MHTH010001042022

Presented on : 04.01.2022
Registered on: 04.01.2022
Decided on : 31.01.2026
Duration : 4-Y, 0-M, 27-D

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL, THANE
(Presided over by K. P. Shrikhande)

M.A.C.P.No.34/2022 Exh. No.64
[CNR No. MHTH010001042022]

Petitioners: 1] Smt. Sandhya Suhas Rawool,
Age-32 years; Occ-housewife.
2] Miss Ananya Suhas Rawool,
Age-10 years; Occ-Education.
3] Shri Dashrath Sonu Rawool,
Age-71 years: Occ-Retired.
4] Mrs. Jayshree Dashrath Rawool,
Age-65 years: Occ-Housewife.
(No.2 is minor through petitioner No.1 mother as natural guardian.)

Petitioners No.1 and 2 are residing at -
B/1, Room No.302, Balaleshwar Apartment,
Gajanan Nagar, Vitawa, Thane (W)-400605.

Petitioners No.3 and 4 are R/at- A/4,
Abhinav Kutir Hans Nagar, Khopat,
Thane (W)-400601.

- Versus -

Respondents: 1] M/s. Glamour Tours & Travels
Through its Proprietor Mr. Bablu Sinha
Gokuldham Complex, C1 401,
BHD Gurudawara, Near Bhavani Chowk-421201.
2] Reliance General Insurance Company Ltd.
Unit No.2, 2nd Floor, Lotus Park, Road No.16,
Wagle Indistrial Estate, Thane (W)-400604.

Shri S. J. Tiwari, advocate for the petitioners.
Ex-parte, against respondent No.1.
Shri K. V. Poojari, advocate for respondent No.2.

JUDGMENT

(Delivered on 31st day of January, 2026)

This petition is under section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of vehicular accidental death of Suhas Dashrath Rawool. Brief facts of the petition may be summarized as under:-

2] There was an accident on 06/07/2021 at about 1:45 p.m. on Sion-Chunabhatti at Sion flyover, Mumbai within territorial jurisdiction of the Sion police station, Mumbai in which Suhas Dashrath Rawool received the fatal injuries. He was then immediately shifted to Sion Hospital, Mumbai; however, while taking the treatment he died the next day i.e. on 07/07/2021.

3] According to the petitioners, the deceased Suhas was practicing advocate. When he was going by his motorcycle bearing registration No. MH-04/JJ-6898 by the left side of the road, Motor Car (OLA) having registration No. MH-05/BJ-3770 coming from the opposite direction on the wrong side of the road gave a dash to his motorcycle and also to another motorcycle. As a result of the said dash, deceased Suhas received the grievous injuries and succumbed to those injuries on 07/07/2021 during the treatment in Sion Hospital, Mumbai. The said motor car is hereinafter referred to as *'the offending vehicle'.*

4] According to the petitioners, the said offending vehicle was being driven in high-speed and negligently. Nitin Gangadhar Kotur, the person who witnessed the occurrence of an accident, lodged a report on the same day in respect of the said accident against the driver of the offending vehicle, and a crime is registered against him for the offence punishable under sections 279, 337 and 338 of the Indian Penal Code and also under section 184 of the Motor Vehicles Act.

5] According to the petitioners, petitioner No.1 is a wife, petitioner No. 2 is a minor daughter and petitioners No.3 and 4 are the parents of the deceased. At the time of accident, the deceased Suhas was 45 years old and was the practicing lawyer and had monthly income Rs.2,25,000/- per month. According to them, they are entitled to the compensation of Rs.2,50,00,000/-; however, they have restricted their claim to the amount of Rs.1,00,000/- and paid the court-fees thereon, and shown readiness to pay the court-fees later on the compensation amount, if granted more.

6] According to the petitioners, respondent No.1 is the owner of the offending vehicle whereas respondent No.2 is the insurer. Insurance policy of the offending vehicle was valid at the time of occurrence of an accident and therefore, both the respondents are jointly and severally liable to pay the compensation. They have prayed for the interest at the rate of Rs.18% per annum on the quantum of the compensation.

7] Respondent No.1 failed to appear despite the service of summons of the petition and therefore, he proceeded ex-parte by the order dated 03/06/2024. Respondent No.2 appeared and filed its written statement at Exh.15. It has denied almost all the averments and the allegations made in the petition. This respondent has also denied the age of the deceased and his income as Rs.2,25,000/- per month. It has denied that Suhas met with an accident and received the injuries and also denied that he died due to the injuries sustained in the accident. It has denied the involvement of the offending vehicle in the accident, and also denied that the offending vehicle was being driven in high-speed and negligently, and was responsible for the occurrence of the accident. Further defence of this respondent is that deceased Suhas was himself responsible for the occurrence of his accident as he was riding the motorcycle negligently and in high-speed and while driving in such a manner, he lost the control and dashed against the offending vehicle and as such, it is not liable to pay the compensation.

8] Further defence of this respondent is that the driver of the offending vehicle drove the offending vehicle without valid driving license and permit and fitness certificate, and it is the breach of terms and conditions of the insurance policy, and on this ground also, it is not liable to pay the compensation and prayed for dismissal of the petition against it.

9] In view rival pleadings of both the parties, following issues have been framed by my predecessor at Exh.18 to which my findings are recorded against each of them for the reasons given below:-

ISSUES	FINDINGS
1. Do the petitioners prove that accident occurred on 06/07/2021 at about 01:45 p.m. due to rash and negligent driving of the motor car bearing No. MH-05/BJ-3770?..	Yes.
2. Do the petitioners prove that deceased expired due to the injuries sustained in the accident?......................	Yes.
3. Does the opponent No.2 prove that it is not liable to pay the compensation as opponent No.1 committed willful breach of terms and conditions of policy?..	No.
4. Does opponent No.2 prove that accident occurred	

due to rash and negligent driving of motorcycle rider?..........No.

5. Are the petitioners entitled to compensation?
If yes, to what extent?...Yes.
Rs.1,40,87,636/-.

6. What order and award?.................................As per final order.

REASONS

As to issues No.1 and 2:-

10] According to the petitioners, the accident took place on 06/07/2021 at around 1:45 p.m. on Sion-Chuna Bhatti road, Sion Flyover, Dr. B. A. Road, Sion, Mumbai within territorial jurisdiction of the Sion police station, Mumbai. Petitioner No.1 Sandhya (P.W.1) has filed her evidence on affidavit at Exh.19 and stated all the facts pleaded in the petition. Her evidence suggest that her husband Suhas was proceeding towards Dadar from Thane on his motorcycle No.MH-04/JJ-6898. When he reached at Sion Flyover, Dr. B. A. Road, at that time, one Motor Car (OLA) No.MH-05/BJ-3770 driven from the opposite direction on the wrong side of the road, in a rash and negligent manner gave a dash to the motorcycle of deceased and therefore, her husband fell down and received grievous injuries and succumbed to those injuries during the treatment in the Sion Hospital. There is no dispute that in respect of the said accident, a crime was registered against the driver of the offending vehicle at Sion police station, Mumbai for the offence punishable under sections 279, 337, 338 and 427 of the IPC and 184 of the Motor Vehicles Act. The petitioners have placed on record the copy of the F.I.R. at Exh.23 which supports to her contention about registration of the crime against the driver of the offending vehicle. Furthermore, the petitioners have placed on record the spot-panchnama (Exh.24).

11] Contents of the spot-panchanama show that motorcycle of the deceased as well as the offending vehicle had sustained the damages and they were removed from the place of accident to the police station. Furthermore, involvement of the offending vehicle in the accident has not been disputed at all in the cross-examination of the petitioner. It is important to note that respondent No.2-insurer has also not disputed in her cross-examination the occurrence of an accident between the motorcycle driven by deceased Suhas and offending vehicle and sustaining grievous injuries, admitting him in the hospital and the fact of his death in the said hospital during the treatment and also not disputed that Suhas succumbed to the injuries sustained in the accident.

12] There is no dispute that the driver of the offending vehicle has been charge-sheeted for the offence punishable under sections 279, 337, 338 and 304-A of the IPC and also under section 184 of the Motor Vehicles Act. The copy of the charge-sheet is placed on record at Exh.38. It may be seen that the deceased has died on the next day of the accident i.e. on 07/07/2021 in the hospital during the treatment. The death certificate is placed on record at Exh.31. Therefore, on the basis of the evidence of petitioner No.1 and the documents placed on record, I hold that the petitioners have proved that Suhas, husband of petitioner No.1 was riding a motorcycle, and there was a head-on collision between the said motorcycle and the offending vehicle i.e. Motor Car (OLA) No.MH-05/BJ-3770, and the deceased fell down from the motorcycle and therefore, he received the injuries and succumbed to those injuries during the treatment in the hospital.

13] According to the petitioners, at the time of accident, the offending vehicle was being driven rashly and negligently and as such, the driver of the offending vehicle was responsible for occurrence of an accident. Respondent No.2 has denied the fact of driving the said vehicle rashly and negligently. Petitioner No.1 (P.W.1) has stated about driving the offending vehicle rashly and negligently. The petitioner has placed on record the copy of F.I.R. (Exh.23) and it shows that the crime was registered against the driver of the offending vehicle for the offence punishable under sections 304-A, 279, 337, 338 and 427 of the IPC and 184 of the Motor Vehicles Act. The fact of registration of the crime for the rash or negligent driving supports to the evidence of petitioner No.1. Furthermore, after the full investigation by the police officer, driver of the offending vehicle has been charge-sheeted for the rash or negligent driving. The learned advocate for the petitioners relied upon the judgment of the Supreme Court in a case, Ranjeet & another –Vs- Abdul Kayam Neb and another, **SLP No.10351/2019, D.O. 25.02.2025**, it is held in para No.4 that

> "*It is settled in law that once a charge-sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye-witnesses are not examined, that will not be fatal to prove the death of deceased due to negligence of the bus driver*."

Therefore, on the basis of the evidence of the petitioner and the documents placed on record and on the strength of the observations of the Supreme Court, I hold that the petitioners have proved that deceased Suhas met with an accident and succumbed to the injuries sustained in the said accident because of the dash given by the offending vehicle while driving it rashly and negligently and as such I answer **issues No.1 and 2** in the affirmative.

As to issue No.4:-

14] The defence raised by respondent No.2 in the written statement is that the deceased was driving the motorcycle in high-speed and he lost the control and dashed against the said offending vehicle resulting into the accident and as such, according to respondent No.2, the deceased Suhas was solely responsible for occurrence of the accident. However, respondent No.2 has brought no evidence in support of this defence. Mere suggestion to that effect in the cross-examination of the petitioner cannot be said to be sufficient to uphold the said defence. I find no merits in this defence and as such, it is rejected and therefore, I answer **issue No.4** in the negative.

As to issue No. 3:-

15] It may be seen that there is no dispute that respondent No.1 was the owner of the offending vehicle and respondent No.2 was the insurer of the said offending vehicle. Copy of insurance policy (Exh.25) is placed on record. The fact that the insurance policy of the offending vehicle was effective and valid at the time of accident has not been disputed by respondent No.2. Accident took place on 06.07.2021 and the insurance policy was valid and effective for the period from 02.03.2021 to 01.03.2022.

16] Respondent No.2 has come up with the case that the driver of the offending vehicle was not having valid and effective driving license and the said vehicle was being driven without permit and fitness certificate and therefore, it is the breach of terms and conditions of the insurance policy and as such, it is not liable to pay the compensation. However, respondent No.2 has not brought on record any documentary evidence in support of these defences and even respondent No.2 has not led any oral evidence. Respondent No.2 made absolutely no attempt to prove this defence. The learned advocate for respondent No.2 has also not argued in respect of the breach of terms and conditions of the insurance policy. Therefore, I hold that respondent No.2 failed to prove that there was breach of terms and conditions of the insurance policy and as such, I answer **issue No.3** in the negative.

As to issue No.5:-

17] According to the petitioners, petitioner No.1 is wife of deceased Suhas, petitioner No.2 is a daughter and petitioner No.3 and 4 are the father and mother of the deceased. It may be seen that relations of the petitioners with deceased Suhas have not been disputed by respondent No.2 in the cross-examination of petitioner No.1. Having regard to the relations of the petitioners with the deceased Suhas, I hold that they all are the legal heirs and therefore, they are entitled to the compensation. Petitioner No.1 wife is appearing to be the housewife, petitioner No.2 is minor daughter of 10 years old and therefore, they both can be said to be the dependents on the earnings of the deceased Suhas. However, petitioner No.3 is appearing to be the retired person. So, it suggests that before retirement, he had earnings and after retirement, he must be getting the pension. Therefore, it cannot be said that petitioner No.3 was the dependent on the earnings of deceased Suhas. Petitioner No.4 being the wife of petitioner No.3, and as petitioner No.3 is the earning person, it cannot be said that petitioner No.4 was dependent on the earnings of deceased Suhas. Therefore, I hold that only petitioners No.1 and 2 were the dependents on the earnings of the deceased Suhas.

18] Now the point for determination is what quantum of compensation the petitioners are entitled to. The petitioners have claimed that the deceased was 45 years old at the time of an accident. The PAN card and driving licence of deceased Suhas are placed on record at Exh.32 and 33 to show his date of birth as 14.05.1976. Therefore, I hold that the deceased Suhas was 45 years old at the time of occurrence of the accident.

19] It is the case of the petitioners that deceased Suhas was the practicing advocate and was earning the amount of

Rs.2,25,000/- per month. The petitioners have placed on record the copy of the diploma in labour laws and labour welfare at Exh.34, the copy of the Law degree at Exh.35, identity card issued by bar Council of Maharashtra and Goa at Exh.36 and the certificate in respect of registration with bar Council of Maharashtra and Goa at Exh.37. It shows that deceased had registered himself with the bar Council of Maharashtra and Goa in the year 2005. So, he was practicing as a lawyer since 2005. Furthermore, respondent No.2 has not disputed in the cross-examination of the petitioner that deceased was in practicing lawyer.

20] To show the income of the deceased Suhas, the petitioners have placed on record his ITR acknowledgments for the assessment year 2018-19 at Exh.39, for the assessment year 2019-20 at Exh.40 and for the assessment year 2020-21 at Exh.41. The learned advocate for the petitioners relied upon the judgment of the Supreme Court in a case, *ICICI Lombard General Insurance Co Ltd Vs-Ajay Kumar Mohanty and another*, **Civil Appeal No. 7181/2015, (2018) 3 SCC 686** to show that average income of the deceased can be considered for the purpose of assessment of the compensation. This is the judgment of 3-Judges bench. The learned advocate for respondent No.2 submitted that ITR of the last year i.e. for the year 2020-21 shall be considered to assess the compensation and placed reliance on the judgments of the Hon'ble Supreme Court & High Court in a case,

i. Shashikala and others Vs. Gangalakshmamma and another in C.A. No.2836 of 2015 arising out of SLP (C) No.6016 of 2014, decided on 13.03.2015.
ii. Saroj Devi and others Vs. Balbir Singh and others in C.A. No.6186 of 2023, decided on 26.09.2023.

iii. Sangita Arya and others Vs. Oriental Insurance Co. Ltd. and others in C.A. No.2612 of 2020, decided on 16.06.2020.

iv. Rajbala and others Vs. Krishan Kumar Sharma and others in MAC Appeal No.120 of 2022, decided on 11.07.2023.

v. Sheela Devi and others Vs. Sumit Kumar and others in FAFO No.1080 of 2021, decided on 18.04.2022.

However, it must be observed that in all these judgments, view favorable to the claimant was taken to grant more but just compensation. Having regard to the object of section 166 of the Motor Vehicles Act and that it being the beneficial legislation, and judgment relied upon by the petitioners being the judgment of the Hon'ble Supreme Court of 3-Judges bench, I am inclined to place reliance on the ratio laid down by this judgment.

i) ITR for the assessment year 2018-19 shows that his gross total income was Rs.10,48,584/- and payable tax was Rs.94,982/- and thus, his net income was Rs.9,53,602/-.

ii) ITR for the assessment year 2019-20 shows that his gross total income was Rs.26,26,536/- and payable tax was Rs.6,23,243/- and thus, his net income was Rs.20,03,293/-.

iii) ITR for the assessment year 2020-21 shows that his gross total income was Rs.6,51,530/- and payable tax was Rs.44,518/- and thus, his net income was Rs.6,07,012/-.

Thus, total net income after deduction of tax of deceased Suhas for 3 years comes to Rs.35,63,907/-, and average net income per year would come to Rs.11,87,969/-. Therefore, I hold that the petitioners have proved that annual income of deceased was Rs.11,87,969/-.

21] Deceased Suhas was self-employed person and therefore, his legal heirs can be made entitled to the future prospects. Having regard to the age of the deceased as 45 years, the petitioners are held entitled to 25 % future prospects as per the decision of the Apex Court in a case, *National Insurance Company Limited -Vs- Pranay Sethi and others*, **(2017) 16 SCC 680 (SC).**

22] Though there are 4 legal heirs of deceased Suhas, it is already observed that only two petitioners i.e. petitioners No.1 and 2 can be considered to be the dependents. Having regard to the dependency, 1/3th income is considered towards his personal and living expenses, as per the decision of the Supreme Court in a case, *Sarla Varma and others -Vs- Delhi Transport Corporation and Others*, **AIR 2009 SC 3104**. Furthermore, as the age 45 years of the deceased Suhas is falling in the age band 41 to 45, an appropriate multiplier is to be considered as 14.

23] Under the conventional head, as per the decision of the Apex Court in a case, National *Insurance Company Limited -Vs- Pranay Sethi and others*, **(2017) 16 SCC 680 (SC),** the petitioners are held entitled to the amount of Rs.15,000/- towards loss of estate and amount of Rs.15,000/- towards funeral expenses, and each petitioner would be entitled to the amount of Rs.40,000/- towards the consortium. In view of the further direction of the Apex Court in respect of awarding 10% increase in every three years, the petitioners would be entitled to 20% increase on the conventional head as 6 years have been elapsed after passing the said judgment.

24] Thus, the compensation amount on account of the death of Suhas Dashrath Rawool is assessed as follows, and I take this amount as just and reasonable amount of compensation.

Sr. No.	Particulars	Amount
I	Annual income of deceased after deduction of tax	Rs.11,87,969/-
II	Future prospects: 25% of income (Age being in age group 40 to 50 years)	Rs.2,96,992/-
III	Totally income (I+II)	Rs.14,84,961/-
IV	1/3rd deduction towards personal and living expenses of deceased	Rs.4,94,987/-
V	Multiplicand (III-IV)	Rs.9,89,974/-
VI	Multiplier .... 14 (For the age group: 46 to 50 yrs.)	
VII	Loss of dependency (Multiplicand X Multiplier)	Rs.1,38,59,636/-
VIII	Loss of estate	Rs.15,000/-
IX	Loss of consortium Rs.40,000x 4	Rs.1,60,000/-
X	Funeral expenses	Rs.15,000/-
XI	Additional 20% increase on conventional heads i.e. on loss of estate, consortium and funeral expenses.	Rs.38,000/-
XII	Total compensation................................ (VII + VIII + IX +X + XI)	Rs.1,40,87,636/-

25] Therefore, I hold that the petitioners are entitled to the compensation of Rs.1,40,87,636/- inclusive of the amount of no fault liability of Rs.50,000/- and as such, I answer **issue No.5** accordingly.

26] Considering the facts and circumstances of the case, I am of the view that the petitioners are entitled to the interest on the compensation amount Rs.1,40,87,636/- at the rate of Rs.9/- per annum from 04.01.2022, a date of filing the petition till its full realization. As the offending vehicle was duly insured with respondent No.2, it is the duty of respondent No.2 to indemnify the owner i.e. respondent No.1. So, it would be just and proper to give direction to respondent No.2 to pay the compensation to the petitioners. In the result, in an answer to **issue No.6**, I proceed to pass the following order.

ORDER

1. The petition is allowed with costs.

2. Respondents No.1 and 2 are held jointly and severally liable to pay the amount of **Rs.1,40,87,636/- (Rupees one crore, forty Lakhs, Eighty seven Thousands, six hundreds and thirty six only)** as the compensation to the petitioners.

3. The petitioners are entitled to the interest at the rate of Rs.9% per annum on the compensation amount from 04.01.2022, the date of filing the petition till its full realization.

4. Amount of Rs.50,000/-, if any, paid towards no fault liability, shall be adjusted against the aforesaid amount of compensation.

5. Respondent No.2 insurer is directed to deposit the above amount, for being paid to the petitioners, with the Tribunal.

6. Petitioners No.1 and 2 would be entitled to 40% each and petitioners No.3 and 4 would be entitled to 10% each. 50% amount payable to petitioners No.1, 3 and 4 shall be kept in fixed deposit for the period of 3 years.

8. The amount payable to petitioner No.2 shall be kept in fixed deposit till attaining her majority. For her welfare, she is given the liberty to withdraw the interest amount yearly on this amount.

9. After the maturity of the Fixed Deposit, the petitioners shall be entitled to receive the said amount with the accrued interest thereon.

10. The award shall be drawn accordingly.

Sd/-

Place :Thane
Dated :31.01.2026

(K. P. Shrikhande)
Extra Jt. District Judge & Addl. Sessions
Judge as Member, M.A.C.T., Thane.