

**BEFORE III M.A.C.T., DHARAMGARH,
DISTRICT: KA LAHANDI**

Present:

Shri Gundicha Samantasinghar, O.S.J.S.,
Addl. District Judge-cum-III MACT,
Dharamgarh,

J.O. Code No. OD-00272.

Dated, this the 04th day of August, 2026

MAC No. 30 OF 2025

1. Purnami Sunani, aged about 65 years,
W/o. Late Gourab Sunani,
2. Bhimraj Sunani, aged about 31 years,
S/o. Late Gourab Sunani.

Both are residents of village:-Jharkundamal,
PO- Tarapur, PS- Koksara, Dist- Kalahandi.

... Petitioners

Versus.

1. Kamal Lochan Sunani, aged about 37 years,
S/o- Late Gourab Sunani, resident of village:-
Jharkundamal, PO- Tarapur, PS- Koksara,
Dist- Kalahandi.
2. The Divisional Manager, MAGMA HDI
General Insurance Co. Ltd., 1st Floor, Plot
No.1207/2777, Anand Plaza, Brahmeswar Bag,
Tankapani Road, Bhubaneswar, Pin-751018.

...Opp. Parties.

Appearance:

Counsel for the petitioners : Sri G.Mangaraj,
Advocate,
Dharamgarh.

Counsel for the OP No. 1 : Sri D.Naik,
Advocate,
Dharamgarh

Counsel for the OP No. 2 : Sri S.K.Mund,
Advocate,
Dharamgarh

Date of conclusion of argument : 03.08.2026

Date of delivery of Judgment : 04.08.2026

A W A R D

The petitioners being the mother and brother of one Praharee Sunani (here-in-after referred as deceased) have approached this Tribunal for awarding compensation of Rs.5,00,000/- (Rupees Five lakhs) on all heads U/s.164 of M.V. Act on account of death of their family head, Praharee Sunani in road accident.

2. The factual conception of this case in brief emerges that on 26.06.2025 around 08.00 PM near Mahichala Mandi in NH-26 under Junagarh P.S. while the deceased Praharee Sunani was driving her scooty vide Regd. No.OD-08-W-5404 accompanying her cousin sister Karishma Durga from Junagarh towards her village Jharakundamal, she was intervened by one dog, who suddenly confronted her on her road way, as a consequence, she lost balance and fell down on road and immediately, the offending motorcycle which was being driven on the same road by Regd. No.OD-02-AQ-6084 dashed against her. As a result, both of them sustained injuries and immediately they were shifted to CHC, Junagarh and subsequently, they were referred to DHH, Bhawanipatna where Praharee Sunani was declared

dead. Junagarh P.S. Case No.451 of 2025 was registered in connection with this incident.

The deceased was working as relationship officer in MAGMA Finance earning Rs.19,080/- per month and the petitioners are her family members, who were depending upon her income for their maintenance and sustenance and after her death they have been relentlessly suffering from destitution and deprivation of minimum amenities of life for their survival and therefore, they have claimed compensation for a sum of Rs.5,00,000/- from the insurance company which had insured the scooter the deceased was driving.

3. The OP No.1 is the registered owner of the Scooty which was driven by the deceased and such vehicle was insured by Magma HDI General Insurance company under policy No.P0024400020/4113/129996 which was valid from 29.03.2024 to 28.03.2025. He further pleads that the deceased was fully aware of driving of scooter and thus, the petitioners are entitled to compensation from Insurance company (OP No.2).

4. The Insurance Company i.e. MAGMA HDI General Insurance Co. Ltd. files separate written statement pleading that all the allegations encapsulated in the petition are false and fabricated. The deceased was driving the scooter was not possessing valid driving license at the relevant time of accident and she has contravened Rule 3 of Central Motor Rules, 1989 and she had not complied with Section 64-VB of Insurance

Act, 1938. She was also not protecting her head by wearing helmet and she was driving the scooty rashly and negligently causing alleged accident and the offending motorcycle was also driven in high speed which dashed against the scooty, as a consequence, the accident happened, but the offending motorcycle has not been impleaded as one of the necessary parties and no compensation has been claimed from the insurance company of the motorcycle. As such, the claim petition is defective in its structural construction and non-joinder necessary parties and therefore, the petitioners are never entitled to compensation, they have claimed from the Insurance Company (OP No.2).

5. From the respective pleadings of the parties, the following issues were formulated :-

ISSUES

- (i) Whether the claim application/ petition filed by the petitioners against the O.Ps. is maintainable under law?
- (ii) Whether on 26.06.2025 around 08.00 PM, the deceased was intercepted by an unprecedented accident which was quite unpredictable while she was driving scooty vide Regd. No.OD-08-W-5404 and thus, the insurance company of the scooty is liable for compensation due to alleged accident.
- (iii) Whether the claim petition falls within

the mischief of non-joinder of the owner of the offending motorcycle and the insurance company of such motorcycle?

6. In order to substantiate its case, the petitioners examined petitioner no.1 namely Bhimraj Sunani as P.W.1, who is the brother of the deceased and also adduced another witness namely Abhiram Kuber, who examined as P.W.2 and preferred to adduce some documents i.e., the certified copy of the FIR (three sheets) in in Junagarh PS Case No.451 dtd.27.06.2025 marked as Ext.1; certified copy of final form (4 sheets) marked as Ext.2, certified copy of seizure list of property seizure memo of Honda Activa scooty bearing Regd. No.OD-08-W-5404 in damaged condition along with yamaha 125 motorcycle bearing Regd. No.OD-02-AQ-6084 marked as Ext.3; certified copy of seizure list original RC and insurance certificate of the scooty marked as Ext.4; certified copy of seizure list of original DL in the name of Rupsan Khan marked as Ext.5; certified copy of seizure list of RC of vehicle bearing Regd. No.OD-08-AQ-6084 along with original Aadhar card of Shaik Imran marked as Ext.6; certified copy of seizure list of bed head ticket of Karishma Durga marked as Ext.7; certified copy of zimanama of original documents of Honda Activa bearing Regd. NO.OD-08-W-5404 marked as Ext.8; certified copy of zimanama of original RC of OD-02-AQ-6084 and Aadhar card of Shaik Imran marked as Ext.9; certified copy of PM

report of the deceased Praharee Sunani marked as Ext.10; certified copy of statements U/s.180 of BNSS, 2023 of seven witnesses marked as Ext.11 to Ext.11/6 respectively and original eye card of the deceased having employee ID No.MM10101158 marked as Ext.12 (with objection). He also filed the xerox copy of joining letter of Muthoot Micro issued by Chief Human Resource Officer in favour of the deceased and xerox copy of Aadhar card of the deceased and also filed the the original certificates of the deceased from matriculate towards Graduation and computer certificate.

On the other hand, the O.P. No. 2/Insurance company has examined its Legal Retainer namely Sarthak Mohanty as OPW1 and adduced some documents i.e. insurance policy along with terms and conditions (eight sheets) marked as Ext.A, copy of the Advocate's notice U/s.134(C) of MV Act along with original postal receipt of the notice marked as Ext.B. He also filed the copy of the FF of Junagarh P.S. Case No.451 dtd.27.06.2025 (four sheets).

ARGUMENT

7. Learned counsel for the petitioners ardently argued that the petitioners are the dependent family members of the deceased, who was contributing her whole salary towards the maintenance and sustenance of them and consequent upon his departure from his world, they have been now suffering from destitution and declaration of amenities of life and the insurance

company of this scooty which was driven by the deceased must compensate the immeasurable loss sustained to the family of the deceased.

On the other hand, learned counsel for the OP No.2 counter argued that the claim petition filed by the petitioners suffers from material discrepancies and not sequentially and categorically pleaded to establish that the petitioners are entitled to compensation.

There was no argument advanced on behalf of the OP No.1.

FINDINGS

Issue Nos. (ii) & (iii)

8. These issues are undoubtedly inter-related and therefore, these are simultaneously answered.

The petitioners exclusively relied upon the documentary evidence, mostly the certified copy of FIR marked as Ext.1 and certified copy of final form in connection with Junagarh PS Case No.451 dtd.27.06.2025 marked as Ext.2 which categorically illuminates that petitioner no.1, who is examined as P.W.1 evidences that on 26.06.2025 around 08.00 PM near Mahichala Mandi NH 26, Junagarh-Moter road, the deceased who was his sister driving the scooty standing registered in the name of his elder brother OP No.1 and she was returning from Junagarh to her village on such road accompanied her cousin sister Karishma Durga and suddenly one dog intervened in her driving so that she lost control and the offending motorcycle vide Regd.

No.OD-02-AQ-6084 dashed against her scooty, as a consequence, the driver of the scooty and Karishma Durga sustained injuries and both are shifted to CHC, Junagarh for treatment and they were further referred to hospital at Bhawanipatna for better treatment, but the driver of the scooty was declared dead.

He further continues that the scooty which the deceased was driving is insured by insurance company (OP No.2) and insurance certificate vide policy No.P0024400020/4113/129996 which was valid from 29.03.2024 to 28.03.2025 and police case was registered. Now question arises as to why the petitioners did not implead the offending motorcycle means its owner and the insurer of such motorcycle as necessary parties in this claim petition for awarding equitable and justifiable maintenance. No satisfactory and convincing explanation has been given by the petitioner and why they failed to implead them as parties would be better known to them. Of course, due to the intervention of a dog in front of the scooty of the deceased, she lost balance and fell down. There is no offending vehicle brought into picture for claiming compensation against such vehicle and the offending motorcycle was not arrayed as one of the necessary parties for claiming compensation from the insurance company which had insured the offending motorcycle. As such, the present case does not fall within the category of fault liability rather it falls within the category of no fault liability as

provided U/s.164 of MV Act. The argument projected by the learned counsel for the company is not so much heavy or strenuous to defeat the factual contention pleaded by the petitioners. Therefore, in such facts and circumstances, the petitioners are entitled to compensation for a sum of Rs.5,00,000/- as the death of the deceased had taken place in such accident as provided U/s.164 of MV Act.

9. **Issue No. (i)**

In continuation to foregoing discussion in connection with Issue Nos. (ii) & (iii), there is no evidence to challenge the maintainability of the claim petition and thus, claim application is maintainable against the O.Ps. Hence, it is ordered:

ORDER

The claim application/petition of the petitioners be and the same is allowed on contest against the opposite parties no.1 & 2.

The OP No.2/the Divisional Manager, MAGMA HDI General Insurance Co. Ltd. is directed to pay Rs.5,00,000/- (Rupees five lakhs) only towards compensation to the petitioners subject to the adjustment of payments if any paid so far with interest @ 6% per *annum* on aforesaid award from the date of filing of the application i.e. from 21.07.2025 till payment within a period of two months through this Tribunal.

Of the award, sum of Rs.3,00,000/- shall be given

in cash to the petitioner No.1 and Rs.2,00,000/- shall be given in cash to the petitioner No.2.

The amounts as stated above be paid to the petitioners through this Tribunal.

Sd/- G.Samantasinghar, 04.08.2026

Presiding Officer

III M.A.C.T., Dharamgarh

The judgment being typed to my dictation by using computer by stenographer is corrected by me pronounced in the open Court today on this the 04th day of August, 2026 under my hand and the seal of the Court.

Sd/- G.Samantasinghar, 04.08.2026

Presiding Officer

III M.A.C.T., Dharamgarh

LIST OF WITNESSES EXAMINED FOR PETITIONERS:

P.W.1 : Bhimra Sunani

P.W.2 : Abhiram Kuber

LIST OF WITNESSES EXAMINED FOR O.P. No. 1:

None

LIST OF WITNESSES EXAMINED FOR O.P. No. 2:

OPW 1 : Sarthak Mohanty

LIST OF DOCUMENTS ADMITTED IN EVIDENCE FOR PETITIONERS

Ext. 1 : Certified copy of the FIR (three sheets) in Junagarh P.S case No.451 dtd.27.06.2025.

Ext. 2 : Certified copy of the final form (three sheets) in the above noted.

Ext. 3 : Certified copy of seizure list of property seizure memo of one Honda Activa Scooty bearing Regd. No.OD-08-W-5404.

Ext. 4 : Certified copy of property seizure memo of original Registration certificate of vehicle bearing Regd. No.OD-08-W-5404

and original Magma General Insurance of vehicle bearing Regd. No. OD-08-W-5404 valid upto 28.03.2025.

- Ext. 5 : Certified copy of seizure list of original DL in the name of Rupsan Khan.
- Ext. 6 : Certified copy of seizure list of RC of vehicle bearing Regd. No.OD-08-AQ-6084 along with original Aadhar card of Shaik Imran.
- Ext. 7 : Certified copy of seizure list of bed head ticket of Karishma Durga.
- Ext. 8 : Certified copy of zimanama of original documents of Honda Activa bearing Regd. NO.OD-08-W-5404.
- Ext. 9 : Certified copy of zimanama of original RC of OD-02-AQ-6084 and Aadhar card of Shaik Imran.
- Ext. 10 : Certified copy of PM report of the deceased Praharee Sunani.
- Ext. 11 to 11/6 : Certified copy of statements U/s.180 of BNSS, 2023 of seven witnesses.
- Ext. 12 : Original eye card of the deceased having employee ID No.MM10101158.

LIST OF DOCUMENTS ADMITTED IN EVIDENCE FOR O.P. No.1:

N I L

LIST OF DOCUMENTS ADMITTED IN EVIDENCE FOR O.P. No. 2:

- Ext. A : Insurance policy along with terms and conditions (eight sheets).
- Ext. B : Copy of the Advocate's notice U/s.134(C) of MV Act along with original postal receipt of the notice

Sd/- G.Samantasinghar, 04.08.2026
Presiding Officer,
III MACT, Dharamagarh