



Presented on : 30-07-2024
Registered on : 02-08-2024
Decided on : 30-01-2026
Duration : 01-Y-06-M-00D.

**BEFORE MEMBER, MOTOR ACCIDENT CLAIM TRIBUNAL,
NAGPUR**

(BEFORE AEJAZ H SAYYED)

Exhibit No. : 26

M. A. C. P NO. : 808/2024

CNR NO. : MHNG010079682024

- 01) Jamunabai Wd/o. Anandrao Selote,
Aged about 51 Years, Occ.- Household,
Through Power of Attorney Petitioner
No.2, Nagpur.
- 02) Nikesh S/o. Anandrao Selote,
Aged about 28 Years, Occ. Private Work,
- 03) Nilesh S/o. Anandrao Selote,
Aged about 31 Years, Occ. Private Work,
All R/o. At Karandla, Post-Gothangaon,
Tahsil-Kuhi, District Nagpur-441210. : .. **Petitioners.**

/// Versus ///

The Controller, MSRTC,
Ganeshpeth, Near S. T. Bus Stand,
Nagpur. : **Respondent.**

Under Section 164 of the Motor Vehicles Act Rs.1,00,000/-

APPEARANCE :

Mr. P. S. Mirache : Advocate for Petitioner
Mr. Pawan Raulkar : Advocate for Respondent

JUDGMENT

(Delivered on this 30th day of January-2026)

This proceeding is filed, Under Section 164 of Motor Vehicles Act, 1988, for compensation, in respect of death of Anandrao S/o. Mahadeo Selote, in the Motor Vehicle Accident.

A brief resume of case of the claimant is as under:

02. It is the case of the claimant No. 1 that on 27/06/2024 at about 13:30 hours, her husband Anandrao was a pillion rider on a motorcycle bearing registration No. MH-40-CB-9691. He was traveling from Karandla towards Umred. When he reached near Dahegaon Shivar, Kuhi, District Nagpur, at that time one S. T. Bus bearing registration No. MH-40-Y-5087 came in a high speed and in rash and negligent manner and gave dash to their motorcycle. He suffered multiple injuries. He was taken to Rural Hospital, Kuhi, where he died during the treatment. Driver of the motorcycle was also killed in the said accident.

03. Matter was reported to Veltur Police Station, District Nagpur by Bus driver Devanand Ganesh Gajbhiye. He alleged that three persons were riding on motorcycle and accident occurred due to negligence of motorcycle driver. Accordingly, Crime No.104/2024 for the offence punishable under Sections 279, 337, 338 and 304(A) of the Indian Penal Code and Section 184, 128 (1)/ 177 of the Motor Vehicle Act was registered against motorcycle driver Sandip S/o. Fakira Bhude (since deceased).

04. Claimant No. 1 is the widow. Claimant Nos. 2 & 3 are the major sons of deceased Anandrao. Respondent (MSRTC) is the owner

S.T. Bus involved in the accident.

05. According to claimants, deceased was cultivating his own land and earning Rs.15,000/- per month. He was the only earning member of their family. Claimants have lost love and affection of a husband and father, which cannot be compensated in terms of money. They, also, sustained pecuniary and non-pecuniary damages, and Respondent is liable to pay the compensation. They, thus, prayed for grant of compensation under **Section 164 of the Motor Vehicle Act**.

06. Respondent (The Controller MSRTC), contested the petition by filing written statement at Exh.11. It is mainly urged that the accident occurred due to negligence of motorcycle rider Sandip Fakira Bhude. Three persons were riding on a motorcycle in breach of statutory rules and regulations. There is no negligence on the part of S.T. driver. Police has registered case against the motorcycle driver deceased Sandip Fakira Bhude and this petition against MSRTC is not maintainable. Respondent (MSRTC) has alternatively, pleaded that petitioners have not arrayed driver of S.T. Bus, owner and insurer of motorcycle as Respondent in the present petition and it is bad for non joinder of necessary party and liable to be dismissed.

07. On material proposition of facts and law, affirmed by one party and, denied by another, following issues are framed and I have given my findings for the reasons that follows:-

S.N.	ISSUES	FINDINGS
1	Does petitioner prove that on 27/06/2024 at about 13:30 hours, accident occurred arising out of use of S.T. Bus bearing registration No. MH-40-Y-5087?	..In affirmative.

2	Does petitioner prove that deceased Anandrao S/o. Mahadeo Selote died due to injuries suffered in the aforesaid accident?	In affirmative.
3.	Whether the petitioners are entitled to get compensation? If yes, what is quantum and from whom ?	As per final order
4	What order and award ?	As per final order.

08. Claimant No. 3 Nilesh S/o. Anandrao Selote has deposed at Exh.13 and also relied upon the following documents.

S N	Particulars	Exh. No.
1.	Copy of Form AA	14
2.	Copy of FIR	15
3.	Copy of spot panchanama	16
4.	Inquest panchanama	17
5.	Postmortem report	18
6.	Aadhar card of the claimants	19/1 to 19/3

09. Respondent (MSRTC) has examined driver of S.T. Bus Mr. Devanand Ganesh Gajbhiye at Exh. 23 and denied the petition in toto.

10. I have heard learned counsel Mr. P. S. Mirache, for the claimants. According to him, petition is under Section 164 of the Motor Vehicle Act and claimants are required to prove mere involvement of the bus and not the negligence. Claimants have lost love and affection of husband and father and source of income which was of a great help to the family. Respondent is liable to pay the compensation. He, thus, prayed for grant of compensation under the

164 of the Motor Vehicle Act.

11. Learned Advocate Mr. Pavan Rahulkar for respondent (MSRTC) did submit that S.T. driver has stated on oath regarding the manner in which accident occurred and there is no reason to disbelieve him. Motorcycle rider was rash and negligent in driving his motorcycle. He gave dash to bus and police has registered case against him and subsequently filed charge-sheet. Deceased Anandrao was illegally riding as third pillion. He was a 'Self Tortfeasor' and a person cannot be allowed to claim damages, if he is a wrongdoer and on this sole count petition is liable to be dismissed.

REASONS

AS TO ISSUE NOS.1 & 2:

12. At the very outset, it is important to note that factum of accident involving S.T. Bus bearing registration No. MH-40-Y-5087 and registration of the case against the driver of the motorcycle bearing registration No. MH-40-CB-9691 (Mr. Sandip Fakira Bhude) is more or less admitted.

13. Claimant No.3 Nilesh S/o. Anandrao Selote deposed at Exh. 21. He has reiterated almost all the contents of claim petition. Claimant was cross-examined by learned Advocate Mr. Rahulkar for MSRTC, but nothing significant could be brought on record.

14. Copy of Form AA (Exh.14) shows that police has registered a Case vide Crime No.104/2024 for the offence punishable u/s. 279, 337, 338, 304-A of the Indian Penal Code and Section 184, 128(1)/177 of the Motor Vehicle Act against motorcycle rider. FIR

(Exh.25) shows that information of accident was given by S.T. Bus driver Devanand Ganesh Gajbhiye and crime was registered against driver of motorcycle (Sandip Fakira Bhude). Spot panchanama (Exh. 16) shows that police has visited the spot and drawn spot panchanama.

15. Postmortem report is at Exh.18 which shows that deceased died due to head injury. It is, thus, proved that deceased died in a motor vehicle accident, involving or arising out of use of S.T. Bus bearing registration no. MH-40-Y-5087 **Issue No.1 & 2 thus replied in affirmative.**

AS TO ISSUES NO.3 :

16. A lot has been argued by learned advocate Mr. Pavan Rahulkar that Anandrao was wrongdoer and offence has been registered and charge-sheet has been filed against the driver of the motorcycle on which he was riding as third person. He cannot be granted the bounty of compensation of his own wrong.

17. I have ruminated over the argument of learned advocate. This is a petition under Section 164 of the Motor Vehicle Act, which is brought into statute after the Motor Vehicle (Amendment) Act, 2019, it reads as under:

164. Payment of compensation in case of death or grievous hurt, etc. -

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death

or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) **In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.**

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section. **(Dark emphasis by me).**

18. A fair and meaningful perusal of above quoted Section would indicate that a claimant is required to prove death or grievous hurt and he should not be required to plead or establish that the accident was due to wrongful act or neglect or default of the owner of the vehicle or of the vehicle concern or of any other person.

19. Now whether Respondent (MSRTC) can be allowed to take defence of negligence or contributory negligence of Anandrao, who was killed in the aforesaid accident is the question which is to be considered by this Tribunal?

20. A Full Bench of Hon'ble Supreme Court in case of **United India Insurance Company Limited Vs. Sunil Kumar and Others, Decided on 24/11/2017**, was dealing with a reference whether in a claim proceeding under Section 163 A of the Motor Vehicle Act, 1988.

It is open for the insurer to raise the defence/plea of negligence?

21. **In Para 9 of the judgment said reference was answered as under:**

For the aforesaid reason, we answer the question arising by holding that in a proceeding under Section 163-A of the Act, it is not open for the insurer to raise any defence of negligence on the part of victim.

22. Here, the petition is under Section 164, which is *Pari materia* to Section 163-A of the Motor Vehicle Act, 1988, which has been deleted by the Motor Vehicles (Amendment) 2019, Act 32 of 2019. Hence, the aforesaid observations, of the Full Bench of Hon'ble Supreme Court would be squarely applicable to the case in hand which is under Section 164 of the Motor Vehicle Act and Respondent MSRTC cannot be allowed to take defence of negligence on the part of deceased Anandrao.

23. I have already held that claimants have proved death of Anandrao in in Motor Vehicle Accident, involving **S.T. Bus bearing registration No. MH-40-Y-5087**. Petition is under Section 164 of Motor Vehicles Act and claimants are entitled for a sum of Rs. 5,00,000/-.

About the Deficit Court Fees;

24. Claimants have valued the petition to Rs. 1,00,000/- and paid Court Fees of Rs. 375/-. This Tribunal has granted total compensation of **Rs.5,00,000/-**. As per Bombay Court Fees Act claimant is now required to pay Additional Court Fees on the amount of **Rs.4,00,000/-@ 1% i.e. Rs.4,000/-** and same is to be recovered

from claimants.

25. In order to recover the same, it would be just and proper to direct the insurance company to deposit deficient portion of Court Fees of **Rs. 4,000/-** in the Account of Tribunal. After deposit of the Court Fees by Insurance Company, Nazir of the Court would remit the same to Government of Maharashtra by a Challan or GRAS as the case may be and copy of challan or screen shot of GRAS be kept in the file of the case for record purpose. **Issue No. 4 replied in accordingly** and following order is passed.

ORDER

- i) The petition is allowed with costs against **Respondent**. The claimant Nos. 1 to 3 are entitled to receive compensation of **Rs.5,00,000/- (Rupees Five Lakhs Only)**.
- ii) **Respondent (MSRTC)** do pay an amount of **Rs.5,00,000/- (Rupees Five Lakhs Only)** with interest at the rate of 7.5% per annum from the date of filing of this petition till realization of entire amount towards compensation to the claimants.
- iii) Compensation amount be apportioned as under;

(i)	MACT, Nagpur towards deficit Court Fees	Rs. 4,000/-
(ii)	Claimant No. 1 Jamunabi Selote	Rs.2,96,000 +interest +proportionate cost.
(iii)	Claimant No. 2 Nikesh Selote	Rs. 1,00,000 +interest +proportionate cost.
(iv)	Claimant No. 3	Rs. 1,00,000 +interest

	Nilesh Selote	+ proportionate cost.
Total		Rs. 5,00,000/-

iv) In terms of direction of Hon'ble Supreme Court in case of **Suo Moto Writ Petition (C) No. 7 of 2024 and Parminder Singh V. Honey Goyal & Ors. Respondent (MSRTC)** is directed to deposit the aforesaid amount in the following accounts of the claimants:-

S. N.	Claimant Nos. & Name	Account No.	Bank Name & Branch	Branch Code	IFSC No.	MICR No.
1	MACT Nagpur (For deficit Court Fees)	4424010 1003669 9	Union Bank of India, DBA Branch, Civil Lines, Nagpur	--	UBIN O544 248	
2.	Claimant No.1 Jamunabai Selote	5006039 4365	Indian Bank, Pachkhedi, Kuhi, District- Nagpur	--	IDIB0 00P5 06	44001 9020
3.	Claimant No. 2 Nikesh Selote	8767181 1000389 5	Bank of India, Mandhal Branch, Nagpur	--	BKID 0008 767	44101 3522
4.	Claimant No.3 Nilesh Selote	5042266 4336	Indian Bank, Branch Butibori, Nagpur.	--	IDIB0 00B8 60	44001 9008

Award be drawn up accordingly.

(AEJAZ H SAYYED)

Dated : 30/01/2026

Member, M.A.C.T. -4, Nagpur.

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I certify that the contents of this PDF File are word to word as per original Judgment/Order.

Name of the Steno : K. Harde
Name of the Court : Aejaaz H Sayyed
Member, M.A.C.T.- 4, Nagpur.
Judgment delivered on : 30/01/2026
Judgment signed by P.O.: 30/01/2026
PDF Uploading Date : 30/01/2026
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