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Decided on : 27/04/2026.
Duration : Y-04 M-04 D-04

Before the Member, Motor Accident Claims Tribunal, Solapur.

(Presided over by Shri.PPRajvaidya, DJ-2 and ASJ)

M.A.C. Petition No. 236 of 2021.

Exh. _____

(CNR No. MHSO-0100-6702-2021)

- | | |
|---|-------------------------------|
| 1.Vanmala wd/o Birudev Pujari, | } |
| Age 30 years, Occ.: Household, | } |
| 2.Prajakta d/o. Birudev Pujari, | } |
| Age 12 years, Occ.: Education, | } |
| 3.Pramod s/o. Birudev Pujari, | } |
| Age 10 years, Occ.: Education, | } |
| [Claimants No.2 and 3 since minors under the | } |
| guardianship of their mother – Claimant No.1] | } |
| 4.Balabai w/o. Abhiman Pujari, | } |
| Age 56 years, Occ.: Household, | } |
| 5.Abhiman s/o Uddhav Pujari, | } |
| Age – 60 years, Occupation – Nothing, | } |
| All R/o. Savaleshwar, Tal. Mohol, Dist. Solapur | }... <u>CLAIMANTS.</u> |

Versus

- | | |
|---|-------------------------------|
| 1.Kamal Commercial Vehicles Pvt.Ltd., | } |
| at Mile No.15, NH 15, Sri Ganganagar Road, | } |
| Near Kalpataru Ware, Major Pumasinh Nagar, | } |
| Bikaner District, Bikaner 334 001 (Rajasthan) | } |
| 2.United India Insurance Company Ltd., | } |
| Through Divisional Manager, B.O. Solapur, | } |
| Ishwar Degaonkar Niwas, Park Chowk, | } |
| Opp.Shubhray Tower, Datta Chowk, Solapur. | }... <u>OPPONENTS.</u> |

Shri.B.B. Deshmukh, learned Advocate for the Claimants.

Opponent No.1 remained Ex-parte.

Shri.G.H.Kulkarni, learned Advocate for the Opponent No.2.

J U D G M E N T

(Delivered on 27/04/2026)

1. This is a petition under Section 166 of Motor Vehicles Act for seeking compensation in respect of vehicular accidental death of Birudev Abhiman Pujari.

2. In brief, case of claimants may be stated as under;

Birudev Abhiman Pujari was proceeding towards village Manegaon on 02/11/2021 by his motor cycle No. 13 AU 8096 by riding it with due care and caution. When he had reached near the field of Miling Kashid at village Pangaon on Barshi-Solapur road, offending Tipper bearing Engine No.926956D0116020 and Chassis No.MEC881FCKMP112016 came from opposite direction in high speed and gave a dash to the motor cycle of Birudev resulting in causing accident. Birudev sustained multiple grievous injuries on vital parts of body in the said accident to which he succumbed on the same day. Accident had occurred due to sole negligence of driver of offending tipper in respect of which, Crime No.349/2021 for offences PUS 279, 304A of IPC came to be registered against him at P.S. Taluka Police Station, Barshi.

3. Claimant No.1 is the widow, claimant No.2 is the minor daughter, claimant NO.3 is the minor son, claimant No.4 is the mother and claimant NO.5 is father of deceased Birudev. All the claimants were depending on the income of deceased Birudev. He was doing private service as a workman and was getting salary @ Rs.16,000/- per month. He was earning Rs.10,000/- per month by selling fruits and vegetables so also he was earning Rs.50,000/- per year by doing crockery business. He was aged 35 years when accident took place. On account of untimely accidental death of Birudev, claimants have suffered loss of dependency. They have lost his love and affection also. Offending Tipper was owned by Opponent no.1 and it was insured with opponent NO.2 when accident took place. By calculating their entitlement for compensation under different heads, claimants have

prayed to direct the opponents to jointly and severally pay them compensation of Rs.73,23,000/- with future interest @12% per annum from the date of accident till its complete realization.

4. Opponent No.1 remained ex-parte.

5. Opponent No.2 has resisted the petition by filing written statement below Exh.19. By denying the contentions raised in the petition, opponent No.2 has contended that the driver of offending tipper allegedly involved in the accident was not holding valid and effective driving license and the alleged accident had taken place due to sole negligence of deceased Birudev himself. Opponent No.2 has further contended that petition is bad for non joinder of the driver of offending tipper so also owner and insurer of the motor cycle as opponents to this petition. It is contended that owner of offending tipper contravened provisions of Section 158 (6) and 134 of Motor Vehicles Act. Opponent No.2 has contended that the claimants should prove the accident in question, involvement of offending tipper, age and income of the deceased so also, their dependency on the deceased. It is contended that owner of the offending tipper has committed breach of insurance policy as the vehicle did not have fitness certificate and permit. It is contended that transit policy was issued and the vehicle was not registered hence, opponent No.2 is not liable to pay compensation. On these grounds, opponent No.2 has claimed dismissal of the petition.

6. My learned Predecessor has framed issues at Exh.21. I recorded my findings on those issues for the reasons stated thereunder;

<u>ISSUES</u>	<u>FINDINGS</u>
1.Whether the petitioners prove that the accident took place due to rash and negligent driving of the New Tipper bearing Eng. No.926956D0116020 and Chassis No.NEC881 FCKMP112016 by its driver ?	...Proved
2.Whether the petitioners prove that deceased Birudev Abhiman Pujari died in the alleged motor vehicle accident ?	...Proved
3.Whether the claimants are entitled to get compensation ? If yes, what should be the quantum ?	...Yes, as per final order.
4.Who is liable to pay the compensation ?	...Opponents jointly and severally.
5.What award ?	...As per final order.

REASONS

7. In support of their claim, claimants have examined two witnesses viz. PW-1 Vanmala (claimant No.1) by filing her affidavit in lieu of examination-in-chief at Exh.22 and PW-2 Atul at Exh.41. Besides it, claimants have produced copy of FIR at Exh.23, copy of statement of informant at Exh.24, copy of supplementary statement of informant at Exh.25, copy of statement of Bharat Lokhande at Exh.26, copy of statement of Atul Jagdale (PW2) at Exh.27, copy of Spot Panchanama at Exh.28, copy of Inquest Panchanama at Exh.29, copy of PM report at Exh.30, copy of temporary passing certificate at Exh.31, copy of insurance policy at Exh.32, copy of Driving License at Exh.33, copy of confirmation in service letter at Exh.34, copy of I-card at Exh.35 and copy of Shop Act License at Exh.36. As against this, opponent No.2 has not examined any witness on its behalf. It has produced copy of insurance policy with list Exh.46. I have heard learned Adv. Shri. B.B.

Deshmukh for claimants and learned Adv. Shri. G.H. Kulkarni for opponent No.2.

AS TO ISSUE NO.(1) and (2) :

8. PW-1 Vanmala has reiterated most of the contents of petition Exh.1 in her affidavit of examination-in-chief. She has admitted in her cross-examination that she is not the eyewitness of the accident, her husband had sustained injury to his head, he had not worn helmet that time and motor cycle was dashed by unknown vehicle. So far as the happening of accident is concerned, since PW-1 Vanmala is not the eye witness, it will have to be seen whether the other evidence available on record is sufficient to show that accident had occurred due to rash and negligent driving of offending tipper by its driver.

9. Applicants have placed on record copies of FIR, statements of witnesses and final report submitted by the police. In FIR lodged by the informant Vishal on 03/11/2021 in respect of accident taken place on 02/11/2021, it is mentioned that motor cycle of deceased was dashed by some unknown vehicle. Endorsement made on the said report shows that crime was registered against unknown person. Statements of two witnesses viz Bharat Lokhande and Atul Jagdale (PW-2) appear to have recorded by the investigating officer on 04/11/2021 from which, involvement of offending vehicle is shown to have revealed to the investigating officer. Claimants have examined one of those two witnesses in the form of PW-2 Atul.

10. PW-2 Atul has stated in his evidence that on 02/11/2021 at about 8.00 pm, he along with his friend Bharat Lokhande was proceeding towards his village Sakat by motor cycle and they saw that

one big vehicle gave a dash to one motor cycle which was coming from Solapur and the driver of said vehicle was proceeding with the vehicle without stopping it hence, PW-2 Atul and his friend had followed it and stopped it with the help of others. He stated that said vehicle was of BharatBenz company having temporary passing No. T-1021TN9205G and the Driver stated his name as Kamal Singh Tomar, r/o. Uttar Pradesh and thereafter said driver ran away. He stated that they found the injured lying on spot with motor cycle, mobile call was received on the mobile of said injured and he gave information to the relatives of said injured about accident. He stated that he learnt the name of injured as Birudev Abhiman Pujari, r/o. Sawaleshwar. He stated that he had sent the injured to the hospital and his statement was recorded by the police.

11. It has come in the cross examination of PW-2 Atul that he himself had not lodged report of accident with any police station, his presence is not noted in the spot panchanama, he himself had not taken motor cyclist to the hospital and he was having a mobile of dual SIM card with him that time. He further stated that he came to the Court from Pangaon which is at a distance of 60 kms and he cannot tell the numbers of the vehicles which he saw on the way. He has stated in his cross examination that he cannot tell registration number of offending vehicle.

12. Learned Advocate for insurance company, by taking me through the cross examination of PW-2 Atul, argued that the evidence of said witness is not at all reliable to reach to the conclusion that offending tipper was involved in the accident and accident had

occurred due to negligence of driver of said vehicle. It is true that there are certain discrepancies in the testimony of PW-2 Atul as, he stated that offending tipper was standing on spot when spot panchanama was prepared by the police but, the recitals of the spot panchanama state otherwise as presence of offending tipper is not noted anywhere therein at the time of its preparation. However, that much discrepancy is not sufficient to discard the testimony of the said witness because the matters of like nature are required to be decided on the touchstone of preponderance of probabilities and strict proof cannot be expected.

13. Perusal of cross examination of PW-2 Atul shows that his evidence is not denied specifically on behalf of insurance company that he was proceeding on motor cycle on the day of incident with his friend Bharat. Again, the claimants have placed on record copy of charge sheet which shows that police has charge sheeted driver Kamalsing Tomar of the offending tipper for causing the said accident. True it is that claimants have not examined the investigating officer however, it appears that the final report submitted by the investigating officer is mainly based on the statements of two eye witnesses viz PW-2 Atul and his friend Bharat. Insurance company has not examined any witness to rebut the evidence adduced and produced by the claimants. Again, though the claimant No.1 and witness No.2 of the claimants are cross examined at considerable length on behalf of the insurance company, perusal of the written statement of opponent No.2 shows that it has not specifically denied the involvement of offending tipper in the accident. It has simply called upon the claimants to prove involvement of the offending tipper in the accident. As the claimants have

examined one eye witness and produced copy of charge sheet, this Tribunal is of the opinion that the evidence adduced and produced by the claimants is sufficient to show the involvement of offending tipper in causing accident with deceased Birudev. Since the tipper driver alone is charge sheeted by the police, the evidence on record is sufficient for accepting that accident had occurred due to sole negligence of said driver.

14. Opponent NO.2 has not disputed that Birudev succumbed to the injuries caused to him in the said accident. Furthermore, the material available on record in the form of inquest panchanama and PM report is sufficient for accepting that Birudev died due to accidental injuries caused to him in the said accident. Thus, for these reasons, I recorded my findings on issues No.1 and 2 accordingly.

AS TO ISSUE NO.(3) and (4) :

15. PW-1 Vanmala has stated that she is the widow of deceased Birudev. Her said evidence is not denied on behalf of the contesting opponent. Likewise, her evidence that claimant No.2 is the minor daughter, claimant No.3 is the minor son, claimant No.4 is the mother and claimant No.5 is the father of deceased Birudev is also not denied during her cross examination by the contesting respondent No.2. It has come in the cross examination of PW-1 Vanmala that claimant No.5 owns 5 acres agricultural land and he is an agriculturist, so also, claimant No.4 is her mother in law. It has come in her cross examination that during lifetime of Birudev, they were bearing expenses of maintenance of family. Deceased Birudev was the husband of claimant No.1, he was father of minor claimants No.2 and 3 and he

was the son of claimants No.4 and 5 due to which, considering his relationship with the claimant, the evidence of PW-1 Vanmala is acceptable that deceased Birudev was maintaining the claimants.

16. PW-1 Vanmala has stated that deceased Birudev was earning Rs.10,176/- by serving in Cimmco Spinners Company, he was earning Rs.10,000/- per month by selling fruits and vegetables. PW-1 Vanmala has admitted in her cross examination that there is no material to show that deceased Birudev was engaged in business of sale of fruits and vegetables. In absence of any supporting material, her evidence in that regard is not acceptable. So far as her evidence that deceased Birudev was earning salary by serving in Cimmco Company is concerned, it has come in her cross examination that said company is closed down before 4-5 years. Claimants have placed on record the bank statement of deceased Birudev wherein some amounts are shown to have transferred from Cimmco Company, however, all those entries are of year 2018. Accident took place in November, 2021 and there is no material to show that deceased Birudev was serving in the Cimmco Company at the time of accident. In absence of proper supporting material, the evidence of PW-1 Vanmala is not acceptable that deceased Birudev was earning salary by serving in Cimmco Company when he died in vehicular accident. As such, since there is no proper material to show the income of deceased Birudev, his income shall have to be taken into consideration notionally. Accident took place in November, 2021 and considering the rates of labour charges in that year, it would be in the interest of justice to consider notional income of deceased Birudev @Rs.300/- per day i.e. Rs.9,000/- per month i.e. Rs.1,08,000/- per annum.

17. PW-1 Vanmala has stated in her cross examination that date of birth of deceased Birudev was 23/09/1984. Apparently, deceased Birudev was aged 37 years when he died in vehicular accident. As he was self employed person below the age of 40 years when accident took place, as is laid down by Hon'ble Apex Court in a case of **National Insurance Company Vs. Pranay Sethi** reported in **AIR 2017 SC 5157**, 40% amount shall have to be added while deciding his notional income and by making said addition, the annual notional income of deceased Birudev would come to Rs.1,51,200/- per annum.

18. Claimants were dependent on the income of the deceased Birudev. Considering the number of claimants to be 5, 1/4th amount from his notional income shall have to be deducted towards his personal and living expenses. By making the said deduction, the annual loss of dependency suffered by the claimants comes to Rs.1,13,400/- per annum.

19. As mentioned above, Birudev was aged 37 years when he died in vehicular accident and as such, he was within the age group of 36 to 40 years that time. Appropriate multiplier for the said age group would be 15 as is laid down by the Hon'ble Supreme Court in a case of **Delhi Transport Corporation Vs. Sarla Verma** reported in **AIR 2009 Supreme Court 3104**. By applying the said multiplier of 15, the future loss of income/dependency suffered by the claimants would come to Rs.17,01,000/-.

20. Claimants are entitled for loss of consortium on account of untimely death of Birudev. Since accident took place within five years

from the Judgment of Hon'ble Apex Court in a case of Pranay Sethi cited above, claimants are entitled to receive Rs.40,000/- each i.e. Rs.2,00,000/- in total towards loss of consortium.

21. Besides it, claimants are entitled to receive Rs.15,000/- under the head of funeral expenses and Rs.15,000/- under the head of loss of estate.

22. Thus, claimants are entitled for compensation under different heads as under;

Sr.No.	Heads		Amounts
1	Loss of Future income/Dependency	..	Rs.17,01,000/-.
2	Funeral Expenses	..	Rs.15,000/-
3	Loss to Estate	..	Rs.15,000/-
4	Loss of Consortium	..	Rs.2,00,000/-
	Total Compensation		Rs.19,31,000/-

23. As mentioned above, accident had occurred due to the sole negligence of the driver of offending vehicle bearing Engine No.926956D0116020. Said vehicle was owned by Opponent No.1. The opponent No.2 has placed on record copy of insurance policy which shows that offending vehicle was insured with opponent No.2 when accident took place. Insurance company though has alleged that owner of the offending vehicle committed breach of terms and conditions of insurance policy, it has not adduced or produced any evidence in support of its said contention hence, considering the contract of insurance between the opponents, both the opponents are jointly and

severally liable to pay the amount of compensation to the claimants. Having regards to the present rates of bank interest, it would be just to award interest @ Rs.7.5% per annum to the claimants on the amount of compensation from the date of filing of petition till its complete realization.

24. Considering the relationships of the claimants with deceased Birudev, it is clear that all of them are his Class-I heirs hence, it would be apposite to apportion the amount of compensation equally amongst them i.e. Rs.3,86,200/- plus accrued interest.

25. Claimant Nos.2 and 3 are minor hence, it would be just to direct that the amounts of their shares shall be invested in fixed deposit in their respective names, till they attain the age of majority, under the guardianship of claimant No.1 with liberty to her to quarterly withdraw the amounts of interest if she wants for utilizing the same for benefits of minor claimants.

26. Likewise, it would be just to direct that an amount of Rs.2,00,000/- each from the compensation awarded to claimant Nos.1, 4 and 5 shall be invested in fixed deposits in their respective names for five years with liberty to them to quarterly withdraw the amounts of accrued interests, if they want.

Thus, holding that petition deserves to be allowed partly as above with proportionate costs, I recorded my finding on issue No.(3) and (4) accordingly and pass the following order.

ORDER

(1) Motor Accident Claim Petition No.236 of 2021 is partly allowed with proportionate costs.

(2) Opponent Nos.1 and 2 shall jointly and severally pay the sum of Rs.19,31,000/- (Rs. Nineteen Lakhs Thirty One Thousand only) as compensation to the claimants with interest @ 7.5 % p.a.

from the date of filing of the petition till its complete realization.

(3) The amount of compensation be apportioned equally amongst the claimants No.1 to 5 i.e. Rs.3,86,200/- plus accrued interest each.

(4) Opponent Nos.1 and 2 shall directly remit the amounts of compensation in the bank accounts of claimants as under :

(a) Claimant No.1 Vanmala Birudev Pujari's bank account No.60432963189 lying with Bank of Maharashtra, Navi Peth branch, Solapur having IFS Code – MAHB0000017.

(b) Claimant No.2 Prajakta Birudev Pujari's bank account No.60432960701 lying with Bank of Maharashtra, Navi Peth branch, Solapur having IFS Code – MAHB0000017.

(c) Claimant No.3 Pramod Birudev Pujari's bank account No.60432960869 lying with Bank of Maharashtra, Navi Peth branch, Solapur having IFS Code – MAHB0000017.

(d) Claimant No.4 Balabai Abhiman Pujari's bank account No.45009602661 lying with State Bank of India, branch at Mohol, Solapur having IFS Code – SBIN0000288.

(e) Claimant No.5 Abhiman Uddhav Pujari's bank account No.44955790787 lying with State Bank of India, branch at Mohol, Solapur having IFS Code – SBIN0000288.

(5) On transfer of the amounts by the Opponents, concerned Bank of Maharashtra shall invest the entire amounts of shares of minor claimants No.2 and 3 in fixed deposit in their respective names under the guardianship of claimant No.1 Vanmala Birudev Pujari till they attain age of majority, with liberty to claimant No.1 to quarterly withdraw the amounts of accrued interests, if she wants, for utilizing the same for benefits of minor claimants.

(6) Likewise, on transfer of the amounts by the Opponents, concerned banks shall invest amount of Rs.2,00,000/- each from the shares of claimants No.1, 4 and 5 in fixed deposits in their respective names for five years with liberty to them to quarterly withdraw the amounts of accrued interests, if they desire.

(7) Inform the concerned banks accordingly.

(8) Opponents also shall intimate the concerned banks to invest the amounts in fixed deposits as mentioned above while depositing the compensation amounts in the respective banks accounts of the claimants.

(9) Award be drawn up accordingly.

Date : 27/04/2026.

(P.P.Rajvaidya)
Member, M.A.C.T.
SOLAPUR.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : Kurle S.S., Steno Grade 1
(b) Court : Member, MACT and DJ-2
(c) Order dictated by P.O. on : 27/04/2026.
(d) Order signed by P.O. on : 27/04/2026.
(e) Order uploaded on : 27/04/2026.