CNR NO.MHLA010001082024	Received on	:	08.01.2024
	Registered on	:	09.01.2024
	Decided on	:	30.04.2026
	Duration	:	Yrs. Mns. Ds.
			02 03 22

IN THE COURT OF EX-OFFICIO MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL, LATUR.
(Presided over by R.R. Bhosale)

M.A.C. Petition No. 10/2024
Ext. No.36

1) **Pandurang s/o Ramrao Vayal,** **.....Claimants.**
Age: 53 years, Occ.: Labourer

2) **Meerabai w/o Pandurang Vayal,**
Age: 52 years, Occ: H.H.

Both R/o. Gangapur, Teh. & Dist. Latur.

Versus

1) **Mahadeo s/o Anant Kumbhar** **.....Respondents.**
Age: 30 years, Occ.: Business,
R/o. Koregaonwadi,
Teh. Omeraga, Dist. Dharashiv,
(Owner of motorcycle bearing Regn.
No. MH-25/AU-8847)

2) **ICICI General Insurance Co. Ltd.,**
Through it's Branch Manager,
Parijat Mangal Karyalaya,
Ausa Road, Latur, Teh. Dist. Latur.

Petition under Section 166 of Motor Vehicles Act, 1988.

Appearance

Mr. M.F. Patel, Advocate for Claimant.
Respondent no.1 - Exparte
Mr. S.G. Diwan, Advocate for Respondent no.2

J U D G M E N T

(Delivered on 30th day of April 2026.)

The claimants have filed this petition under Section 166 of the Motor Vehicles Act, 1988 for claiming compensation of the vehicular accidental death of their son- Yogesh.

2. **Brief facts of the claim are as under :-**

i) Yogesh and his friend- Manoj were walking to get dinner at Amar Dhaba, Omarga by Omerga-Latur road on 21.09.2023 at about 9.00 p.m. When they were walking by Western side a motorcycle no.MH-25-AU-8847 came from behind and dashed to Yogesh. Motorcyclist was riding the motorcycle in rash and negligent manner and in fast speed causing fatal injuries to Yogesh who met lateron to death in the hospital. After filing of FIR, in police investigation the culprit of the accidental death of Yogesh was found the motorcyclist. Respondent no.1 is the owner and respondent no.2 is the insurer of the said accidental motorcycle.

ii) Deceased Yogesh was a heavy vehicle driver on the truck belonging to Harshvardhan. He was getting monthly salary of Rs.20,000/- with monthly allowance of Rs.5000/- and thus, was getting remuneration of Rs.25,000/- per month. The claimants are the parents of deceased Yogesh who lost their dependency. Therefore they are entitled for the accidental claim of compensation of Rs.40,50,000/-.

3. Respondent no.1 did not appear inspite of proper service of the summons hence claim has been proceeded exparte against him.

4. Respondent no.2 has denied entire claim by filing written statement at ext. 12 materially by taking all available statutory and general defences. On facts and merits the attempt is made to deny each and every contention of claimants. Therefore, the respondent no.2 has lastly prayed to reject the claim.

5. On the basis of rival pleadings and arguments the issues framed at Ext. 13 are answered for reasons as under:

S.No.	Issues	Findings
1)	Whether the claimants prove that **Yogesh Pandurang Vayal** died due to rash and negligent driving of vehicle bearing registration no.MH-24-D-6754 by its driver?	**Yes.**
2)	Whether the respondent no.3 proves breach of policy conditions ?	**No.**
3)	Whether the claimants are entitled for compensation, if yes, how much and from whom ?	**As per final order.**
4)	What is relief ?	**As per final order.**

R E A S O N S

ISSUE NOS. 1 & 2:

6. Admittedly, the accidental motorcycle owned by respondent no.1 was insured with respondent no.2 at the relevant time of accident. As per the case of claimants, Yogesh alongwith his friend Manoj were going by the accidental road when the accident was occurred. Manoj filed FIR of the accident on 28.09.2023 vide ext.15. Accordingly the accidental motorcycle gave dash to Yogesh from backside in such a force that Yogesh

falling on the road struck his head heavily. It caused bleeding from his nose and mouth making him unconscious immediately. If the accidental spot is noted then it is evident that the informant and deceased Yogesh were going by the proper side of the accidental road. It reveals that they did not contribute to the said accident. Now, considering the situation on the accidental spot the inference can be drawn very well that due to rash and negligent and fast driving of accidental motorcycle, Yogesh sustained fatal injuries by falling on the road. In normal situation Yogesh would have attempted to get minimum harm out of dash but the situation shows that he was unable to do anything. Thus, the investigation and the post mortem examination report clearly reveals the death of Yogesh was occurred due to sustaining brain injury out of high energy trauma in road traffic accident. The police seized accidental motorcycle MH-25-AU-8847 which is admittedly owned by respondent no.1 and insured with respondent no.2 at that time. It is also evident that Yogesh did not contribute to the said accident. Hence, I answer **issue no.1** in the affirmative and **issue no.2** in the negative.

ISSUE NOS. 3:

7. As per the case of claimants, who are parents of deceased Yogesh, his age was 26 years. He was working with transporter Harshvardhan as a driver on his heavy vehicle. He got salary of Rs.20,000/- per month and allowance of Rs.5000/- per month. The age of Yogesh found from his bonafide certificate at ext. 82 basing on the birth date- 15.05.1995 was of 28 years 04 months and 06 days on the accidental date on 21.09.2023. It is the

reliable proof of birth date of deceased Yogesh hence his age of 28 years could be the base of the claim.

8. The earning of Rs.20,000/- per month alongwith allowance of Rs.5000/- per month, as per the case of claimants is strongly challenged by the insurer respondent no.2. To prove said earning, the claimants have relied upon the oral evidence of Harshwardhan CW2 vide ext. 30. He was the employer and running his business in the name of Saibaba Roadlines. As per his evidence, Yogesh was working as the heavy vehicle driver on the truck, earning salary of Rs.20,000/- with allowance of Rs.5,000/- per month. Adv. Mr. Diwan for the respondent no.2 conducted thorough cross-examination of CW2 wherein he answers that around 10 employees were working with him, but he did not maintain salary accounts of the employees. In short they do not maintain any record of the employees. H identifies salary certificate vide ext.31 issued by him, disclosing that Yogesh was earning Rs.20,000/- per month. Adv. Mr. Diwan for the respondent has strongly relied upon the decisions of Hon'ble Bombay High Court in the case of **Uttamrao Tonde Vs. M/s. Road Carriers of India F.A. No. 848/2007 alongwith FA no.934/2007** in between **Gopichand Chate Vs. Uttamrao Tonde** dated 08.02.2016. Hon'ble High Court has commonly held that the practice of issuing such salary certificate on letter-heads is increasing day-by-day and that is done only to help the claimants to get more amount of compensation.

On this basis Adv. Mr. Diwan for respondent no.2 submits that the salary certificate in the present matter can not be accepted as a reliable proof of the remuneration. However, Hon'ble High Court in Uttamrao Tonde's case, observed in same para no.4 that such evidence would not reliable unless there is some convincing evidence like the routine accounts maintained by the concerned coaching class with the record like receipts of the employee and account of employee. It can not be believed that the deceased was really working for salary as alleged. In that case the evidence also reveals that the employees of the said coaching class and other witnesses proved that the deceased was a relative of proprietor of the said coaching class. Therefore, Hon'ble High Court lastly concluded in view of such circumstances that not much weightage can be given to the aforesaid evidence.

9. Those facts are altogether different than the facts in the present claim in hand. In that case, the witnesses of employer were not only found interested one but they have also not produced the written evidence although available with them. But, in the present claim, the employer of deceased is a rustic person and engaged in premitive transporting business having mostly the affairs with uneducated and poor employees. In such cases it is remote to think that they had maintained up to date office record much-less the record relating to payment of salary. Hence the oral evidence of the present employer even in present situation is not found unreliable. He however found interested witness. Even if the salary certificate he issued is ignored, his oral evidence is sufficient in present situation to hold that Yogesh was getting Rs.20,000/- per month as a salary at the time of his death. In support, the claimant has produced driving license of the heavy

transporting vehicles in his name. It also corroborates said case of claimant. However, although the proof that Yogesh was getting Rs.5000/- per month as allowance is found on record yet, the allowance will not form a part of salary and actual earning.

10. Adv. Mr. Diwan for respondent no.2 has also relied upon the decision of Punjab and Haryana High Court in case of **Sarla Rani Vs. Charan Sing FAO No.2314/2003**. The Hon'ble High Court has held that no documentary proof is produced of salary while one salary certificate produced is not sufficient proof. Therefore the Hon'ble High Court has held that the Ld. Trial court rightly discarded said evidence.

As per the facts in said case the deceased was working in a private firm as accountant on salary. No any salary record was produced. Said observation reveals that such record was not produced even though it would be available. However, those facts are not similar to the facts of the present claim. As it is already evident that no such salary record was available with the employer of the deceased. Therefore, that decision is not attracted to the different set of facts of the present claim.

11. Adv. Mr. Diwan has further relied upon the decision of Hon'ble Apex Court in the case of **Beti Bai Vs. Rama Shankar Sen and others, 2026 ACJ 78**, the Hon'ble Apex Court added 10% income towards future prospects, deducted 1/3rd towards personal expenses and applied multiplier of 11 to the deceased aged between 51 to 55 years.

Further again those facts are different than the facts of the present claim, wherein the deceased was 28 years old young bachelor person to which the multiplier, future prospects and deduction towards personal living expenses will change. Hence that decision cannot be attracted to these different facts.

12. As per the decision in the case of **Smt. Kalpana Madhu Gavali, FA No. 1579 of 2006, decided on 21.09.2023,** the claimants being the parents of deceased Yogesh, they are entitled the loss of consortium of Rs.44,000/- per head. In the result, Yogesh met to vehicular accidental death at the age of 28 years who was earning salary of Rs.20,000/- per month. The claimants-the parents of Yogesh lost dependency due to his death. He was a bachelor at the time of the said accident. Accordingly as per the decision of ***Sarla Verma***, the multiplier will be 17, future prospects will be 40% of the annual salary alongwith other benefits, and Yogesh being a bachelor, 1/2 (half) share of the income of his personal and living expenses is to be deducted. Hence the total loss of dependency is calculated as follows:

Sr. No.	Particulars of Heads	Amount (Rs.)
1	**Loss of dependency** [Yearly income- Rs.2,40,000 (+) Future prospects- **40%** (-) deduction towards personal and living expenses-1/2 (x) multiplier – 17] (2,40,000+96,000=3,36,000-168000=168000 x 17 = 28,56,000)	28,56,000.00
2	Towards Loss of Consortium (44000 x 2)	88,000.00
3	Towards Funeral expenses	15,000.00
4	Towards loss of estate	15,000.00
Total compensation		**29,74,000.00**

13. Admittedly, the respondent no.2 is the insurer of the

accidental vehicle and the insurance policy was effective on the day of accident. It is evident that respondent no.1 is the rider and owner of said accidental motorcycle and his rash and negligent riding caused injuries to Yogesh and he died. The respondent nos.1 & 2 are thus jointly and severally liable for the aforementioned compensation U/s. 166 of M.V. Act. Therefore, the respondent nos. 1 & 2 are liable for the claim. The claimant is entitled to total compensation as aforesaid. Further in view of Section 171 of the Motor Vehicle Act, and as observed by the Hon'ble Apex Court in **The Oriental Insurance Co. Ltd. v. Niru Niharika, 2025 (SC) 693,** the claimant is entitled to the interest on the compensation amount @ 9% per annum from the date of petition till actual realization of the compensation amount. I therefore, answer issue **nos.3 and 4** as per following final order.

O R D E R

1) The claim petition is partly allowed with proportionate costs as under:

    i) The claimants are entitled to get compensation of **Rs.29,74,000/- (**Twenty nine lakhs seventy four thousand rupees only) inclusive of interim compensation under 'no fault liability' claim.

    ii) The respondent Nos. 1 and 2 are jointly and severally liable to pay compensation to the claimant with interest at the rate of 9% p.a. from the date of institution of the petition i.e. from 08.01.2024, till realization of the entire amount.

    iii) Interest shall not be paid on the amount of future prospects.

2) The respondent No.2 insurance company is directed to deposit the amount of compensation directly in bank account of the claimant through NEFT or by account payee cheque drawn in his name.

3) The claim of Rs. 40,50,000/- as per prayer of claimants is rejected.

4) The Award be drawn up accordingly after payment of deficit court fees by claimants within 20 days.

DISTRICT COURTS MAHARASHTRA

Digitally signed by RAHUL RAMCHANDRA BHOSALE
Date: 2026.04.30 12:41:41 +0530

Date:- 30.04.2026.

(R. R. Bhosale)
District Judge-1 and
Ex-Officio Member of MACT, Latur.
