

MHTH150001842018 	Received on	:	03/03/2018		
	Registered on	:	03/03/2018		
	Decided on	:	17/07/2026		
	Duration	:	Y	M	D
			08	04	14

IN THE COURT OF DISTRICT JUDGE-1, PALGHAR

AT : PALGHAR.

(Presided over by A. R. Rahane)

M.A.C.P No. 25/2018

Exh. 64

1. **Vijaykumar Shyamkumar Chopra**
Age : 60 Years, Occupation : Business
2. **Rishabh Vijaykumar Chopra**
Age : 22 Years, Occupation : Nil.

Applicant no. 2 is physically unfit hence,
he is represented by Mr. Vijaykumar
applicant no.1 being father and guardian

Both R/o. E/2, Highway Park,
'G' Wing, Flat No. 30, Thakur Complex,
Kandivali East, Mumbai.

....Applicants

Versus

1. **Heera S/o Harji Ram,**
R/o. Lamba, Bilara,
District Jodhpur
State Rajasthan.
2. **New India Assurance Company Limited**
Vasai Divisional Officer,
North Lane, 2nd Floor, Opp. Vartak College,
Station Road, Vasai, District Palghar.

....Opponents

Appearances :-

Shri. V. S. Sardal, advocate for applicants.

Exparte against opponent no.1.

Shri. S. R. Padval, advocate for opponent no.2.

JUDGMENT

(Delivered on 17th July 2026)

1] This is an application under Section 166 of Motor Vehicle Act for award of compensation.

2] **Claim :-**

On 31/12/2017 deceased Sudha Vijaykumar Chopra was returning to Mumbai from Vapi by Car no. MH-47-W-3893. Applicant no.1 is her husband. He was driving the said car with moderate speed as per traffic rules. In vicinity of Haloli village on Mumbai-Ahmedabad Highway one Trailer bearing no. RJ-19-GA-9889 came from behind in very high, excessive speed and in rash and negligent manner, lost control over his vehicle and heavily dashed against rear side of car in which deceased was traveling. Due to the said dash the said car went towards road divider, got overturned 3 to 4 times and went to other side of road. Deceased succumbed to the injuries on the spot. Applicants sustained grievous injuries. Police has filed chargesheet against the said trailer driver. Deceased was healthy and working as teacher and earning monthly salary of Rs.55,000/-. Applicant no. 1 is husband and applicant no.2 is her son. Opponents are owner and insurer of the said trailer respectively and are liable to pay compensation to the applicants.

3] It appears that opponent no.1 is absent despite service of notice at Exh.07 but did not file written statement.

4] **Defence of opponent no.2 (Exh.13)**

Husband of deceased drove negligently due to which accident occurred. There is non-joinder of owner and insurer of car and driver of alleged offending vehicle. Applicant no. 1 is not dependent of deceased. There is breach of policy since trailer was not driven with valid permit and certificate. As such claim is liable to be dismissed.

5] **Issues** (Exh.15, framed by my Ld. Predecessor)

<u>SR. NO.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1)	Do petitioners prove that Sudha Vijaykumar Chopra died in vehicular accident on 31/12/2017 due to rash and negligent driving of driver of the offending vehicle Tata Trailer No. RJ-19-GA-9889 ?	Yes
2)	Does insurer prove that accident has occurred due to contributory negligence of driver of car bearing No. MH-47-W-3893 ?	No
3)	Do petitioners prove that they are entitled for the compensation ? If yes, what is the amount ?	Yes, as per final order
4)	What order ?	As per final order

Evidence of applicants :

6] Evidence of applicant no. 1 is at Exh.15, Evidence of head clerk Liguori Legeie Gonsalves of the school in which deceased was employed is at Exh.28. Despite sufficient opportunity opponent no. 1 has not given any evidence. Evidence closure pursis of opponent no 2 is at Exh.55.

7] Documentary evidence filed by applicants is as follows -

Sr. No.	Documents	Exhibit number
1	Service record of deceased	31
2	Leave account of deceased	32
3	Form no. 16 of deceased	33
4	Future salary certificate of deceased	34
5	Pay slips of deceased	36
6	Certified copy of FIR	58
7	Certified copy of Spot panchanama	59
8	Certified copy of inquest panchanama	60
9	Certified copy Post mortem report	61
10	Copy of insurance policy of Trailer No. RJ-19-GA-9889	62
11	Verified copy of School Leaving certificate of deceased	63

8] **ARGUMENTS :-**

Written arguments of applicants is at Exh.56. The gist is that, applicants have discharged burden of issues. Age and salary of deceased is proved. So, compensation of Rs.51,65,600/- with 7% be granted.

9] Insurer's argument is at Exh.57. The gist is that there is contributory negligence of applicant no.1. The said car was owned by applicant's daughter, so owner and insurer of car are deliberately not impleaded. Deceased would have retired after 05 years, so her income from salary should be considered for 05 years. After retirement she would have got regular pension which now applicants will receive after her death. Her income should be considered as Rs. 48,679/-. We will get the future income at Rs. 55,981/- per month. After deduction of RS. 18,660/- by way of 1/3rd amount for self expenses, we will get RS. 37,321/- which multiplied by five years multiplier, we will get Rs. 22,39,260/-. Further, at notional rates of Rs. 15,000/- per month for remaining six years of the multiplier, we will get Rs. 7,20,000/- as prospective loss to the income , after deduction of 1/3rd amount for her self expenses. Thus, Rs. 7,20,000/- (for six years of multiplier) + Rs. 22,39,260/-(for five years of multiplier) = RS. 29,59,260/-. We may consider Rs. 15,000/- for funeral expenses + Rs. 25,000/- on account of loss to the estate and Rs. 50,000/-each on account of loss of consortium i.e. totally Rs. 1,40,000/-under other heads. Total amount of compensation shall be Rs. 22,59,260 /- + Rs. 1,40,000/- = Rs. 23,99,260/-.

REASONS FOR FINDINGS

As to Issue no.1 and 2 :

10] F.I.R. shows that crime is registered against driver of said trailer in respect of rash and negligent driving. There is corresponding spot panchanama, inquest panchanama. Post-mortem of the deceased confirms that she died due to injury to vital organ. Applicant's claim that chargesheet is filed against trailer driver is not rebutted by opponent. Honourable Supreme Court has held in **Mangalaram Vs. Oriental Insurance** 2018 (5) SCC 656 that 'filing of chargesheet prima-facie points towards his complicity in driving the vehicle negligently and rashly.'

11] Applicant no.1 has denied that he is guilty of contributory negligence in the said accident. There is no evidence on record to suggest contributory negligence of applicant no.1 or any other cause for the accident of car in which deceased was traveling. Hence, inference is that deceased died due to rash and negligent driving of the said trailer driver and there was no contributory negligence of applicant no.1. Accordingly, issue no.1 is answered in the affirmative and issue no.2 is answered in the negative.

As to issue no.3 :-

12] According to school leaving certificate of deceased her birth date is 24/08/1964. Accident has occurred on 31/12/2017. Completed age of deceased on the date of accident was 53 years.

13] The head clerk of Bhakti Vedant Swami Mission School, Andheri has produced service record, salary record, form 16, TDS certificate, prospective salary certificate and pay slips of deceased. Honourable Supreme Court has held in **Prabhavati Vs. Bangalore Metropolitan Transport Corporation** 2025 SCC Online SC 455 held that, 'in compensation cases under Motor Vehicle Act, strict rules of evidence do not apply and standard of proof is based upon preponderance of probability.'

14] On the basis of school record head clerk has deposed in respect of her net salary for September 2017 as Rs.52,186/-, October 2017 as Rs.51,379/-, November 2017 as Rs.49,879/-, December 2017 as Rs.49,879 /- . As such monthly salary of deceased can be considered as Rs.50,000/- per month. Her age was 53 years. She had a permanent job. As per ratio in **National Insurance Co. Ltd. Vs. Pranay Sethi** 2017 ACJ 2700 SC, addition should be 15% for the purpose of future prospect. Multiplier of 11 is applicable to the deceased.

15] Applicants being dependents of deceased are entitled to compensation as follows :

Towards the loss of dependency

Rs.50,000/- p.m. salary + 15% future prospect

= Rs.57,500/- p.m.

After deduction of self-expenses,

Rs.57,500/- X 2/3rd = Rs.38,300/-

Amount payable

= Rs.38,300/- X 12 (months) X 11 (multiplier)

=Rs.50,55,600.00

Plus	
Loss to estate	Rs. 15,000.00
Loss of consortium	Rs. 80,000.00
Funeral expenses and last rites	<u>Rs. 15,000.00</u>
Total	Rs.51,65,600.00

16] Opponent no.1 being owner of the said vehicle and opponent no. 2 being the insurer are jointly and severally liable to pay the compensation to the applicants. Accordingly, issue no. 3 is answered as 'Yes, as per final order.'

As to issue no.4 :-

17] In light of decision of Honourable Supreme Court in **Sebati Nath and others Vs. Shriram General Insurance Company Ltd.**, Civil Appeal (Arising out of SLP (c) No. 26253/2025) simple interest at 6% p.a. is to be paid from the date of original petition. Accordingly, following order is passed.

ORDER

- 1) The application is partly allowed with proportionate costs.
- 2) The opponent No.1 and 2 do pay jointly and severally a sum of Rs.51,65,600/- (Rupees Fifty-One Lakhs Sixty-Five Thousand Six Hundred only) to the applicants (inclusive of N. F. L. amount) along with simple interest @ 6% per annum, from the date of application till realization of the full amount.

- 3) The opponent No.1 and 2 are directed to deposit the compensation amount in the court by account payee cheque/NEFT, within two months from the date of order.
- 4) Deficit court fee, if any, be recovered from the applicants.
- 5) Award be prepared accordingly.

Date:-17/07/2026

Palghar

(Smt. A. R. Rahane)

Member, M.A.C.T., Palghar

CERTIFICATE

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

Name of Steno	S. N. Ambure (Stenographer G-1)
Court Name	A.R.Rahane District Judge-2, Palghar.
Date of Order/Judgment	17/07/2026
Order/Judgment signed by Presiding Officer on	17/07/2026
Order/Judgment uploaded & PDF on	17/07/2026