MHRT130021382020

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BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, AT CHIPLUN.

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

M.A.C.P. No.87/2020
Exh. No. 93

1. Ejajkhan Shahabaj Khan Sarguro }
   Age: 53 years, Occupation: Nil }
2. Shayeeda Ejaj Sarguro }
   Age: 48 years, Occupation: Housewife }
3. Saquib Ejaj Sarguro }
   Age: 22 years, Occupation: Education } Claimants
   All R/at. Sheri Mohalla, Peve, }
   Taluka Guhagar, District Ratnagiri }

Versus

1. Santosh Vilas Sutar }
   Age: 30 years, Occupation: Driver }
   R/at. At & Post Vehale (Sutarwadi) }
   Tal. Chiplun, Dist. Ratnagiri. }
   (Driver of Truck No.MH-04/CG-2259) }
2. Chandrakant Ganesh Bansode }
   Age: 40 years, Occupation: Business }
   R/at. At & Post Kalambaste, }
   Tal. Chiplun, Dist. Ratnagiri. } Respondents
   (Owner of Truck No.MH-04/CG-2259) }
3. Shriram General Insurance Co. Ltd. }
   Office No.106, Road No.22, }
   Ex.-Clensia, Lodha Suprimus-2, }
   Wagale Estate, Near New Passport Office, }
   Thane (W) 400 604. }
   (Insurer of Truck No.MH-04/CG-2259) }

Claim : Under section 166 of the Motor Vehicle Act, 1988 for grant of compensation of Rs.5,00,000/-.

Adv. Shri.P.M.Mujavar for the Claimants
Adv. Shri.F.M.Mhatarnaik for the Respondent No.1 & 2
Adv. Shri.A.A.Fanasekar for the Respondent No.3

<u>JUDGMENT</u>

(Delivered on 31.03.2026)

1. The claimants have filed this claim petition for seeking compensation of Rs.5,00,000/- under section 166 of the Motor Vehicle Act 1988 against the respondents for vehicular accidental death of Sufiyan Ejajkhan Sarguro.

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

According to the claimants, on 18.02.2019 Sufiyan Sarguro was proceeding in Truck bearing No.MH-04/CG-2259 as cleaner towards Chiplun, however when offending truck came near Nivali that time respondent No.1 the driver of offending truck tried to control the offending truck but lost the control of his truck and gone to the right side of the road tilted in the valley. Due to which the cleaner of the offending truck Sufiyan caught in the cabin of the offending truck and then offending truck fell down in the valley which resulted into the grievous injuries to cleaner Sufiyan. Thereafter he has been carried to Civil Hospital Ratnagiri for medical treatment, but Medical Officer declared him to be dead. According to the claimants the accident took place due to rash and negligent driving of respondent No.1 who was driving the offending truck bearing No.MH-04/CG-2259 at the relevant time of the accident. It is further contended that due to rash and negligent driving of the offending truck bearing No.MH-04/CG-2259 the police of Ratnagiri Rural Police station registered the offence vide CR No.27/2019 under sections 304(A), 279, 337, 338 of IPC and under section 184 of the M.V.Act against the driver of offending truck. It is further contended that the offending truck bearing No.MH-04/CJ-2259 was driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3 therefore, respondent No.1 to 3 are jointly and severally liable to pay compensation.

3. According to claimants, the deceased Sufiyan was working as a cleaner and he was healthy & stout man of 23 years. He was getting income of Rs.12,000/- per month by his work as a cleaner and only earning member of his family. Due to sudden death of Sufiyan, the claimants have suffered tremendous grief & shock and lost a financial as well as mental support of the family. In such circumstance the claimants have 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.5,00,000/- (Rs. Five Lac Only) from the respondent Nos.1 to 3 jointly and severally. On all these grounds the claimants prayed for allowing the claim petition.

4. The respondent No.1 & 2 resisted the claim by way of filing written statement vide Exh.28 inter alia denying the contention of claim. According to the respondents, the said accident took place due to sudden application of breaks on curve

road, and the respondent No.1 was driving the offending truck in moderate speed by taking precaution therefore both the opponents are not liable to pay compensation. The respondent No.2 submitted that the deceased was working as a cleaner on his offending truck and the said cleaner died unfortunately in the accident due to injuries case in vehicular accident. It is further submitted that all documents of vehicle were valid on the day of accident. The respondent No.1 was also having valid driving licence at the time of accident. It is further submitted that the offending truck was driving by respondent No.1, owned by respondent No.2 and insured with the respondent No.3 and on the date of accident the said insurance policy was effective. Therefore the claimants are entitled to receive compensation only from the respondent No.3. In such circumstances, they prayed for dismissal of the claim petition against them.

5. The respondent No.3 Insurance Company resisted the claim petition by way of filing written statement vide Exh.18 inter alia denying contentions of claim. The respondent No.3 denied the alleged date, time, place of the accident, vehicle involved in the accident, age, occupation, monthly income and assessment of the compensation etc. According to the respondent No.3 the claimants have not produced on record the reliable and cognate documentary proof in support of contentions in claim. It is further averred that the deceased was never worked as a cleaner on offending truck involved in the accident and he was not under the employment of owner of the offending truck. The claimants have introduced untrue and fallacious story for extracting a handsome

compensation from insurance company. It is further averred that the alleged entry and travelling of deceased by goods carriage vehicle involved in accident was absolutely unauthorized and contrary to the prevailing provisions of M.V. Act. It prima facie transpired that at the relevant time deceased was not engaged as a cleaner but he was unauthorized passengers or traveller of goods carriage. It is further averred that at the relevant time of accident neither deceased or traveller entitled to travel by goods carriage vehicle i.e. offending truck nor alleged owner nor his driver lawfully permitted deceased to travel by goods carriage vehicle. The deceased and owner of the offending truck not only committed willful contravention of policy conditions but also committed infringements of relevant provisions of M.V.Act. Therefore the respondent No.3 insurance company is not liable to indemnify insured for illegal and illegitimate act committed by driver and owner of the offending truck.

6. It is further averred that present claim petition is not maintainable against the respondent No.3 in view of prevailing policy conditions and limitations. The insurance policy never cover risk of either fair paying or gratuitous passenger travelling in goods carriage vehicle i.e. offending truck. The deceased Sufiyan was unauthorized voyager of goods vehicle hence he was not covered by the policy conditions. Similarly the deceased not a third party against insurance company. It is further averred that the driver of the offending truck was not holding valid & effective driving licence at the relevant date, time and place of the accident, therefore insured committed willful breach of policy conditions by handing over

the offending vehicle to unlicenced & disqualified person. It is further averred that the offending truck bearing No.MH-04/CG-2259 was not insured with the respondent No.1 at the time of accident. The policy filed by the claimants is not genuine and it is not yet confirmed by the authorities. It is further submitted that the claimants have claimed exorbitant amount of compensation which they are not entitled from respondent No.3. Accordingly the Respondent No.3 prayed for rejection of claim.

7. In view of rival contentions of the parties and considering the attending circumstances of the case my Ld. Predecessor has framed issues vide Exh.18 and I have given my findings thereon for the reasons as follows :-

	ISSUES	**FINDINGS**
1]	Whether the claimants prove that due to rash and negligent driving of Truck bearing registration No.MH-04/CG-2259 the accident occurred and as a consequences thereof Sufiyan Ejajkhan Sarguro died?	In the affirmative
2]	Whether respondent No.3 proves that there was breach of terms and conditions of the insurance policy?	In the affirmative
3]	Whether the claimants are entitled to get compensation? If yes, what should be the quantum?	In the affirmative, as per final order
4]	Who is liable to pay the compensation?	Respondent No.1 & 2 jointly & severally. The claim is dismissed against respondent No.3.

5] What order and award? As per final order.

REASONS

8. In order to prove the claim on behalf of the claimants, CW2 Shayeeda Ejajkhan Sarguro, the mother of deceased Sufiyan has adduced her evidence and filed claim affidavit vide Exh.36. In support of oral evidence the claimants have produced documents on record vide Exh.37 to 47. The claimants have filed evidence close pursis vide Exh.51. On the contrary, the respondent No.3 Insurance Company adduced evidence by examining RW1 Atish Ashok Gondhale vide Exh.60. Similarly the respondent No.3 adduced the evidence of RW2 Ashwinikumar Krishnarao More-the RTO Inspector vide Exh.72. In support of their oral evidence they have produced on record the documents vide Exh.63 to 66 and 75 to 77. The respondent No.3 has filed evidence close pursis vide Exh.82. The respondent No.1 & 2 filed evidence pursis vide Exh.81. The claimants have filed written notes of arguments on record vide Exh.92. Similarly, the respondent No.3 has also filed written notes of arguments vide Exh.89 and filed case laws vide Exh.90. Heard Ld. Counsel of both the parties. Perused case laws filed by parties.

AS TO ISSUE NO.1 & 2 :-

9. 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."

10. Similarly Hon'ble Bombay High Court in case of **United India Insurance Company Ltd Vs. Sayaji, reported in LAWS (BOM) 2008-8-223** 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".

11. 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 No.2 Shayeeda Sarguro has reiterated the contention of the claim and specifically deposed at Exh.36 that on 18.02.2019 her son Sufiyan Sarguro was proceeding in Truck bearing No.MH-04/CG-2259 as cleaner towards Chiplun, however when offending truck came near Nivali that time

respondent No.1 the driver of offending truck tried to control the offending truck but lost the control over the truck and gone to the right side of the road tilted in the valley. She has further deposed that due to said accident the cleaner of the offending truck Sufiyan i.e. her son caught in the cabin of the offending truck and then offending truck fell down in the valley which resulted into the grievous injuries to her son Sufiyan. She has further testified that thereafter her son has been carried to Civil Hospital Ratnagiri for medical treatment, but Medical Officer declared her son to be dead. She has further testified that the accident took place due to rash and negligent driving of the driver i.e. respondent No.1 who was driving the offending truck bearing No.MH-04/CG-2259 at the relevant time of the accident. She has deposed that accordingly the police of Ratnagiri Rural Police station registered the offence vide CR No.27/2019 under sections 304(A), 279, 337, 338 of IPC and under section 184 of the M.V.Act against the driver of offending truck. It has further deposed that the offending truck bearing No.MH-04/CG-2259 is owned by the respondent No.2, driven by respondent No.1 and insured with respondent No.3.

12. It is seen from the record that the Ld. Counsel of respondent No.3 cross-examined the CW2 at length and put forth various suggestions in respect of actual occurrence of accident but except denial nothing fruitful brought on record. On the contrary she denied that her son was travelling in the truck as a passenger and there was breach of terms & condition of insurance policy.

13. 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 truck. In support of oral evidence the claimants have produced on record relevant documents vide Exh.37 to 47. On carefully scrutinizing these documents it appears that the certified copy of statement of respondent No.1 Santosh Sutar the driver of the offending truck is at Exh.37. The certified copy of complaint Sanjay Balkrishna Zagade is at Exh.38. The certified copy of spot panchanama dated 18.02.2019 is at Exh.39. The certified copy of inquest panchanama of the body of deceased Sufiyan is at Exh.40. The certified copy of postmortem report of deceased is at Exh.41. The certified copy of RC Book of offending truck No.MH-04/CG-2259 is at Exh.42. The certified copy of permit of the driver of the offending truck is at Exh.43. The The certified copy of fitness certificate of the offending truck is at Exh.44. The certified copy of goods carriage permit of the offending truck is at Exh.45. The certified copy of insurance policy of the offending truck No.MH-04/CG-2259 is at Exh.46. The school leaving certificate of the deceased Sufiyan is at Exh.47.

14. In order to rebut the contention in the claim the respondent No.3 also adduced their evidence by way of examining RW1 Atish Ashok Goythale, Authorized Officer of the respondent No.3 insurance company vide Exh.60 and RW2 Ashwinkumar Krishnrao More the RTO Officer vide Exh.72. So far as occurrence of accident & liability of compensation is concerned, RW1 testified that the vehicle bearing No.

MH-04/CG-2259 was insured with the respondent no.3 for the period 17.02.2019 to 16.02.2020 and its goods carriage vehicle. On 18.02.2019 at about 5.30 p.m. the said offending truck met with an accident but owner of the offending truck was not informed to the respondent No.3 insurance company therefore the owner of the offending truck was committed breach of terms & conditions of policy. The RW1 further deposed that deceased Sufiyan Sarguro was travelling in the said offending truck which reflects from the complaint lodged to the Rural Police Station Ratnagiri. Accordingly the offence came to be registered against the respondent No.1 and on completion of investigation chargesheet was submitted against him. In such circumstances respondent No.1 was driving the offending truck of respondent No.2 and he has taken a passenger who was travelling from the offending truck which is the breach of the terms & condition. He further testified that the transport permit was not valid and it was expired on 09.02.2019 and accident occurred on 18.02.2019 it means it was not valid at the time of accident. Therefore the respondent No.3 is not liable to pay the compensation.

15. The Ld.Counsel of claimants cross-examined this witness RW1 of the insurance company at length and put-forth various suggestions. At the outset he admitted that the vehicle bearing No.MH-04/CG-2259 was purchased by seeking loan from Shriram Transport Finance Company which has mentioned on RC Book. Similarly there is also entry about the hypothication on document Exh.42. The witness further admitted that till the complete repayment of loan amount the

company is indirect owner of the said vehicle. He further admitted that insurance policy has been drawn from the office of Jaipur Rajasthan and it is necessary to mention the particulars of the receipt in the insurance policy. He further admitted that the insurance policy Exh.65 does not mention the receipt number and the said receipt also not produced on record.

16. During the cross-examination RW1 also admitted that the said vehicle comes under the category of goods carrier and under hypothecation and having the insurance policy of Shriram Company. He further admitted that as the vehicle comes under the category of goods carrier therefore cleaner & labour required to be covered under the insurance policy. He further admitted that the insurance policy Exh.65 also given coverage to the cleaner, driver & owner. So far as the insurance policy Exh.65 is concerned which bears signature of Ranjan who is the Operational Head of their office and could not available for deposing before the Court. He further admitted that the print of insurance policy Exh.65 has been taken from the computer of their office by using log in number for Exh.65. As regards to the detail particulars of Exh.65 is concerned, he admitted that the policy mention the collection number but not mentioned the date. He also admitted that the said policy is commercial package policy which covers third party risk and the said policy was valid at the time of accident. So far as the permit Exh.66 is concerned, he could not state whether at the time of accident it was valid or not. However he denied that Shriram Transport Finance and General Insurance Company are similar therefore the respondent No.3 is liable to pay compensation.

17. It is evident from the testimony of RW2 Ashwinkumar More the RTO Officer at Exh.72 that as per the letter vide Exh.75 he has authorized to depose before the Court and he has brought the office record in respect of vehicle bearing No.MH-04/CG-2259. As per their office record the verified copy produced in the Court have the same contents. He further testified that the vehicle MH-04/CG-2259 is on the name of Chandrakant Ganesh Bansode and validity period for permit from 10.02.2014 to 09.02.2019. He further deposed that their record also shows the said permit renewed in their office on 20.02.2019 by payment of necessary fees and the renewal date 20.02.2019 to 19.02.2024 vide document Exh.76. He further testified that as per their office record the vehicle MH-04/CG-2259 was not having valid permit during the period 10.02.2019 to 19.02.2019.

18. The Ld.Counsel of claimants cross-examined this witness on the point of procedure of renewal and he admitted that if any person wants to renew the licence or permit he has to file an application with necessary fees and if there is delay he has to pay fine on which permit can be renewed. This witness specifically admits that Chandrakant Ganesh Bansode was filed an application for renewal of permit for the vehicle No.MH-04/CG-2259 and paid necessary fees along with fine. He further admitted that after receiving challan in respect of renewal application its office copy used to be maintained in their office. It has brought on record that in the present case the application of Chandrakant Ganesh Bansode and office copy of challan have not been produced on record by respondent No.3.

He further admitted that if there is delay for passing order on renewal application then also the effect of application will be treated from the date of application. One material admission brought on record by the Ld.Counsel of claimants that Chandrakant Ganesh Bansode has filed the application of renewal of permit on 20.02.2019 and paid challan on the same day. So far as the document Exh.77 the particulars of the vehicle online copy is concerned, he admitted that he has not given 65-B certificate in respect of the same.

19. 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 Sufiyan Sarguro died in vehicular accident of the offending truck bearing No.MH-04/CG-2259. Due to rash and negligent driving on part of respondent No.1 the police of Rural Police Station Ratnagiri registered the offence vide CR No.27/2019 under sections 304(A), 279, 337, 338 of IPC and under section 184 of the M.V.Act against the driver of offending truck. The Ld. Counsel vehemently argued that due to sad demise of Sufiyan Sarguro the claimants have sustained loss of love & affection, dependency benefit, future loss of income. It has also argued that due to sudden death of Sufiyan the claimants also entitled filial consortium, loss of estate and compensation under different heads from respondents jointly & severally. While arguing the case the Ld. Counsel of claimants placed reliance on following case laws.

1. Bijju v. H.G.Vineeth K.R. & Ors.reported in 2020(4) TAC 96 (Ker.)

2. K. Yallappa & Ors. v. N. Manju & Ors. reported in 2020(2) TAC 302 (Kant)
3. Smt. Shashikala & Ors. v. Mohammed Arif & Ors. reported in 2020(2) TAC 783 (Kant)
4. Papathi v. P. Velumani & Ors. reported in 2020(4) TAC 284 (Mad.)
5. Mahseen & Anr. v. Babu & Ors. reported in 2020(2)TAC 552 (Allahabad High Court)
6. Deepak Singh v. Mukesh Kumar decided on 10.02.2025
7. Kirti v. Oriental Insurance Co. decided on 05.01.2021
8. Magma General Insurance Co. v. Nanu Ram decided on 18.09.2018

20. However, it is counter argued by the Ld. Counsel of respondent No.3 that the offending truck involved in the accident was admittedly goods carriage vehicle by its registration book extract Exh.22 and goods carriage permit extract Exh.45. However the deceased was unlawfully travelling in the truck and he was neither the owner of the goods nor the employee of the owner of the offending truck, but he was unauthorized passenger in goods vehicle. He signaled to stop the truck in Lanja and got into it. This position can be cleared by the FIR filed on 20.02.2019 by Sanjay Zagade vide Exh.38. The statement of the truck driver i.e. respondent No.1 also reflects this fact. It is further argued that the statement of respondent No.2 owner of the offending truck also mentioned that the deceased was travelling as a passenger from the offending truck. It is vehemently argued that neither the truck driver nor the truck owner stated that the deceased Sufiyan was cleaner on the

truck. The owner of the offending truck i.e. respondent No.2 even not known the name of deceased Sufiyan but they came to know after the incident. Similarly the witness Jayawant Sutar has also not stated deceased Sufiyan was cleaner on the offending truck. The FIR has not been challenged and no controversy raised against it. It means in view of the insurance policy Exh.65 which has coverage the third party, driver and cleaner of the offending truck therefore in order to receive handsome compensation amount claimants have fraudulently taken the plea that deceased was cleaner on offending truck. While arguing the Ld.Counsel of respondent No.3 brought to the notice of this Court that when the insurance company has no liability to pay at all then it cannot be compelled by passing ‘pay and recover’ order. As such Article 142 of the does not cover such type of cases. Therefore claim is liable to be dismissed against the respondent No.3. While arguing the case the Ld. Counsel of respondent No.3 placed reliance on following case laws.

1. Meenu B. Mehta & Anr. v. Balkrishna Ramchandra Nayan & Anr. reported in (1977) ACJ 118
2. Oriental Insurance Company Limited v. Premlata Shukla reported in 2007 LawSuit (SC) 628
3. New India Assurance Co. Litd. v. Vedwati & ors. Reported in AIR 2007 SC 1334
4. United India Insurance Company Limited v. Raghunath Domaji Sahare reported in 2018 0 ACJ 156
5. M/s. Godavari FinanceCo. v. Degala Satyanarayanamma & Ors. Reported in 2008 Supreme (SC) 636

6. Farzana d/o Abbas Bhai v. Maharashtra State Road Transport Corporation reported in 2016 (4) ACC 191
7. Ishwar Chandra v. Oriental Insurance Co. Ltd. reported in 2007 LawSuit (SC) 277
8. United India Insurance Co. Ltd. v. Anubai Gopichand Thakare & Ors. reported in (2008) 3 ACC 280
9. National Insurance Co. Ltd. v. Parvathneni & Anr. reported in 2009 Supreme (SC) 1513
10. New India Assurance Co. Ltd. v. Shanthi Mascarenhas in M.F.A. No.4427 of 2010 (MV) decided on 12.07.2018
11. Amudhavalli & Ors. v. HDFC Ergo General Insurance Company Limited & Ors.reported in 2025 GoJuris (SC) 1343

21. In the light of above discussion on carefully scrutinizing the oral as well as documentary evidence on record it is very much clear that due to rash and negligent act on part of driver of offending truck bearing No.MH-04/CG-2259 the police of Rural Police Station Ratnagiri registered the offence vide CR No.27/2019 under sections 304(A), 279, 337, 338 of IPC and under section 184 of the M.V.Act against the driver of offending truck. So far as rash & negligent driving on the part of respondent No.1 is concerned, on carefully scrutinizing the spot panchanama and other police papers etc. it reflects that the spot is situated on Mumbai-Goa Highway at village Nivali, Sheltewadi, District Ratnagiri. Similarly there is heavy slope and U turn on the tar road. The said tar road having width of 14 feet and both sides having 5 feet strips. The offending truck bearing No.MH-04/CG-2259 proceeded towards hilly area and collided

on driver side due to which the steel material from the truck lying on road. It also reflects from the spot panchanama that the pieces of glass, pieces of iron sheet, oil and other material in the truck lying on the road. Due to falling of the truck, the trees and bushes have been broken. It has also mentioned in the spot panchanama that the deceased Sufiyan pressed under the steel material and scummed to death and the truck driver of the truck sustained injuries. In view of such situation and circumstances on the spot it appears that the police have properly investigated accident case and then registered the offence against the driver of the offending truck bearing No.MH-04/CG-2259.

22. In view of above discussion on considering the oral as well as documentary evidence on record and attending circumstances of the case I found that the claimants have very well proved that Sufiyan died on 18.02.2019 in the vehicular accident due to the rash & negligent driving on the part of the driver of the offending truck i.e. respondent No.1 which was owned by respondent No.2 and insured with respondent No.3 Insurance company. However respondent No.3 insurance company also by way of oral as well as documentary evidence proved that there was a breach of terms & conditions of insurance policy. Accordingly I answer issue No.1 & 2 in the affirmative

As to Issue No.3 & 4:

23. 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 on behalf of the claimants, the claimant No.2 Shayeeda Sarguro reiterated the contentions of claim in respect of earning and monthly income of deceased Sufiyan by specifically deposing that her son Sufiyan healthy and stout man of 23 years and he was working as cleaner on accidental truck and getting income Rs.12,000/- per month and he was only earning member of their family.

24. It is significant to note here that in order to prove her contention about the source of income of deceased the claimants have neither examined any witness nor produced any documentary proof on record. On the contrary the Ld.Counsel of respondent No.3 insurance company has very well brought on record that the statement of complainant, driver & owner of the offending truck never mentioned that deceased was working as cleaner on the offending truck. Besides this FIR and relevant documents vide Exh.37 & 38 clearly reflects that on 18.2.2019 when the respondent No.1 was driving offending truck and proceeding towards Chiplun near Lanja bus stand one passenger stopped his truck by giving signal of his hand and he travelling with him. On carefully scrutinizing the relevant documents vide Exh.37 to 39 it is very much clear that the deceased Sufiyan was not cleaner on the offending truck. Furthermore claimants have neither brought on record any oral or documentary evidence about source of income of deceased. Therefore for want of sufficient evidence on record it cannot be said that the deceased was working as a cleaner on offending truck and getting

Rs.12,000/- per month. However, on carefully scrutinizing the relevant documents on record it appears that the claimants have produced school leaving certificate of deceased Sufiyan which shows that he was studied up to 12th standard in Arts faculty, therefore as per the well settled principle of law in **Papita Parmeshwar Mhaske & Anr. Vs. Maharashtra State Road Transport, reported in 2018(1) Mh.L.J.865.**, I found that the notional income of the deceased Rs.6,000/- per month will be proper in view of the present set of facts.

25. As regards to the age of deceased is concerned, the claimants have produced on record the certified copy of school leaving certificate vide Exh.47 which shows that date of birth of deceased is 03.06.1995 and the accident occurred on 18.02.2019. It means at the time of accident the deceased was 23 years old. 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 18 is applicable to the present case.

26. Having regard to the arguments advanced by Ld. Counsel of both parties, on perusing the case-laws, and on carefully scrutinizing the oral as well as documentary evidence on record it is very much clear that the claimants have very well proved that the deceased Sufiyan died in the vehicular accident dated 18.02.2019. So far as the addition towards future prospect in the income of deceased Sufiyan is concerned, at this juncture I would like to recourse of the observation 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."

27. In view of above prepositions of law on considering the factual & legal aspects of this case it is very much clear that the claimants neither produced any documentary evidence nor proved that the deceased Sufiyan was working as a cleaner on offending truck and getting income of Rs.12,000/- per month. There is also not a single evidence about his self employment or any permanent employment. In such circumstances the ratio of above case law is squarely applicable to the present set of facts. So far as deduction towards personal and living expenses of deceased is concerned, it appears that the deceased was unmarried person and contributing his income towards family leaving behind three family members, however he was unmarried therefore in view of settled position of law, 1/2 deduction towards personal expenses would be deducted from the income of deceased. So far as the death of deceased Sufiyan is concerned he was son of claimant No.1 & 2 and unmarried. Due to his sudden accidental death his family lost mental and financial support. Definitely parents are entitled the parental consortium in vehicular accidental death of

their son Sufiyan.

28. In the light of above discussion at this juncture, I would like to take recourse of observation of Hon'ble Supreme Court in case of **MAGMA General Insurance Co. Ltd. Vs. Nanu Ram reported in 2019 AIR (Civil) 171** 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."

29. In view of the above preposition of law and considering the attending circumstances of the case I am of the view that the Sufiyan was 23 years unmarried person and died in vehicular accident therefore his parents are entitled for the consortium. So far as the dependency aspect on the income of the deceased is concerned, the claimants have proved that the deceased Sufiyan was earning member and was contributing his income to the family. Due to the sad demise of earning member of family the claimant lost their financial & mental support. With regard to the dependency aspect is concerned the claimant No.1 is the father, claimant No.2 is mother and claimant No.3 is brother therefore these three family members comes within purview of dependents for seeking compensation. As such considering overall circumstances on record coupled with oral as well as documentary evidence the claimants are 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	6,000 X 12	72,000/-
B	1/2 deductions towards personal and living expenses	72,000/2 = 36,000	36,000/-
C	Pecuniary loss after applying multiplier of 14 as the deceased was 54 years old.	36,000 X 18	6,48,000/-
D	Add : Loss of Love & Affection (Rs.50,000/- to each claimant)		1,50,000/-
E	Add : Funeral Expenses		15,000/-
	Add : Loss of Estate		15,000/-
F	Add : Loss of filial consortium for parents (Rs.40,000 X 2)		80,000/-
	Total sum payable to the applicants		9,08,000/-

30. So far as liability to pay compensation is concerned while arguing the Ld.Counsel of the claimants brought to the notice of this court that Sufiyan Sarguro died in vehicular accident and at the time of accident the insurance policy was effective. Admittedly after the accident on making inquiry of the case, the offence is registered by the police of Rural Police Station Ratnagiri against the driver of the offending truck. It has brought to the notice of this Court that the

claimants have cross-examined both the witnesses of Insurance Company and brought on record material admissions which are in favour of claimants. The claimants have tried to bring on record sufficient oral as well as documentary evidence to prove their claim. Therefore respondent No.1 to 3 are jointly and severally liable to pay compensation to the claimants.

31. However it is counter argued by the Ld.Counsel of respondent No.3 insurance company that by way of examining material witnesses the respondent No.3 proved that on 18.02.2019 the driver of the offending truck unauthorizedly taken the passenger who died in the alleged accident. As such there was breach of the terms & conditions of insurance policy Exh.65. Therefore as there is breach of terms & conditions of policy hence the order of pay and recover cannot be passed and the insurance company is not liable to pay compensation to the claimants and claim is liable to be dismissed against the respondent No.3.

32. In view of above discussion at this juncture I would like to take recourse of the observation of the Hon'ble Supreme Court in case of **New India Assurance Company Limited v. Vedawati & Ors.reported in AIR 2007 Supreme Court 1334** in which the Hon'ble Supreme Court observed that

> "Motor Vehicle Insurance Law in goods vehicle the passenger travelling the insurer not liable to pay compensation in case of injury or death of gratuitous passenger. The definition of goods carriage under the new Act does not include passengers unlike old Act."

33. Similarly the Hon'ble Supreme Court in case of **Amudhavalli & Ors. v. HDFC Ergo General Insurance Company Limited & Ors. reported in 2025 GoJuris (SC) 1343** in which it is observed that

> "Motor Vehicle Insurance Law when breach of policy conditions and impact on claim the insurance companies are not liable to indemnify the claims arising from goods vehicles carrying fare paying passengers in violation of policy conditions. The claimant must proceed against vehicle owners directly. The pay and recover order is inappropriate in case of breach of policy cnoditions."

34. In view of the above prepositions of law and on carefully scrutinizing the attending circumstances of the case I found that the claimants have very well proved the accidental death of Sufiyan under the purview of section 166 of the Motor Vehicle Act. As per the settled position of law the Motor Vehicle Act is social and beneficial legislation. The real object of beneficial legislation is to compensate for loss of earning member of the family which will be achieved and compensation can be disbursed without any delay. It is pertinent to note here that while arguing the Ld.Counsel of respondent No.3 put emphasis on this aspect that the claimants have not challenged the insurance policy Exh.65 and the said policy clearly spells the limited accidental coverage to driver, cleaner and third party only. Similarly the third party includes pedestrian or people in other vehicles but it does not include a party or person travelling in the same vehicle. Therefore in the present case the deceased either gratuitous or fare paying if presumed then he has not

covered by the present insurance policy Exh.65. It has broguht to the notice of this Court that the respondent No.1 was driving the offending truck with the consent of respondent No.2 and for his benefit. During journey driver allowed a passenger to travel by the vehicle hence the vehicle was used in contravention of conditions & limitations of the insurance policy as the passenger is excluded from coverage. As such the driver or the owner are responsible for this unauthorized act and the said act is outside the scope of policy hence the insurance company is not vicariously liable to indemnify owner against any loss arising out of accident. Apart from this, it is seen from record that the oral evidence of respondent No.3 insurance company on the point of no valid permit of offending truck, limited coverage of policy and breach of the policy conditions, is trustworthy and reliable being authorized persons of the insurance company and RTO Office. It is evident from the record that respondent No.1 & 2 neither contested the petition nor adduced rebuttal evidence against the present respondent No.3 insurance company on the factual and legal issues raised by present respondents, therefore adverse inference very well drawn against the respondent No.1 & 2. In view of such circumstances of the case the claimants are entitled the total compensation under different heads to the tune of Rs.9,08,000/-. So as per calculation made in tabular form supra the claimants are entitled total compensation of Rs.9,08,000/- only from respondent No.1 & 2 jointly and severally. However the claim is dismissed against the respondent No.3 Insurance Company.

35. The claimants have also 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.9,08,000/- @ 7% from the date of claim i.e. 05.12.2020 till its full realization.

36. In view of above findings I come to the conclusion that the claimants have proved their claim for seeking compensation only against respondent No.1 & 2 so they are entitled compensation only from the respondent No.1 & 2 jointly and severally @ 7% interest on the compensation amount of Rs.9,08,000/-. Accordingly I answer the issue No.3 & 4 in the affirmative and proceed to pass following order.

ORDER

1] The claim petition is partly allowed with proportionate costs against respondent No.1 & 2 only.

2] The claim petition is dismissed against the respondent No.3 Insurance Company.

3] The respondent No.1 & 2 are directed to pay jointly and severally the compensation amount of Rs.9,08,000/- (Rupees Nine Lac, Eight Thousands Only) with 7% interest to the claimants from the date of filing of this petition i.e.05.12.2020 till its full realization, including NFL amount.

4] The aforesaid compensation amount has to be apportioned amongst claimants as follows :
Claimant No.1 (Father) : 3,50,000/-
Claimant No.2 (Mother) : 3,50,000/-
Claimant No.3 (Brother) : 2,08,000/-

4] The amount payable to the claimants 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

5] The claimants are directed to pay the deficit court fees as per rule.

6] Award be drawn up accordingly.

ANITA SHRIRANG NEWASE

Digitally signed by ANITA SHRIRANG NEWASE
Date: 2026.05.29 19:01:35 +0530

(Dr. Anita S. Newase)

Date: 31.03.2026 Member, MACT Chiplun

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.87/2020
Name of Stenographer		Sandeep S. Patil
Name of Court		MACT, Chiplun.
Dictated on computer by the P.O.on		31.03.2026
Judgment signed by the P.O. on		31.03.2026
Judgment uploaded on		31.03.2026