (Rupees Forty Four Lac Ninety Thousands Only) with 7% interest to the claimant from the date of filing of this petition 17.04.2019 till its full realization, including NFL amount.

3] The amount payable to the claimant be paid in the bank account as under :

Account in the name of	:- Member Motor Accident Claim Tribunal Chiplun.
Name of Bank	:- State Bank of India, Chiplun
Current Account No.	:- 00000040716872596
IFSC Code	:- SBIN0000350

4] The claim petition is dismissed against respondent No.5 to 7.

5] Award be drawn up accordingly.

ANITA SHRIRANG NEWASE
Digitally signed by ANITA SHRIRANG NEWASE
Date: 2026.05.08 19:01:45 +0530

(Dr. Anita S. Newase)
Member, MACT Chiplun

Date: 08.05.2026

Certificate

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

Case Number		MACP No.62/2020
Name of Stenographer	:-	Mrs.V.S.Kulkarni
Name of Court	:-	MACT, Chiplun.
Dictated on computer by the P.O.on	:-	08.05.2026
Judgment signed by the P.O. on	:-	08.05.2026
Judgment uploaded on	:-	08.05.2026