

MHND010025522018 	Presented on : 03.09.2018 Registered on : 04.09.2018 Decided on : 04.07.2026 Duration : YY: MM: DD 07: 10 : 00
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**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL,
NANDED AT NANDED.**

(Present: Shri. T.S. Solankar)

M.A.C.P No. 359/2018

Exh. : (58)

CNR :MHND010025522018

	Sow. Kanchan w/o. Kiranrao Phutane Age 45 yrs., Occu; Nil R/a. C/o. Vinayak Gopalrao Phutane, 'Ramchandra Villa' Gopalkrishna Nagar, Near Ambika Mangal Karyalaya, Nanded.	CLAIMANT
	<i>VERSUS</i>	
1.	Ashok w/o. Ganpatrao Pathak Age major, Occu; Business, R/o Sugandha Nagar, Mantha Road, Mantha, Tq. Mantha, Dist. Jalna.	...RESPONDENTS
2.	The New India Assurance Company Ltd., Through its Divisional Office, Lahoti Complex, Vazirabad, Nanded.	

Claim : U/Sec. 166 of the Motor Vehicles Act for compensation.

Appearances:

Claimant	:	Ld. Adv. Shri. R.M. Kanakdande
Respondent No.1	:	Ex-parte
Respondent No.2	:	Ld. Adv. G.S. Aundhekar

J U D G M E N T

(Delivered on 4th day of July, 2026)

The claimant has filed this petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation for the permanent disability caused to her in a vehicular accident.

2. Facts necessary for disposal of claim petition :

2.1 On 01.06.2016 at about 10.35 a.m. the claimant was walking on the road opposite to Raj Gopalchari Garden, Parbhani. At the same time, a Alto Car bearing registration no. MH-21/V-7583 (i.e. hereinafter being referred as the 'offending vehicle') came from Shivaji Statue in high speed and rash and negligent manner and gave severe dash to the claimant. As a result, the claimant sustained grievous injuries, resulting into permanent disablement.

2.2 It is also stated that, initially the claimant was treated at Spandan I.C.U., Parbhani, however, following complication, she was lateron treated at Dhonde Neo Care Hospital, Nanded, Apokos Rehabilitation Hospital, Hyderabad (Appolo Health City), Vivekanand Hospital, Latur and lastly at Civil Hospital, Nanded. It is averred that, from 01.06.2016 till 04.08.2018 she incurred medical expenses to the tune of Rs.7,50,000/-.

2.3 It is further averred that, after due investigation and clinical examination, it was concluded that, the claimant sustained grievous injuries on head i.e. Aphasia with himiparasisa, dislocation of right shoulder, weakness in left upper and left lower

limbs, CLW near right eye, abrasion on right frontal region and Abrasion on left for arm.

2.4 It is stated that, due to accidental injuries, the claimant sustained permanent disablement to the extent of 100%.

2.5 At the time of accident, the claimant was B.Sc. Graduate and after her domestic work, she was taking home tuition upto the students of 10th to 12th Std. and was earning Rs.20,000/- per month. Due to accidental injuries, the claimant is not able to speech properly and thereby she has closed her tuition and lost entire earnings.

2.6 Later on, pursuant to report lodged by her brother-in-law Prakash Gopal Phutane on 30.06.2016. FIR bearing crime no.0332/2016 came to be registered with the Police Station New Mondha, Parbhani for offences punishable under Sections 279, 337 & 338 of the Indian Penal Code, 1980 ('the IPC', for short) against the driver of offending vehicle.

2.7 The offending vehicle is insured by respondent no.2. The accident was occurred due to carelessness, rash and negligent driving of the said car driver, therefore, submitted that, respondents no.1 and 2 are liable to pay, jointly and severally, compensation and damages to the tune of Rs. 25,00,000/- to the claimant along with interest of @ the rate of 18% *per annum*.

2.8 The respondent no.1 is the owner of the above numbered car and is insured by the respondent no. 2 i.e. insurance company.

3. Despite service of summons through paper proclamation, respondent no.1 did not appear in the matter, hence, matter was directed to be proceeded *ex-parte* against respondent no.1 *vide* order dated 08.11.2021.

4. Respondent no. 2 i.e. the insurance company of the offending vehicle involved in the accident has filed written statement at Exh.25 thereby denying all the material averments and allegations made in the claim petition.

5. It is the defence of respondent no.2 that, the offending vehicle was not involved in the accident. Driver was not driving offending vehicle in rash and negligent manner. No proof regarding, claimant was earning Rs.25,000/- per month through private coaching classes is filed on record. The respondent further denied hospitalization charges and other charges. The respondent further took objection to the jurisdiction of this Court contending that either Tribunal at Parbhani or Jalna should have tried the claim petition. The claimant was not residing at Nanded. The ownership of the vehicle is denied with available defences under Section 170 and prayed to reject the claim.

6. I have heard learned advocate Shri. R.M. Kanakdande for the claimant. Learned Advocate Shri. Aundhekar G.S. for the respondent no.2. Perused the claim petition, pleadings of the parties and the entire evidence available record.

7. On rival contentions and from pleadings of the parties, following issues were framed below Exh.30 by my learned

predecessor which arise for my determination on which I have recorded my findings along with reasons as under:-

Sr. No.	ISSUES	FINDINGS
1.	Whether the claimant proves that, the accident in question took place due to rash and negligent driving of the offending vehicle i.e. Maroti Alto Car bearing no. MH-21-V-7583?	Yes
2.	Whether the claimant sustained permanent disability due to injuries suffered by her in the said accident?	Yes
3.	Whether the claimant is entitled to get compensation? If yes, to what extent?	Yes: Rs.11,10,959/- along with interest @9% p.a.
4.	Who is liable to pay compensation?	From respondent no.1 & 2 jointly severally.
5.	What order ?	As per final order.

REASONS

8. JURISDICTION:

8.1 Learned advocate for the respondent no.2 objected to the jurisdiction of this Tribunal by contending that, the accident in question taken place at Parbhani, however, claim petition is filed before the Motor Accident Claims Tribunal, Nanded. The claimant has admitted that, no document regarding her address at Nanded is produced on record. In my opinion, the notice served on respondent no.2 was duly accepted. Further, the respondent no.2 has filed appearance. The Vakalatnama (Exh. 21) address memo

(Exh.22) dated 09.09.2019 respectively, which goes to show that, the Divisional Office of the respondent no.2 situate at Lahoti Complex, Near Prabhat Talkies, Vazirabad, Nanded. Therefore, this Tribunal has jurisdiction to try and decide this claim petition.

9. EVIDENCE OF THE PARTIES:

9.1 In order to establish the claim, the claimant has examined herself as PW-1 at Exh-32 by filing her affidavit of examination-in-chief. PW-1 has reiterated all the facts mentioned in the claim petition. The claimant has relied upon following documents:-

Sr. No.	Document	Exhibit No.
1.	Form Comp 'B' dt. 26.08.2020 issued by SGG Medical College and Hospital, Vishnupuri, Nanded.	Exh.28
2.	Certified copy of FIR	Exh.38
3.	Certified copy of Spot Panchnama	Exh.39
4.	Certified copy of Exh.1 in the charge-sheet bearing SCC no. 2217/ 2016	Exh.40
5.	Xerox copy of insurance policy	Exh.41
6.	Certified copy of MLC (Injury certificate)	Exh.42
7.	Xerox copy of Discharge card dated 01.06.2016 issued by Spandan I.C.U. Parbhani	Exh.43
8.	Xerox copy of Discharge card dated 16.06.2016 issued by Dhonde Hospital, Nanded	Exh.44
9.	Original Discharge card dated 28.07.2016 issued by Vivekanand Hospital, Latur	Exh.45
10.	Original Discharge card dated 04.08.2016 issued by Vivekanand Hospital, Latur	Exh.46
11.	Xerox copy of Discharge card dated	Exh.47

	25.07.2016 issued by Apokos Rehabilitation Hospital, Hyderabad.	
12.	Original Patient bills issued by Apokos Rehabilitation Hospital Hyderabad dated 26.07.2016	Exh.48
13.	Original Medical bill issued by Apollo Hospital, Hyderabad dated 29.01.2019	Exh.49
14.	Original Medical bill issued by Apollo Hospital, Hyderabad dated	Exh.50
15.	Original Ambulance bill dt. 24.07.2016 issued by Jai Malhar Ambulance Service, Nanded.	Exh.51
16.	Original Medical Bills (Colly)	Exh.52

9.2 The claimant also examined Dr. Abdul Sami Abdul Majid – Medical Officer who issued Exh.28 as PW-2 below Exh.36.

9.3. On the other hand, nobody from respondents stepped into witness box, nor they adduced any evidence in support their contentions despite sufficient opportunity.

10. Heard arguments of respective parties.

11. POINTS FOR DETERMINATION AND FINDINGS:

11.1 AS TO ISSUE NO. 1 :

11.2 The evidence of claimant disclose that, the accident took place on Vasmat road in front of Raja Gopalchari Garden Parbhani on 01.06.2016 at about 10.35 a.m. On 01.06.2016, while she was walking on said road and at about 10.35 a.m., the offending vehicle came from Shivaji Statue in a very fast speed and rash and negligent manner without following traffic rules. The driver lost control of offending vehicle and gave dash to the

claimant. As a result, she sustained grievous injuries, resulting into permanent disablement.

11.3 During cross-examination, on this point, the claimant has admitted that, she was walking in Parbhani city is a big road and crowded place. It is also admitted that, she was not knowing description of the vehicles which were travelling on the road. She has denied the suggestion that, there was no possibility of any vehicle driven in rash or negligent manner at such public place. I find that, there is no specific suggestion to claimant that, the road on which she was walking was crowded. Further, it is not expected for a person walking on the road to remember vehicle details.

11.4 Apart from that, no other material admission came from the mouth of the claimant. Even despite sufficient opportunity, though it was specific defence of respondent no.2 that, the vehicle of respondent no.1 was not involved in the accident, no witness is examined by the respondent no.2. There is no contrary evidence to discredit claimant or impeach her credibility.

11.5 The evidence of claimant further shows that, on 30.06.2016 in respect of accident dated 01.06.2016 FIR bearing Crime no. 332/2016 was registered by her brother-in-law at New Mondha Police Station, Parbhani. It further appears that, after investigation into above Crime, a charge-sheet (Exh.40) came to be filed against the Car driver before Ld. Judicial Magistrate F.C. Court no. 3 Parbhani, and said case is numbered as SCC no. 2217/2016.

11.6 In respect of this, it is settled position that the filing of charge-sheet against the driver of offending vehicle, *prima-facie* points to his culpability. In the case of **New India Assurance Company Ltd. Vs. Smt. Washima Bano (2022)**, SCC OnLine All 403 wherein it was held that, as a general rule the production of charge-sheet is *prima-facie* sufficient evidence of negligence for the purpose of claim under Section 166 of M.V. Act. There is no suggestion by the respondents regarding non-acceptance of charge-sheet. In view of the above, on the basis of preponderance of probability as a test of standard of proof in Motor Accident Claims cases, in my view, it is proved that, the accident took place due to rash and negligent driving of offending vehicle. Hence, I **answer Issue No. 1 in the affirmative.**

12. AS TO ISSUE NO. 2 :

12.1. In order to prove permanent disability due to vehicular injuries, the claimant was examined below **Exh-32** and relied upon documentary evidence **Exh.42** which is medico legal (Injury) Certificate issued by the Medical Officer, GGSMH Hospital, Nanded on 27.07.2016 and Form Comp-B at **Exh.28** issued by PW-2 Dr. Abdul - Medical Officer Dr. Shankarrao Chavan Govt. Medical College and Hospital, Vishnupuri, Nanded. **Exh.42** shows that, the claimant sustained injuries i.e. Aphasia with himiparasisa, Dislocation of right shoulder. Weakness in left upper and left lower limbs, CLW near right eye, Abrasion on right frontal region and Abrasion on left for arm.

12.2 If the Medico Legal Injury Certificate Exh.42 is

perused, it goes to show that, initially the claimant had suffered 4 injuries which can be narrated as under, thus.-

- 1) *CLW near right eye measuring 3 x 2 x 1 cm. simple in nature,*
- 2) *Abrasion on right frontal region measuring 3 x 1 cm. simple in nature,*
- 3) *Abrasion left forearm measuring 3 x 2 cm. simple in nature, and*
- 4) *Dislocation of right shoulder, grievous in nature.*

12.3 At the same time, if Form Comp B Exh.28 is perused, the injuries mentioned therein are altogether different. The doctor which issued injury certificate at Exh.42 is not examined by the claimant. In order to prove Form Comp B (Exh.-28) certificate, claimant examined PW-2 Dr. Abdul at Exh.36. He has deposed that, since 2011, he was working as a medical officer at Civil Hospital, Nanded. On 26.08.2020, he was present on duty. On that day, he examined the claimant Kanchan and issued Form Comp B after her examination. He stated that the contents of Form Comp B Exh.28 true and correct and same bears his signature and of the claimant. He opined that, the claimant suffered grievous and permanent disability to the extent of 80% and said injuries were not recoverable.

12.4 During the course of cross-examination, he admitted that, he has not brought order or circular empowering him to issue Form Comp B. He further admitted that, he has not brought any record of chart to show that, the claimant is having 80% permanent disability. Even, he has admitted that, he has not brought on record to show that, the claimant visited Civil Hospital

on that day. He stated that, the inward and outward number are not mentioned due to inadvertence. He has also stated that, he seen papers of the hospital brought by the claimant, but same is not brought by him before the Court. He is unable assign any reason as to why claimant has not referred to medical board for medical certificate. He denied the suggestion that, he is not empowered to issue Form Comp B.

12.5 When Form Comp B Exh.28 is tried to be proved through this witness, then it was the duty of the said witness to depose during his testimony that, what type of injuries he had observed while issuing the Form Comp B Exh.28. Admittedly, the accident in question took place in the year 2016, however, Form Comp B Exh.28 appears to have been issued in the year 2020, that means almost 4 years from the date of actual accident. In said certificate, in column no.2, the last injury of dislocation of right shoulder is mentioned, which matches with MLC injury certificate Exh.42.

12.6 If the evidence of PW-2 Dr. Abdul is perused, it does not show any evidence regarding receiving injuries as mentioned in Form Comp B Exh.28.

12.7 Learned advocate for the claimant submitted that, because of said accident various complications were arisen to the injured/claimant and, as a result, she was shifted from one hospital to another. To support said contention, the claimant relied upon discharge card Exh.43 which goes to show that, on 01.06.2016, the claimant was admitted in Spandan I.C.U.,

Parbhani following vehicular accident injuries as stated in the petition and on the same day, she was discharged. As per said certificate, right head injury was diagnosed and she was referred for CT Brain. There is another discharge certificate issued by Dhonde Hospital, Nanded at Exh.44 which goes to show that, on 02.06.2016 at about 2.00 a.m. she was admitted and on 16.06.2016 she was discharged. Further, it appears that, on 24.06.2016, the injured/claimant was admitted *vide* Exh.45 in Vivekanand Hospital, Latur and on 28.07.2016 she was discharged. She was admitted Apokos Rehabilitation Hospital, Hyderabad *vide* discharge summary Exh.47 on 16.06.2016 and discharged on 25.07.2016. In the said certificate, the head injury is diagnosed. Thereafter, it also appears that, on 27.06.2026 the injured claimant obtained medico legal injury certificate Exh.42 in respect of injury dated 27.07.2016 from Civil Hospital, Nanded. It also appears from Exh.46 that, she was admitted in Vivekanand Hospital, Latur on 03.08.2016 and discharged on 04.08.2016. But for different diagnosis.

12.8 If discharge summary below Exh.47 is seen, then it goes to show that, injured/claimant was admitted to Apokos Rehabilitation Hospital, Hyderabad on 16.06.2016 and discharged on 25.07.2016. However, at the same time, the another discharge certificate below Exh.45 goes to show that, on 24.07.2016 the injured/claimant was admitted to Vivekanand Hospital, Latur and discharged on 28.07.2016.

12.9 In my opinion, if at all, the injured/ claimant was getting treatment at Apokos Rehabilitation Hospital, Hyderabad

between 16.06.2016 till 25.07.2016, then certainly, her admission on 24.07.2016 *vide* Exh.45 at Vivekanand Hospital, Latur will not happen. Exh.45 & Exh.47 contradict each other in respect of dates 24.07.2016 and 25.07.2016. If that is so, I am not able to accept Exh.45 as well as Exh.47. Though, strict proof of document is not required in motor accident claims, however, it is highly improbable that, on same day i.e. 24.07.2016, the injured/claimant was taking treatment at Apokos Rehabilitation Hospital, Hyderabad and Vivekanand Hospital, Latur. Therefore, I am unable to accept the evidence at Exh.45 and 47 for the reason that same are overlapping each other.

12.10 It is settled position of Law that, to establish liability for a subsequent event like secondary complications arising out of accidental injuries, there must be a proximate relationship between primary injury and secondary injury i.e. complications to other limb of the injured person. If subsequent medical complications like organ failure, paralysis or infection etc. are direct complications of the primary vehicular injuries, then the Tribunal is bound to accept said injuries as part of the primary accidental injuries.

12.11 It is true that, in motor accident claims, the Tribunal is not expected to ask claimant to prove particular facts beyond shadow of doubt. However, on touchstone of standard of proof as preponderance of probability, the claimant is required to establish link with the complications arising out of primary injuries. In the present case, the claimant has not examined any doctor who treated claimant either below Exh.43, 44, 45, 46 or 47, there is

absolutely of no expert testimony of the treating doctors to prove the link with complications mentioned in Exh.28, that is to say, permanent privation from the side of either eye or the hearing either hear of privation of any member or joint, destruction for permanent impairing of the powers of any member or joint or severe head injury, cerebro vascular accident i.e. stroke on brain, left hemiparesis i.e. weakness of upper limbs with weakness of left lower limbs with aphasia, dysphagia, disoriented condition and loosing muscle power of the upper limbs and lower limbs etc.

12.12 Moreover, the certificate below Exh.28 is also not in a routine format issued by said hospital. The Court noticed that, Form Comp B certificates are not issued in such formats by Dr. Shankar Chavan Govt. Medical College & Hospital, Vishnupuri, Nanded. Therefore, the certificate below Exh.28 does not appear to be issued by following correct procedure.

12.13 After going through MLC injury certificate Exh.42 issued by the Civil Hospital, Nanded, I find that, the injury sustained by the claimant in said certificate at Sr.no.4 was certainly grievous on account of dislocation of right shoulder.

12.14 Moreover, if at all said complications were arisen on account of said vehicular accident occurred on 01.06.2016, then it was the duty of claimant to examine the doctors who treated her at different times in multiple hospitals. Therefore, I find that, the injuries sustained by the claimant are not proximate to the accident in question except the injuries mentioned in Exh.42. Even there is no oral evidence of any treating doctor showing that, the

claimant developed complications following injuries sustained in said vehicular accident dated 01.06.2016. However, at the same time, I find that, the injury at Sr.no. 4 in Exh.42 is convincing.

12.15 In order to prove said permanent disablement to the extent of 80%, the claimant examined Dr. Abdul (PW-2) who supported permanent disability certificate-Form Comp B Exh.28. During the course of cross-examination, he had admitted that, he did not bring any record in respect of the claimant. I find that, the certificate Exh.28 was procured almost after 4 years from the alleged accident. Moreover, evidence of Dr. Abdul (PW-2) is not convincing regarding said 80% injuries, therefore, I find that, the injuries sustained by the claimant can only be taken as permanent disablement of 80% in respect of particular limb i.e. dislocation of right shoulder by which pre-movement of right hand restricted. Hence, **I answer issue no. 2 accordingly.**

13. AS TO ISSUE NO.3 & 4 :

13.1 The case of **Rajkumar Vs. Ajaykumar and Anr. (2011) 1 SCC 343** is one of the most prominent judgments of the Hon'ble Supreme Court, which deals with compensation in injuries cases. It was held in this case, that in routine personally injury cases, compensation will be awarded only under the heads-(i)(Expenses) relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure; (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising (a) Loss of earning during the period of treatment and (iii) Damages for pain, suffering and

trauma as a consequence of the injuries. Where the injured suffers a permanent disability as a result of injuries, the assessment of compensation is also either under the head of future earnings which is depend the effect and in fact of such permanent disability on the earning capacity of the injured. What requires to be assessed by the Tribunal is the effect of permanent disability on the earning capacity of the injured after assessing loss of earning capacity in terms of percentage of the income. So also, all injuries or permanent disability arising to the injuries, do not resulting loss of earning capacity. If there is no loss of employment or earning capacity. There may not be any need to award compensation under the head of loss of future earnings.

13.2 As stated earlier, accident took place due to rash and negligent driving. In order to prove the income, the claimant has claimed that, she is B.Sc. Graduate and after her daily domestic work she was taking home tuition upto 10 to 12th Std. and was earning Rs.20,000/- per month. During cross-examination, she has admitted that, she has not filed any document showing that, she was earning Rs.20,000/- per month except her income tax returns document.

13.3 It appears that, during the course of evidence, claimant has not taken any efforts to prove said income tax returns. However, since the M.V. Act in respect of Motor Accident Claims is socio-beneficial legislation, therefore, I find it just and proper to refer said income tax return xerox placed on record by the claimant. Same is marked as Article-A for the purpose of identification. Moreover, it is brought on record during the course

of cross-examination that, except income tax returns, she has not filed any other document to show that, she was earning Rs.20,000/- per month.

13.4 After perusing said income returns verification form for the assessment year 2016-2017, it is appearing on said returns name of one 'PHOTANE KIRAN KANCHAN son/daughter of KIRAN'. It also appears that, the said returns are filed from Latur on 28.02.2018, however, the address is written 'Near Ganpati Mandir, Vidyanagar, Parbhani, Maharashtra'. It also appears that, said surname is not Phutane, but Photane. Further, second name Kiran is tampered by black ink. Therefore, I find that, said income tax returns cannot be relied upon since it is not authentic, genuine and not appearing in the name of injured claimant. No explanation is coming forward as to why such tampering is made in ITR verification form. Even the details either goes to show that the person residing at Parbhani or at Latur. It is case of claimant that, she is resident of Nanded, however, even none of the details showing address of Nanded on said Article-A. Therefore, I am not convinced to rely on ITR-Article-A, more particularly, same is not tested at evidence.

13.5 Further, even if it is bold averment that, she was B.Sc. Graduate and said fact is not denied by the respondent, however, no document is brought on record to show that, she is B.Sc. Graduate. Further, there is no record showing that, at what address she was conducting tuition classes of 10 to 12th Std. Students. The claim petition and her evidence is silent about other details of tuition classes. Further, no receipt of tuition classes,

student ledger and bank statement etc. are placed on record to make this Tribunal to arrive at a firm conclusion regarding her monthly earnings from tuition classes. Therefore, I am not able to accept that, she was running tuition classes and earning Rs.20,000/- per month.

13.6 It is also contended that, due to said accident, she is not able to walk or work normally. However, if the evidence of Dr. Abdul (PW-2) is perused. He nowhere stated that, she is unable to carry out her daily pursuit. It is not a case of the claimant that, she cannot talk or speak. This appreciation is necessary for the reason or assumption that, she was taking tuition which certainly requires talking or speaking during the classes. Therefore, I find that, there is no functional disability.

13.7 Further, she had come to the Court and filed her evidence affidavit below Exh.32 and she was cross-examined on 18.11.2024. Therefore, it can be inferred that she can talk and speak. Even if assuming that, she was taking tuition classes still, I find that, due to said accidental injuries, it can not be said that, she can not take tuition classes, if any. Therefore, it cannot be inferred that, she has become 100% permanently disabled throughout her life.

13.8 It is also contended that, due to said injury, she cannot perform her daily work like cooking food, washing, utensils, class and other homicide work. It also contended that, her income should be considered as Rs.40,000/- per month. It is also submitted that, considering nature of her work, there was right

future prospectus to the claimant in education and her income must be automatically doubled and accordingly, said aspect should be considered.

13.9 I find that, the injured has failed to prove permanent disability as Exh.28 on preponderance of probability. She further failed to prove that, she was taking tuition classes and was earning Rs.20,000/- per month.

13.10 Overall, after considering the entire evidence on record and, the fact that, the claimant proved that, she sustained vehicular injuries on 01.06.2016 due to rash and negligent driving of respondent no.1, and, the fact that, there was serious grievous injury as per Exh.42 and as per Exh.28 to her right shoulder only i.e. dislocation to the extent of 80%.

13.11 As discussed above, the accident took place due to rash and negligent driving of driver of offending vehicle, which is owned by respondent no.1 and duly insured with respondent no.2 and insurance policy was in force on the date of accident. Therefore, I am of the opinion that, respondent nos.1 & 2 are jointly and severally liable to pay compensation to claimant.

13.12 Now, question remains, what would be the quantum of compensation?

13.13 I have already observed that, though, there appears that the injury sustained to claimant in vehicular accident is resulted into permanent disability to the extent of 80% but same is not with respect to whole body but it is against particular limb i.e. right shoulder dislocation. Further, there is no evidence on

record to show that, due to sustaining permanent disability as above, the claimant has completely lost capacity to work and earn from tuition work as averred or she become incapable of taking such tuition. Further, apart from bare words of the injured/claimant, there is no convincing evidence to show that, she was earning Rs.20,000/- per month by taking tuition of 10th to 12th Std. Students.

13.14 Learned advocate for the claimant relied upon *Dilip Jagdish Deshmukh Vs. Chandrakant (First Appeal no. 2538 of 2017 decided on 07th February, 2018)* (Coram: Hon'ble M.S. Sonak, J) *and Ravi Vs. Badrinarayan & Ors. (Civil Appeal no. 1926 of 2011, reportable, decided on 18 February, 2011)* and submitted that, though there is a delay in lodging FIR, however, not fatal in filing the claim application. In my opinion, said citations are applicable to the case of claimant.

13.15 Learned advocate further relied upon *RD Hattangadi Vs. Pest Control (India) Pvt. Ltd., 1995 ACJ, 366* and submitted that, in injury cases claimant is entitled for pain, suffering and loss of amenities like etc. I find that, the copy of judgment appears to be taken printed from Indian Kanoon Website and it bears different citations and same is not matching with the details given in the case law index. So also, the copy of print of judgment does not bear date of judgment, therefore, I find, same is not authentic and from the authorized reporter.

13.16 Learned advocate further relied upon *Anant Son of Sidheshwar Dukre Vs. Pratap Son of Zhamnnappa Lamzane and*

another, (Civil Appeal No. 8420 of 2018 decided on 21.08.2018)

and submitted that, the injured claimant is entitled for compensation on all different heads. There cannot be dispute about the preposition of law in the said judgment.

13.17 Learned advocate for the claimant further relied upon ***Rajan Vs. Soly Sabastian and Anr. (Civil Appeal No. 5730 of 2015, non-reportable decided on 28.07.2015) and Jagdish Vs. Mohan & Ors., Civil Appeal no. 2217 of 2018, decided on 06.03.2018*** and submitted that, the injured person is entitled for future prospect. I have already discussed that, there is no loss of income or salary to the injured claimant, more particularly, relating to her profession of tuition classes. There is absolutely no functional disability in relation to her unproved profession of taking tuition classes. Therefore, she is not entitled for future prospects.

13.18 In view of authorities cited and the facts of present case, I find that, claimant could not prove that, she sustained permanent loss of income or future prospects. However, fact cannot be ignored that, due to permanent disability to her right shoulder due to dislocation she became permanently disabled to the extent of 80% in relation to particular limb and not in relation to whole body. The claimant might be sustaining some difficulty in performance of her daily pursuits coupled with pain and sufferings. It is also clear that, she has incurred expenditure for medical treatment. Apart from this, though it is evidence that, she incurred medical expenses as mentioned in para 5 of the claim petition, however, I am unable to accept bills mentioned at sr.no.3 and 4 for the reason assigned herein before. But, it cannot be lost

sight of the fact that, for that purpose, she had to incur additional expenses of ambulance/stay at various places for said treatment continued for almost 3 years. Therefore, considering entire aspects, in view of all these aspects, I am of the opinion that, purpose would be served if the claimant is awarded compensation as under which according to this Tribunal, is just, proper and reasonable, thus.-

- (a) An amount of **Rs.3,00,000/-** expenses incurred towards medical treatment & hospitalization.
- (b) An amount of **Rs.1,50,000/-** towards pains, sufferings mental agony and hardships.
- (c) An amount of **Rs.2,00,000/-** towards loss of enjoyment, amenities, pleasure and life comfort.
- (d) An amount of **Rs.1,58,959/-** towards medical bills.
- (e) An amount of **Rs.50,000/-** towards attendant and transportation charges.
- (f) An amount of **Rs.50,000/-** towards special care, diet and transportation etc.
- (g) An amount of **Rs 2,000/-** towards compensation for damage to clothing.
- (h) An amount of **Rs.2,00,000/-** towards compensation for permanent disability.

13.19 As such, I find that, claimant is entitled to get an amount of **Rs.11,10,959/-** along with interest @ 9% p.a. from the date of filing of claim petition till its realization from respondent nos.1 and 2 jointly and severally. In the result, **I answer issue no.3 and 4 accordingly.**

14. AS TO ISSUE NO. 5:

14.1 So far as liability is concerned, it is apparent from the

record that, the offending vehicle was owned by respondent no.1 and that is duly insured by respondent no.2, therefore, respondents no.1 and 2 are jointly and severally liable to pay the compensation with interest and costs. Hence, in **response to issue no.5**, I pass the following order:-

ORDER

1.	Claim petition is partly allowed with proportionate costs.
2.	The respondent no. 1 and 2, jointly and severally pay a sum of Rs.11,10,959/- (Rupees Eleven Lakhs Ten Thousand Nine Hundred Fifty Nine only) to the claimant by way of compensation, (inclusive of NFL amount, if any) with interest thereon @ 9% <i>p.a.</i> from the date of filing of the claim petition, till its realization.
3.	Respondents shall deposit compensation amount along with interest referred above in account i.e. Motor Accident Claims Tribunal, Nanded; Account no. 40775943706, IFSC no.SBIN0020049, Bank Name and Branch:-State Bank of India, I.E., Nanded without deducting TDS on it, within the period of 30 days from the date of award.
4.	Award be drawn up accordingly.
	(Dictated, typed on Court computer and pronounced in open Court)

Date: 04.07.2026

Sd/-
(T.S. Solankar)
District Judge-2
& Member, MACT, Nanded.

CERTIFICATE

I affirm that the contents of this PDF judgment /order are same word to word as per the original order.	
Name of the Stenographer	: Khindre B.R. Steno (G-I)
Name of the Court	: District Judge-2 & Addl. Sessions Judge, Nanded.
Date of the Judgment/Order	: 04.07.2026
Judgment /Order signed by the P.O. on	: 04.07.2026
Corrected Judgment/Order uploaded on	: 04.07.2026