MHAU010024512023

Presented on	: 13-03-2023
Registered on	: 03-05-2023
Decided on	: 23-01-2026
Duration	: Y-2, M-10, D-10

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL AURANGABAD, AT AURANGABAD.
(Presided over by N.M.Jamadar, Member, MACT)

M.A.C.P.No.360/2023
Exh.No.58.

Janabai Damodhar Laghane,
Age : 76 years, Occup.: Nil,
R/o. : Bhivdhanore, Tq. Gangapur,
Dist. Aurangabad. **....Claimant**

V e r s u s

1. Ravindra Namdeo Chavan,
Age : 28 years, Occup.: Driver,
R/o : Dheku Khurd, Kusumtel,
Tq. Nandgaon, Dist. Nashik.

2. MAGMA HDI General Insurance Company,
Jalna Road, Above COSMOS Bank,
Aurangabad. **....Respondents.**

Petition under Section 166 of Motor Vehicles Act.

Appearance:
Shri. R.S. Damale, learned advocate for Claimant.
Shri.S.K.Labade, learned advocate for respondent no.1 (Without W.S.).
Shri. S.A. Deshpande, learned advocate for Respondent No.2.

J U D G M E N T
(Delivered on 23 January, 2026)

The instant claim petition has been filed U/sec. 166 of Motor Vehicles Act (for short "M.V. Act"), for grant of compensation regarding death of Ravindra Tarachand Laghane, who died in a vehicular accident involving Bajaj Pulser-125 motorcycle bearing registration No. MH-41-BJ-5905 (hereinafter referred to as "offending vehicle").

Brief facts of the case are as follows;

2. On 26.10.2022, deceased Ravindra Laghane was proceeding on motorcycle bearing No. MH-20-DU-3465. He was proceeding towards Lasoor Station. When he reached near Guest House, near Lasoor Station, the offending vehicle gave dash to him, causing death of Ravindra Laghane. The offending vehicle was owned and being driven by respondent no.1 and it was insured with respondent no.2.

3. After the accident and death of Ravindra Laghane, his funeral was done and later on his uncle Kalyan Bhausaheb Nage lodged report about the incident with Gangapur Police Station. On the basis thereof, Crime No. 469 of 2022, for the offences punishable U/secs. 279, 304-A, 337 and Section 338 of Indian Penal Code, came to be registered against the respondent no.1.

4. As per the contentions of the claimant, at the time of death, age of Ravindra Laghane was 23 years and he was working as a labourer in a brick factory of Vilas Bhausaheb Karande. His monthly income was Rs.15,000/-. The claimant being his grandmother, was solely dependent on his income. On these counts, the claimant has prayed for grant of compensation of Rs.77,40,000/-, with interest @ 18% per annum.

5. Respondent no.1 did not file written statement. Hence, the petition proceeding without his written statement.

6. Respondent no.2 has filed written statement at Exh.18 and categorically denied all the contentions in the claim petition. According to respondent no.2, there is delay in lodging FIR and hence, the story created is a concocted story, thereby falsely implicating the offending vehicle. It is also contended, that the claim has been filed in collusion with respondent no.1. Allegedly, the deceased had contravened the provisions of Motor Vehicles Act,

while driving his motorcycle bearing No. MH-20-DU-3465. He was not wearing helmet. Allegedly, the respondent no.1 was not having effective and valid driving license and permit. Thus, contending that the claim is exorbitant, the respondent no.2 prayed to dismiss the claim and in case if the claim is to be allowed, alternatively it is submitted that the deceased was equally liable for accident and hence, the principle of contributory negligence shall be considered and the interest on the amount of compensation shall not exceed 6% per annum.

7. The issues are at Exh.19. I reproduce the issues along with my findings thereon for the reasons to follow :

	Issues		Findings
1.	Whether claimant proves, that alleged accident dated 26.10.2022, took place near Government Guest House, Gangapur-Lasoor Station Road, Tq. Gangapur, Dist. Aurangabad, due to rash and negligent driving of the driver of Bajaj Pulser-125 motorcycle No. MH-41-BJ-5905 ?	:	Yes.
2.	Whether the claimant proves, that Ravindra Tarachand Laghane died due to injuries sustained in alleged accident dated 26.10.2022 ?	:	Yes.
3.	Whether the claimants further prove, that respondent no.1 driver and respondent no.2 insurer of Bajaj Pulser-125 motorcycle No. MH-41-BJ-5905 are liable for paying compensation ?	:	Yes as per final order.
4.	Whether the claimant is entitled for the compensation ? If yes, what is just and reasonable amount of compensation and against whom it is to be awarded ?	:	Partly Yes, as per final order.
5.	What Order and award ?	:	Petition is partly allowed.

R E A S O N S

<u>As to Issue Nos.1 and 2 :-</u>

8. So far as the accident is concerned, admittedly Janabai (C.W.01) is

not an eye witness and she has relied upon the police papers to substantiate her contentions. Although, respondent no.2 has contended, in the written statement that the offending vehicle was falsely involved in the case, no such cross-examination is conducted when Janabai (C.W.01) was examined. On the contrary, a suggestion was put to her that respondent no.1 was driving the offending vehicle by consuming liquor. Here, by virtue of such cross-examination, it is admitted that respondent no.1 was driving the offending vehicle. This would indicate, that the offending vehicle was in fact part of the accident.

9. By evidence of Vinit (R.W.03), a case is put forth by respondent no.2 that respondent no.2 had investigated the case independently and found that the offending vehicle was being driven by Pralhad Namdeo Chavan and not by respondent no.1. It is also contended, that said Pralhad Chavan was not holding a driving license. So far as, this theory put forth in oral evidence of Vinit (R.W.03) that one Pralhad Namdeo Chavan was driving the offending vehicle is concerned, in absence of pleading, this aspect cannot be considered. Moreover, it is important to note that when Vinit (R.W.03) was cross-examined, he admitted that no investigation report done by respondent no.2 is filed on record. Thus, when there is no investigation report on record as alleged in the evidence by Vinit (R.W.03), it follows that the theory that Pralhad Chavan was driving the offending vehicle has no base. Thus, neither there is pleading to that effect, nor there is evidence to support it. Therefore, this aspect being beyond pleading, cannot be considered. However, while deposing so, indirectly Vinit (R.W.03) admitted that the offending vehicle was part of the accident. Thus, this indicates that defence raised by respondent no.2 that offending vehicle was falsely implicated in the case goes away. If this is read along with cross-examination of Janabai (C.W.01), where it was suggested that respondent no.1 was driving the vehicle under influence of liquor, it is clear that admittedly respondent no.1 was driving the offending vehicle.

10. The aspect that respondent no.1 was driving the offending vehicle is also established from the police papers filed on record. The FIR indicates, that the offending vehicle had given dash to the motorcycle of the deceased. As per the registration certificate of offending vehicle (Exh.29) itself, its owner was respondent no.1. Thus, being owner, he was driving the offending vehicle. He had a valid driving license (Exh.30) on the date of accident. Thus, the theory put forth in the written statement, that the respondent no.1 was driving the offending vehicle without license also goes away.

11. From the discussion made above, on the basis of oral evidence, as well as the documents more particularly the FIR (Exh.21), the panchanama of place of incident (Exh.25) and the letter in response to MLC at Exh.26 it is clear that the deceased had died in a vehicular accident involving the offending vehicle driven by respondent no.1. Thus, it was respondent no.1 who drove the offending vehicle in rash and negligent manner and caused death of deceased. Therefore, I answer issues no.1 and 2 in the affirmative and record my findings accordingly.

As to Issues No. 3 to 5 :

12. Respondent no.2 has filed insurance policy at Exh.55. Its validity period was from 12.09.2022 to 11.09.2023. The accident took place on 26.10.2022. Thus, on the date of accident, the offending vehicle was duly insured with respondent no.2.

13. Since the respondent no.1 was the driver and owner of the offending vehicle responsible for causing accident and thereby death of Ravindra Laghane, he is liable to pay compensation to the claimant. Learned advocate for respondent No.2 Shri. S.A. Deshpande argued, that the respondent no.2 is not liable to pay compensation, since the driver of the offending vehicle was one Pralhad Namdeo Chavan and he was not possessing the driving license. Although, to substantiate this submission evidence of Dinesh (R.W.01) and

Mahesh (R.W.02), who are the witnesses from R.T.O. Office are examined, this evidence has no value, since as discussed earlier there is neither any pleading to that effect, nor evidence on the part of respondent no.2 that Pralhad Namdeo Chavan was driving the offending vehicle. Although, Dinesh (R.W.01) deposed, that he did not find driving license of respondent no.1 in the record, his evidence cannot be trusted, since the certified copy of driving license of respondent no.1 is already on record at Exh.30. Thus, the defence that the driver of offending vehicle was not the respondent no.1, is not sustained. With assumption, that the driver of the offending vehicle had no driving license, learned advocate Shri. A.S. Deshpande, for the respondent no.2 had submitted, that the principle of pay and recover is not available after amendment in Motor Vehicles Act. When there is no question of absence of driving license, there is no reason to apply the principle of pay and recover. Therefore, the judgment in the case of ***National Insurance Co. Ltd. Secunderabad Vs. Zanak and Ors., MANU/MH/0060/2014,*** placed on record by respondent no.2 has no application in the case in hand. For there being presence of effective and valid driving license with respondent no.1 on the date of accident, there is no breach of policy and hence, whatever compensation would be granted in the case, both respondents would be jointly and severally liable to pay the same.

14. Learned advocate Shri. S.A. Deshpande, for the respondent no.2 submitted, that deceased was not wearing a helmet at the time of accident and therefore, when his death was caused due to head injury, he can be held to be liable for contributory negligence and accordingly in whatever amount of compensation that may be granted, there shall be 30% of reduction towards contributory negligence. To substantiate his arguments, he relied upon following two cases :

(1) Siby Paul Vs. Parveen Kumar and Ors., MANU/KE/0421/2008; and

(2) The New India Assurance kCo. Ltd. Vs. Julius T.J. Freitas, in First Appeal No. 30932 of 2016, decided by Hon'ble High Court of

Judicature of Bombay, dated 19.12.2019.

15. I have gone through the observations made in both the said cases. In both the said cases, the rider, who suffered injury had suffered head injury and he was not wearing a helmet. Therefore, contributory negligence was held against the injured. In the case of ***New India Assurance*** (supra) by virtue of contributory negligence, the compensation amount was reduced up to 30% for want of helmet. In the case of ***Gunasekaran Vs. Dinesh and another, 2020 ACJ 2514***, relied upon by respondent no.2, the motorcyclist had sustained injuries and his leg was amputated. He was not wearing helmet, for which he was held to be liable for contributory negligence, and regarding not wearing helmet, the contributory negligence was considered at 10%.

16. In the case in hand, a suggestion was put to Janabai (C.W.01) that deceased was riding vehicle negligently. She denied it. However, it is to be noted that she was not an eye witness of the incident. On perusal of police papers, no where it appears that any helmet was found at the place of incident. Neither during postmortem (Exh.23), nor during inquest panchanama (Exh.25) or during panchanama of place of incident (Exh.25), it is reported that any helmet was found. As per the postmortem report at Exh.23, the deceased had died due to head injury. Thus, for absence of evidence that deceased was wearing helmet, as per the postmortem report, it can be said that because he was not wearing helmet, he suffered head injury and died. Therefore, not wearing helmet is a contributory negligence, as held in the case of ***Siby*** (supra), ***Gunasekaran*** (supra) and ***The New India Assurance Company*** (supra). In the case of ***Gunasekaran*** (supra), the negligence was considered up to 10% because the injury was not to the head, but it was to the leg. In the case of ***The New India Assurance Company*** (supra), there was head injury and hence, contributory negligence was considered to be 30%. In the case in hand, the deceased died due to head injury. Therefore, if he had used helmet it would have prevented head injury or it would have at lease reduced the impact of injury. Hence, for

not wearing helmet, in the instant case, whatever compensation would be granted, the same shall be reduced by 30% for the reason of contributory negligence of deceased.

17. Coming to the quantum of compensation, according to claimant, age of deceased was 23 years at the time of accident and he was earning Rs.15,000/- per month by working on the brick factory of Vilas Bhausaheb Karande. No evidence regarding income is produced on record. Vilas Karande is not examined. Under such circumstances, learned advocate for respondent no.2 Shri. A.S. Deshpande submitted to consider notional income between Rs.7,000/- to Rs.8,000/- per month. While learned advocate for claimant Shri. R.S. Damale submitted to apply the minimum wages under the Minimum Wages Act and to consider the income of unskilled labour @ Rs.10,000/- per month.

18. As per the common knowledge for an unskilled labour considering income for the year 2023, it can be said that his notional income shall be Rs.10,000/- per month. In the case in hand, since the advocate for claimant Shri. R.S. Damale prayed for fixing notional income of Rs.10,000/- per month, I find it appropriate to consider the notional income of deceased to be Rs.10,000/- per month. Regarding the age of deceased, though there is no document filed on record, the documents of medical papers show the age to be 23 years. The letter at Exh.26 clarifies the same, besides the police report at Exh.27 and the acknowledgment receipt of dead body at Exh.28. Therefore, there is no harm to consider age of the deceased to be 23 years.

19. As per the chart in the case of ***Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (5) Mh.L.J., 775***, for the age 23 years, the appropriate multiplier is "18". The notional income as discussed above, is Rs.10,000/- per month. As per the case of ***National Insurance Company Ltd., Vs. Pranay Sethi and Ors., 2017 (3) G.L.H., 536***, looking to the age of the deceased, towards loss of future prospects, the percentage of increase

shall be 40%. With all these aspects, the calculation can be done. Moreover, it is important to mention that the claimant is only dependent of deceased after death of parents of deceased. Hence, she being only dependent and the deceased having died as a bachelor, 50% deduction from his income shall be made towards personal expenses of the deceased and the remaining 50% would be the amount of loss of dependency.

20. When the notional monthly income was Rs.10,000/-, the yearly income comes to Rs.1,20,000/- (Rs.10,000/- x 12). The same has to be divided by "2" to find personal expenses of deceased. It comes to Rs.60,000/-. The remaining amount of Rs.60,000/- is the loss of dependency. 40% thereof comes to Rs.24,000/-. The same shall be added in the amount of loss of dependency to draw multiplicand. The total comes to Rs.84,000/- (Rs.60,000/- (+) Rs. 24,000/-). When it is multiplied by 18, which is multiplier, the total comes to Rs.15,12,000/-. This is the amount of compensation drawn by the above calculation. Towards contributory negligence 30% of this amount shall be deducted. The amount of 30% comes to Rs.4,53,600/-. Thus, after deducting Rs.4,53,600/-, the amount of compensation comes to Rs.10,58,400/- (Rs.15,12,000/- (-) Rs.4,53,600/-). As directed in the case of ***National Insurance Company*** (supra), by granting 10% increase after every three years towards amount of loss of estate Rs.18.000/-, funeral expenses Rs.18,000/- and loss of consortium Rs.48,000/- can be granted. The total comes to Rs.11,42,400/-. This is the amount of compensation which the claimant is entitled for.

21. With regard to the interest amount, the learned advocate for respondent no.2 Shri. A.S. Deshpande, by placing reliance on the case of ***National Insurance Co. Ltd. Vs. Yad Ram and others, 2023 ACJ 2659***, submitted, to not to consider granting of interest @ 9% per annum. In the said case the interest rate as per FDR was considered @ 7.5%. However, it is

important to mention that in the written statement itself by referring the judgment of the Hon'ble Apex Court in paragraph No.14, respondent no.2 reproduced the judgment mentioning therein that interest @ 9% per annum would be relevant. The interest granted by bank is normally made either quarterly rest, six monthly rest etc. This Tribunal is not going to grant such interest. Therefore, granting of sample interest @ 9% per annum would suffice the purpose. Needless to say, that the said interest amount shall be calculated from the date of filing of the claim petition till actual payment of the compensation amount.

22. Considering the discussion made above, I answer issue no.3 in the affirmative and as per final order, and issue no.4 as partly in the affirmative and record my findings accordingly. The claim petition, therefore, deserves to be allowed with proportionate costs. Both respondents shall pay jointly and severally. Hence, in the result and in answer to issue no.5, I pass the following order :-

O r d e r

1. The petition is partly allowed with proportionate costs.

2. The claimants are entitled to compensation amount of Rs.11,42,400/- (Rs. Eleven Lakhs Fourty Two Thousand and Four Hundred Only).

3. The respondents No.1 and 2 are directed to jointly and severally pay an amount of Rs.11,42,400/- (Rs. Eleven Lakhs Fourty Two Thousand and Four Hundred Only) inclusive of N.F.L. amount, if any, to claimant along with interest @ 9% p.a. to be charged from the date of filing of the petition till realization of the entire amount.

4. The respondents are directed to deposit the compensation amount of Rs.11,42,400/- (Rs. Eleven Lakhs Fourty Two Thousand and Four Hundred Only) along with the interest as above, by R.T.G.S. or N.E.F.T. in the Bank account of of the claimant and intimate compliance thereof to this Tribunal as early as possible.

For that purpose the Claimant is directed to produce the bank details with a certificate of Banker giving details of her Bank account including IFSC code or a copy of cancelled cheque of her bank account. These details shall also be given to respondents. This compliance shall be done within 15 days from the date of judgment. If the claimant has no Bank account, then she shall immediately open the Bank account and make compliance accordingly within two weeks.

Draw award accordingly.
(Dictated and pronounced in open court).

Digitally signed by NASIRHUSEN MOHIDDIN JAMADAR
Date: 2026.01.23 15:12:09 +0530

Place : Aurangabad. (N. M. Jamadar)
Dated : 23.01.2026. Member, M.A.C.T, Aurangabad.

CERTIFICATE

I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment.

Name of the Steno	:	MR. D.D. Bhalerao
Name of the Court	:	N. M. Jamadar Member, MACT, Aurangabad.
Date	:	23.01.2026
Judgment signed by Presiding Officer on	:	23.01.2026
Judgment uploaded on	:	23.01.2026