

**IN THE COURT OF THE THIRD MOTOR ACCIDENT
CLAIMS TRIBUNAL-CUM- ADDITIONAL DISTRICT
JUDGE, BHANJANAGAR, DIST. -GANJAM.**

Present: -

Shaikh Md. Quais, M.A., LL.M,
IIIrd M.A.C.T.-cum-Addl. District Judge,
Bhanjanagar, Dist.Ganjam.

(J O Code No.OD-0300)

Dated this the 3rd day of August, 2026

M.A.C Case No. 166 of 2019

Sunil Kumar Routa, aged about 28 years,
S/o.Kampa Routa, Cultivation by profession,
Vill.Sardula, PO.Dumakumpa, PS.Bhanjanagar,
Dist.Ganjam, Odisha.

... **Petitioner.**

V e r s u s

1. **Laxmi Narayan Nayak**, S/o.Late Trinath Nayak,
At/Po.Baunsalundi, PS.Bhanjanagar, Dist.Ganjam.
(Owner of the Tipper bearing Regd.No.OR 07N
2666)
2. **The Divisional Manager,**
M/s.Oriental Insurance Co. Ltd.,
AT.Giri Road, PO.Hilpatna, PS.Berhampur,
Dist.Ganjam, Odisha.
(Insurer of Tipper bearing Regd.No.OR 07N 2666)

... **Opposite Parties.**

For the Petitioners : Sri Kuna Nayak, Adv.

For the OP No.1 : None (Ex-parte).

For the OP No.2 : Miss A.M Pattnaik.

Date of conclusion of argument : **23.07.2026**

Date of delivery of judgment : **03.08.2026**

J U D G M E N T

The claimant-petitioner has filed the present application under Section 166 of the M.V. Act, 1988 claiming an amount of **Rs.5,00,000/-** (Rupees Five Lakh) only as compensation on account of the injuries sustained by him due to vehicular accident allegedly caused by one Tipper bearing Registration No.OR 07N 2666 (*herein after referred to as the offending vehicle*) on 18.09.2019 at 4.20 PM at village Kamaredi Chowk under Bhanjanagar PS in the district of Ganjam.

02. The case of the Petitioner is that on the aforesaid date while the petitioner was proceeding from his village Sardula towards village Hatiguda in a scooty bearing Regd.No.OD 07Y 5368 by ridding the same and one Nirakar Gouda was proceeding in such scooty as pillion rider, near village Kamaredi Chowk, the offending Tipper dashed the scooty of the petitioner from opposite side in a rash and negligent manner, as a result the petitioner as well as the pillion rider of the scooty sustained severe injuries on their person and were shifted to SDH, Bhanjanagar. However the pillion rider of the scooty Nirakar Gouda was declared dead at Hospital. The petitioner was shifted to MKCG MCH, Berhampur for better treatment. Thereafter he was again shifted to Sunshine Hospital, Bhubaneswar on 23.09.2019.

It is further averred that due to the alleged accident, the petitioner had sustained communitied proximal and shaft humerus fracture on right side with undisplaced acromion process fracture and scapula fracture for which

surgery was done on the fracture portion of his body and he was treated at Sunshine Hospital, Bhubaneswar as indoor patient till 29.09.2019. It is further averred that despite of treatment, the petitioner is unable to perform his day to day routine work for the injuries sustained by him.

It is averred that in connection with the alleged accident, Bhanjanagar PS Case No.293 dtd.18.09.2019 was registered and after completion of investigation, charge sheet for offence u/s.279/337/304-A of IPC has been submitted against the driver of the offending Tipper namely Ramesh Chandra Gouda.

It is the case of the Petitioner that the accident took place due to rash and negligent driving of the driver of the offending Tipper. It is further averred that the petitioner has spent a sum of Rs.2,50,000/- as cost towards treatment, transportation and special diet. The petitioner is still under treatment and has become disable. He has suffered mental, pain and agony due to the alleged accident. Hence, the Petitioner has claimed a total compensation to the tune of Rs.5,00,000/- (Rupees Five Lakhs) from the Opp.Parties.

03. The Opposite Party No.1 (registered owner of the offending Tipper) has not appeared despite of receipt of the notice of the tribunal and has been set ex-parte vide order dtd.05.11.2022.

04. Opposite Party No.2 - The Oriental General Insurance Co. Ltd. who is the insurer of the offending Tipper has filed written statement questioning about the

maintainability of the claim case and *inter alia* denied its liability to pay compensation for the accident in question on various grounds and called upon the petitioner to be put to strict proof of the averments made in the claim petition. The specific case of the OP No.2 is that the accident took place due to head-on collision and there was contributory negligence on the part of the petitioner. The amount of compensation claimed is highly excessive. On the whole, it is averred that the OP No.2 is not liable to pay such compensation and prayed for dismissal of the claim petition.

05. Basing upon the pleadings of the contesting parties the following issues have been settled for adjudication in this case.

I S S U E S

(i)Whether the claim application is maintainable ?

(ii)Whether due to rash and negligent driving of the driver of the offending Tipper bearing registration No.**OR 07N 2666**, the accident took place and in that accident, the petitioner sustained grievous injuries on his person like fracture of humerus and scapula ?

(iii)Whether the petitioner is entitled to get any compensation, and if so, what would be the extent ?

(iv)Whether the Opposite parties or either of them is liable to pay the compensation to the petitioner ?

(v)What other relief, if any the petitioner is entitled ?

06. In order to establish the case, the Petitioner has examined himself as PW.1. In addition to oral evidence, PW-1 has also filed the certified copies of FIR, Final form, two seizure lists, two zimanamas, injury report issued in his favour by SDH, Bhanjanagar, injury report issued by Sunshine Hospital, Bhubaneswar in his favour and statement of four numbers of witnesses recorded U/s.161 CrPC, in connection with Bhanjanagar PS case no.293 dtd.18.09.2019 which have been marked vide Ext.1 to Ext.9 series respectively. PW.1 has also produced the original discharge certificate of Sunshine Hospital, Bhubaneswar and final medical bill issued in his favour which have been marked vide Ext.10 and Ext.11 respectively.

On the other hand the Opposite party No.2 has not adduced any oral or documentary evidence on its behalf.

FINDINGS

07. Issue Nos. i & ii :

While being examined as P.W.1, the Petitioner has reiterated the contentions made in the claim application and has stated that on 18.09.2019 at about 4.20 PM while he along with one Nirakar Gouda were proceeding from his village Sardula towards village Hatiguda in a scooty bearing Regd.No.OD 07Y 5368 being ridden by him on the extreme left of the road very slowly, near village Kamaredi Chowk, the offending Tipper came from the opposite side and dashed the scooty of the petitioner in a rash and negligent manner, as

a result the petitioner as well as the pillion rider of the scooty sustained severe injuries on their person and were shifted to SDH, Bhanjanagar. However the pillion rider of the scooty Nirakar Gouda was declared dead at Hospital. It further reveals from the evidence of PW.1 that he had sustained multiple grievous injuries and fractures over his body. He was shifted to MKCG MCH, Berhampur for better treatment. Thereafter he was again shifted to Sunshine Hospital, Bhubaneswar on 23.09.2019 and was discharged from hospital on 29.09.2019. He further deposed that due to such accident he had sustained comminuted proximal shaft humerus fracture on right side with undisplaced acromion process fracture and scapula fracture. He further deposed that the accident took place due to sole rash and negligent driving of the driver of the offending Tipper.

It further reveals from the evidence of petitioner that he had spent a sum of Rs.2,50,000/- as cost towards treatment, transportation and special diet. The petitioner is still under treatment and has become disable. He further deposed to have suffered mental, pain and agony due to the alleged accident.

On being cross-examined, PW.1 stated that after accident he lost his sense and he regained his sense at hospital at Bhubaneswar. He admitted to have not filed any disability certificate issued in his favour. He also admitted to have not filed any recent medical paper towards his treatment.

From the aforesaid evidence of the petitioner-

cum-injured of this case, it reveals that the petitioner along with the deceased were proceeding on the extreme left of the road when the offending vehicle dashed from the front side. Moreover on the evidence of the petitioner, the police papers in Bhanjanagar PS case no.293 dtd.18.09.2019 for offence U/s.279/337/304-A of IPC, like certified copies of FIR, Final form, two seizure lists, two zimanamas, injury report of the petitioner issued by SDH, Bhanjanagar, injury report of the petitioner issued by Sunshine Hospital, Bhubaneswar and the statement of four witnesses recorded U/s.161 of CrPC have been marked vide Ext.1 to Ext.9 series respectively.

On perusal of Ext.1, the F.I.R, it is found that the FIR has been lodged by the brother of the deceased/pillion rider, namely Tapan Kumar Gouda. It further reveals from Ext.2 the Final Form that after thorough investigation, charge sheet under Sec.279/337/304-A of the IPC has been submitted against the driver of the offending Tipper bearing Regd.No.OR 07N 2666 namely Ramesh Chandra Gouda. The offending Tipper along with its Registration Certificate, Permit and summary to be carried have also been seized, during investigation under seizure list vide Ext.3 and the same have been left in zima of the owner of the Tipper (OP No.1) under zimanama vide Ext.5.

So taking into consideration the oral evidence of the petitioner coupled with the documentary evidence adduced by him, this Tribunal is of the opinion that the deceased Nirakar Gouda died and the petitioner sustained grievous injuries on his person due to the vehicular accident which took place due to

rash and negligent driving on the part of the driver of the offending Tipper bearing Regd.No.OR 07N 2666.

Although learned counsel for the OP No.2 has argued that there was head-on collusion but no such material is found from the evidence of the petitioner and the documents produced by him. No evidence has also been adduced from the side of OP No.2 to prove the fact of head-on collusion. Hence, it is held that the accident took place due to sole rash and negligent driving of the driver of the offending vehicle.

Accordingly the claim application is maintainable. Hence, both the issues are answered affirmatively in favour of the Petitioner.

08. Issue No.iii:

While answering issue no.1, it is found that due to rash and negligent driving of the driver of the offending Tipper, the accident took place and in that accident the petitioner sustained injuries on his person. It is therefore to be seen next as to whether the petitioner is entitled for any such compensation and if so what would be the extent of compensation. On perusal of the medical document proved by the petitioner such as injury report issued by MO, SDH, Bhanjanagar vide Ext.7, injury report issued by MO, Sunshine Hospital, Bhubaneswar vide Ext.8 and the discharge certificate issued by Sunshine Hospital, Bhubaneswar in favour of the petitioner vide Ext.10, it reveals that due to such accident, the petitioner has sustained comminuted proximal and shaft humerus fracture on the right side with undisplaced acromion process fracture and scapula

fracture which have been reported to be grievous in nature. It also reveals from Ext.10, the discharge certificate that the petitioner was admitted to Sunshine Hospital, Bhubaneswar as indoor patient from 23.09.2019 to 29.09.2019 and during treatment Open Reduction and Internal Fixation (ORIF) surgery was done on the petitioner for his aforesaid injuries.

The petitioner has deposed that due to such accident, he is unable to perform his normal routine duties and is still incurring expenses towards his treatment. However, no such document regarding any disability of the petitioner and his future treatment has been filed.

However, as per my discussion made in the foregoing paragraph, it has already been established from Ext.7, Ext.8 and Ext.10 and the oral evidence of the petitioner that the injuries sustained by the petitioner was found to be grievous in nature for which he has undergone treatment at the hospital as indoor patient. The petitioner has also filed the medical bill of Sunshine Hospital, Bhubaneswar for his treatment from 23.09.2019 to 29.09.2019 which has been marked vide Ext.11. It reveals from Ext.11 that the petitioner has paid a total sum of Rs.85,000/- to the concerned hospital for his aforesaid treatment. That apart, the petitioner must have spent some money for transportation and special diet and he must have incurred loss for attendant charges and income during treatment. So this Tribunal cannot remain oblivious of the nature of injuries sustained by the injured and the period of treatment on account of the road traffic accident. It can be

deduced therefrom that due to the sustenance of such injuries on his person, the injured must have suffered pain and agony etc. In an authority decided in the matter ***Kavita vs Deepak and Others*** reported in 2013 (I) OLR (SC)-167 the Hon'ble Apex Court have held that;

“Exercise of determination of compensation in accident cases involve some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of disability. These elements are required to be considered in an objective manner”.

09. Therefore, taking into consideration the facts and circumstances of the case, the nature of injuries sustained by the petitioner including the year of occurrence i.e. in the year 2019, the period of hospitalization of the petitioner and the money spent as hospital charge, in the humble view of this Tribunal, a consolidated sum of **Rs.5,00,000/-** (Rupees three lakhs) is to be awarded on different heads i.e. treatment expenses, transportation, special diet, attendant charges, loss of earning during treatment, future treatment, pain and sufferings, towards compensation due to injuries sustained by the injured-claimant-petitioner which is the just compensation payable to him in this case.

10. Issue No.iv :

Now, coming to the question of liability, in course of investigation of the case, the police appears to have effected seizure of the offending tipper bearing Regd. No.OR 07N 2666 under seizure list vide Ext.3 along with RC particular and permit. It is also reflected in such seizure list that insurance policy of the offending tipper vide policy no.

345401/31/2019/2968 valid till 30.10.2019, covering the date of accident. The policy coverage at the time of accident of the offending Tipper is not disputed. No other violation of condition of policy is alleged by the OP No.2.

Usually, OP No.1 who is the registered owner-cum-driver of the offending vehicle at the time of accident in question is liable for the alleged accident, but as the insurance policy issued by Opp. Party No.2 in respect of the offending Tipper bearing Regd. No.OR 07N 2666, was valid by covering the date of accident, ultimately the Opp. Party No.2- insurance company is statutorily and contractually liable to pay the compensation as awarded above to the petitioner by way of indemnifying the registered owner of the offending vehicle.

Hence, this issue is answered accordingly.

11. Issue No.5 :

In view of my discussions made in the foregoing issues, no other relief is required to be granted in favour of the petitioner.

Hence it is ordered.

ORDER

The MAC Case is ***allowed*** on contest against the OP No.2 (insurance company) and ex-parte against the Opposite Party No.1 (owner of the offending Tipper), but in the peculiar circumstances without any cost.

The Opposite Party No.2 (M/s.Oriental Insurance Co.Ltd.) is directed to pay the total compensation amount of **Rs.5,00,000/-**(Rupees Five Lakhs) only with simple interest at

the rate of **6%** per annum with effect from the date of filing of the claim application i.e. from 23.11.2019 to the petitioner through this Tribunal within **two** months hence failing which the petitioner would be at liberty to realize the awarded amount along with the interest at the rate of **9 %** per annum after completion of two months from today till the payment is made from Opposite Party No.2 through the process of law.

In the event of making such payment, the same shall be disbursed by this Tribunal to the Claimant-Petitioner, Sunil Kumar Routa in **Cash**.

If any compensation under no fault liability has been paid, the same be deducted from the awarded amount at the time of payment of compensation.

The required court fees, if not paid earlier shall be realized from the petitioner before actual payment of the compensation amount paid to them.

Sd/-

IIIrd M.A.C.T., BHANJANAGAR.

This Judgment is typed to my dictation by the Stenographer attached to this court directly to the Computer, corrected and pronounced by me in the Court on this the 3rd day of August, 2026 given under my hand & seal of this Court.

Sd/-

IIIrd M.A.C.T., BHANJANAGAR.

List of witnesses examined for the petitioner:

PW.1 Sunil Kumar Routa.

List of witness examined for Opp.Parties:

None.

List of documents admitted in to evidence for the petitioners:

- | | |
|---------|---|
| Ext.1 | Certified copy of Plain Paper FIR. |
| Ext.1/1 | Certified copy of Formal FIR. |
| Ext.2 | Certified copy of Final Form. |
| Ext.3 | Certified copy of seizure list. |
| Ext.4 | Certified copy of seizure list. |
| Ext.5 | Certified copy of zimanama. |
| Ext.6 | Certified copy of zimanama. |
| Ext.7 | Certified copy of injury report. |
| Ext.8 | Certified copy of injury report. |
| Ext.9 | Certified copy of four nos. of statements of the witnesses recorded U/s.161 CrPC. |
| Ext.10 | Original Discharge Summary issued by Sunshine Hospital, Bhubaneswar. |
| Ext.11 | Final Bill dtd.29.09.2019 issued by Sunshine Hospital, Bhubaneswar. |

List of documents filed by the Opp.Party No.2:

Nil.

Sd/-

IIIrd M.A.C.T., BHANJANAGAR.