MHTH060018552014

Presented on : 20.08.2014
Registered on : 20.08.2014
Decided on : 13.08.2026
Duration : Y. M. D.
11 11 24

IN THE COURT OF MEMBER, M.A.C.T. & DISTRICT JUDGE-2,
KALYAN AT : KALYAN
(Presided by R.V. Tamhanekar)

M. A. C. P. NO. 171/2014
CNR : MHTH060018552014
Exh. No.42

Poornima Amol Pawar
Age: 32 years, Occupation : Housewife
Presently R/ at: Bhoir Chawl,
Chikanghar, Kalyan (W) .... Applicant

V/s.

1] **Mr. Devendra Jalindar Dhamnkar**
At : Post Urse, Tal. Maval,
Dist. Pune- 410507
(Owner of Tempo bearing Reg. No.
MH-14/BJ-2529)

2] **Bajaj Allianz General Ins. Co. Ltd.**
At : Thane Divisional Office
6th Floor, Sun Magnetica Service Road,
Near New RTO, teen Hath Naka,
Lois Wadi, Thane

Insurer of of Tempo bearing Reg. No.
MH-14/BJ-2529) .... Opponents

Application for Compensation U/s. 163A of The Motor Vehicles Act, 1988

Appearances : Shri. Amit Choudhary the Ld. Advocate for the Applicant.
Opponent No.1 proceeded ex-parte
Shri. A.K. Tiwari the Ld. Advocate for the opponent No.2.

J U D G M E N T
(Delivered on 13.08.2026)

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1] This is petition filed under Section 163A of The Motor Vehicles Act, 1988 for compensation on account of accidental injuries sustained by applicant during vehicular accident.

2] As per applicant on 22.06.2014 she was coming from Satara towards Mumbai by private travels Bus bearing registration No. MH-43-H-1056. According to applicant at about 3.15 a.m. of 23.06.2014 when their bus reached on Pune-Mumbai Express Highway near Khopoli exit, suddenly the driver of the bus lost his control, bus ran here and there and then dashed on Tata Tempo bearing registration No. MH-14-BJ-2529 as well as on another truck from behind and then stopped. The applicant has claimed that due to impact of said dash she fell down from the bus and sustained serious injuries i.e. chest injury, abdomen, left lower leg with CLW over left lumbar region measuring 5 x 0.5 x 1 c.m. and other injuries as per medical papers. As per applicant she was taken at M.G.M. Hospital and after first aid she was shifted to Kohinoor Hospital, Kurla where she was indoor patient from 24.06.2014 to 01.07.2014. According to applicant she spent more than Rs.1 lakh on her medical treatment till today and yet to incur further expenses for her total rehabilitation.

3] The applicant claims that due to accidental injuries there is reduction of her working capacity and thereby she unable to concentrate on her routine work. The applicant has claimed that because of those injuries it is likely that the permanent disability would probably be assessed to 45% and she undergone unbearable pains and suffering for the time being and will have to suffer the same in future. The applicant has given calculation claiming that she is entitled for compensation at Rs.9,33,600/- under Section 163A of the Motor Vehicles Act along with interest at the rate of Rs.12% p.a. from the date of application till actual realization.

4] As per applicant vehicle is owned by opponent No.1 and thereby he is liable to pay compensation irrespective of negligence, if any, on the part of applicant. According to applicant first information report registered at Khopoli Police Station vide C.R. No. 109/2014 in respect to said accident and therefore by virtue of provision of Section 163A of Motor Vehicles Act her claim is justified. It has been contended on behalf of applicant that vehicle involved in accident is owned by Mr. Devendra Jalindar Dhamnkar and insured with Bajaj Allianz General Ins. Co. Ltd. for the period 18.02.2014 to 17.02.2015 i.e. covering the date of accident and therefore both the opponents are require to pay compensation.

5] It is a matter of record that opponent No.1 duly served, but did not appear and thereby petition proceeded ex-parte against opponent No.1 vide order dated 28.04.2022.

6] The opponent No.2 by filing written statement at Exh. 21 has objected the application stating that the driver of private bus bearing registration No. MH-43-H-1056 was self negligent, dashed to insured vehicle and unknown truck. It has been contended on behalf of insurance company that the driver of insured vehicle bearing registration No. MH-14-BJ-2529 was driving very cautiously, taking proper care and by following traffic rules. The opponent No.2 has claimed that the driver of vehicle bearing registration No. MH-14-BJ-2529 was not negligent, but the accident taken place due to sole negligence of the driver of private bus bearing registration No. MH-43-H-1056.

7] As per opponent No.2 first information report filed on 27.06.2014 whereas accident occurred on 23.06.2014 and thereby there is unexplained delay of four days. Furthermore the insurance company has claimed that the injured and other occupants were self negligent and therefore the insurance company is not liable to pay any kind of compensation to the applicant. On one hand the opponent No.2 has admitted that the interest of Mr. Devendra Jalindar Dhamnkar in vehicle bearing registration No. MH-14-BJ-2529 covered at the material time under the policy of insurance company issued for the period 18.02.2014 to 17.02.2015, but on other hand claims that the driver of said vehicle was not holding a valid and effective driving licence at the time of accident and hence the insurance company is not liable to pay any compensation to the applicant. So also the opponent No.2 has claimed that said vehicle bearing registration No. MH-14-BJ-2529 was plied without valid and effective permit and fitness at the time of accident and therefore it is clear breach of terms and conditions of the policy issued by opponent No.2.

8] The opponent No.2 has raised another defence that the applicant has not made driver, owner, insurer of unknown truck and bus bearing registration No. MH-43-H-1056 as well as the driver of vehicle bearing registration No. MH-14-BJ-2529 as necessary parties and therefore the claim is liable to be dismissed on that ground alone.

9] Perused the pleadings of parties. It appears that issues are not framed in the matter, but by considering the nature of claim under Section 163A of Motor Vehicles Act, for the purpose of determination of controversy between the parties, I have gone through the pleadings of parties, evidence on record and given my findings and reasons on following points:-

Sr.No.	POINTS	FINDINGS
1.	Whether the applicant proves that there was motor vehicle accident on 23.06.2014 due to involvement of tempo bearing registration No. MH-14-BJ-2529 and bus bearing registration No. MH-43-H-1056 on public way ?	..Affirmative
2.	Whether the applicant proves that she sustained injuries during said	.. Affirmative

	accident ?	
3.	Whether the applicant is entitled for compensation, if yes, to what extent and from whom?	..Affirmative, Rs.2,97,846/- with interest at the rate of Rs.7.5% P.A. from opponent Nos.1 and 2 jointly and severally.
4.	What order and Award ?	.. As per final order.

REASONS

POINT NO. 1:-

10] It is the case of applicant that on 22.06.2014 she was travelling by private bus bearing registration No. MH-43-H-1056 and at about 3.15 a.m. of 23.06.2014 when bus reached at Khopoli exit of Pune-Mumbai express highway, suddenly the driver of bus lost the control and thereby bus ran here and there and dashed on Tata tempo bearing registration No. MH-14-BJ-2529 as well as on another truck from behind. It is matter of record that applicant herself entered into witness box vide Exh.22. After perusal of her entire evidence it reveals that she has reproduced the contents of application claiming that due to impact she fell down from the bus and sustained injuries. To support her version the applicant has placed on record the copy of first information report at Exh.25 and spot panchanama at Exh.26. After perusal of those two documents it reveals that accident occurred between above numbered two vehicles and other truck whereby two persons lost their lives, and four witnesses sustained injuries and there was damage to both vehicles.

11] It appears that during the course of cross-examination suggestion has been given to applicant that accident took place due to fault of the driver of bus and there was no negligence on the part of tempo. Said suggestion denied by the applicant. So far as provision under Section 163A of the Motor Vehicles Act, it is not necessary to lead and prove negligence, but it is necessary to prove that the accident took place between vehicles on public road whereby applicant sustained injuries. So from perusal of oral as well as documentary evidence it reveals that two vehicles involved in the accident whereby the applicant sustained injuries. In other words it is come on record that vehicle bearing registration No. MH-14-BJ-2529 and bus bearing registration No. MH-43-H-1056 involved in the accident. So, I have answered this Point No. 1 in the affirmative.

POINT NO.2 :-

12] It is the claim of applicant that due to accident she sustained injuries and thereby initially she was taken to MGM Hospital and thereafter shifted to Kohinoor Hospital, Kurla where she was indoor patient from 24.06.2014 to 01.07.2014. To substantiate her contention the applicant has adduced her oral evidence to that effect and placed on record discharge summary at Exh.29 issued by Kohinoor Hospital. After perusal of said certificate it reveals that the applicant sustained injury to chest, abdomen, left lower leg with CLW over left lumber region measuring 5 x 0.5 x 1 c.m. and she was hospitalized in between 10.10 p.m. of 24.06.2014 to 01.07.2014. So from perusal of oral and documentary evidence it reveals that the applicant sustained injuries during vehicular accident.

13] The applicant has examined Dr. Mihir Rannavare vide Exh.30 for proving her permanent partial disability at about 45% as claimed by her. It appears that the C.W. No.2 during his evidence has claimed that as per his evidence has claimed that as per his opinion patient has permanent partial disability of about 25%. However during cross-examination he admitted that he never treated the patient, not brought clinical notes, he do not have record of fresh X-rays and he did not maintain previous record of the patient. Furthermore the C.W.No.2 has admitted that there is no fracture to the patient and no bone injury found. The C.W. No.2 has admitted that he is not expert of abdominal injuries assessment and he has not mentioned the occupation of the patient in the disability certificate, so there is no whisper of occupation disability of the patient. Even though the C.W. No.2 has admitted that he is aware of guidelines issued by Government of India, while issuing disability certificate given by him it is not in format as per guidelines of government. So even though the applicant has recorded the evidence of doctor who claims that he assessed disability, said certificate cannot be relied upon for concluding permanent or partial disability. But fact is that the applicant has proved the nature of injuries sustained by her during vehicular accident. So I have answered this Point No.2 in the affirmative.

POINT NO.3 :-

14] The next question would be about liability to pay the compensation. The claim under Section 163A of the Motor Vehicles Act is based on structural formula and therefore let us see the evidence placed on record by applicant. As mentioned supra, it is come on record that accident took place involving two vehicles. Admittedly opponent No.1 is the owner of tempo bearing registration No. MH-14-BJ-2529 and it is duly insured with opponent No.2 for the period 18.02.2014 to 17.02.2015 and when accident took place on 23.06.2014, it cover period of validity of policy. Resultantly opponent No.1 and 2 are jointly and severally liable to pay compensation to the applicant.

15] After perusal of written statement filed by opponent No.2 it reveals that two basic defence have been raised that the driver of vehicle bearing registration No. MH-14-BJ-2529 was not holding a valid and effective driving licence at the time of accident and said vehicle was plied without valid and effective permit and fitness. It appears that driving licence of the driver of vehicle bearing registration No. MH-14-BJ-2529 has been placed on record demonstrating its validity up to 27.11.2016. The insurance company has examined one witness claiming that on the date of accident the driver Mr. Popat Rajaram Sonavane did not possess valid driving licence to drive the insured vehicle, therefore it is clear breach of terms and conditions of the policy. It is relevant point to be noted that the applicant is third party and when vehicle is duly insured with opponent No.2, it is jointly and severally liable to pay compensation to the applicant along with opponent No.1.

16] So far as quantum of compensation is concerned, the applicant claims that she spent more than Rs.1 lakh on her medical treatment. During cross-examination she has admitted that no other documents are available with her except the documents produced on record. It appears that the applicant has produced discharge summary at Exh.29 and two medical bills. After perusal of those bills it reveals that first bill is of Rs.13,477/- and second bill issued by Kohinoor Hospital is of Rs.34,369/-. Resultantly under the head of hospital charges the applicant is entitled for Rs.47,846/-. No other documents placed on record to calculate the amount regarding other medical expenses. So her claim would be restricted towards said amount as regard to medical treatment and licence.

17] It appears that due to accident the applicant suffered pain and thereby there were difficulties in her day to day activities. Admittedly the applicant is housewife and therefore under the head of pain and suffering she is entitled for Rs.25,000/-. As per applicant she was advised to take special diet and therefore by considering the nature of injuries, an amount of Rs.15,000/- would be reasonable amount under the head of special diet. It appears that the applicant has taken treatment at two different hospitals, she is resident of Kalyan and therefore under the head of conveyance the reasonable amount would be Rs.10,000/-. So far as loss of amenities of life is concerned, the lump-sum amount can be granted and therefore by considering the injuries sustained by applicant during accident, future prospect of the applicant as regard to her age on the day of accident, the responsibility towards her family members as housewife, an amount of Rs.2 lakhs would be reasonable amount. So the total quantum of compensation is as under:-

1	Medical Expenses	Rs. 47,846=00

2	Pain and suffering	Rs. 25,000=00
3	Special diet	Rs. 15,000=00
4	Conveyance	Rs. 10,000=00
5	Amenities of life	Rs. 2,00,000=00
	TOTAL	**Rs. 2,97,846=00** ==========

18] So far as legal submissions advanced on behalf of opponent No.2 are concerned, by placing reliance on the Judgment in the case of **Shriram Insurance Company Ltd. V/s. Vanita and Ors.** reported in **MANU/MH/2654/2019** it has been submitted that applicant had miserably failed to discharge the initial burden of proof regarding involvement of vehicle bearing registration No. MH-14-BJ-2529. However, as mentioned supra, there is documentary evidence in the form of first information report, spot panchanama to support the testimony of applicant that two vehicles involved in the accident along with truck and therefore there is no substance in the submission that the applicant has failed to discharge initial burden.

19] The learned advocate for opponent No.2 has placed reliance on the Judgment in the case of **Shriram General Insurance Company Ltd. V/s. Sunita Gabaji Bhor and Ors**. reported in **MANU/MH/3119/2021** and submitted that there is tendency to file false claims against insurance companies and therefore present petition is liable to be dismissed. It is relevant point to be noted that in present case the copy of first information report is placed on record demonstrating that name of present applicant is mentioned as a victim and passenger travelling by bus bearing registration No. MH-

43-H-1056 and she sustained injuries. Resultantly there is no merit in the submission that the present claim is false.

20] So far as rate of interest and period of interest on awarded compensation is concerned, the learned advocate for opponent No.2 has referred the Judgment in the case of **New India Assurance Co. Ltd. V/s. Shanthi Mascarenhas** from **M.F.A. No. 4427 of 2010 (MV) dated 12.07.2018** and submitted that no interest shall be awarded for the periods covered by the adjournments granted at the instance of the claimants or their witnesses unless there are special reasons to be recorded in writing for such adjournments. It is relevant point to be noted that present petition filed on 20.08.2014, the opponent no.2 has filed written statement on 28.04.2022, ex-parte order passed against opponent No.1 on same day on perusing paper publication at Exh.14 and then the applicant has adduced her oral evidence vide Exh.22 on 22.09.2022, has examined the C.W. No.2 on 13.10.2022 and closed her evidence on same day. Subsequently the opponent No.2 has examined witness on 05.04.2023 and closed its evidence on 04.05.2023. After perusal of roznama it reveals that the delay is on the part of applicant, the opponent No.2 and also on the part of Tribunal due to huge pendency of matters. Resultantly the applicant should not suffer for the same. So by considering the present and then rate of interest it is fit and proper to award interest at the rate of Rs.7.5% per annum from the date of petition till full and final realization of awarded compensation.

21] So far as liability to pay compensation is concerned, as I have already made it clear that the opponent No.1 being the registered owner of the vehicle is liable to pay compensation. It is true that insurance company has raised defence about driving licence of the driver of tempo bearing registration No.MH-14-BJ-2529. However during cross-examination the witness examined on behalf of opponent No.2 has admitted that she has not produced any document to demonstrate that Popat Sonavane was restrained from driving heavy motor vehicle and they have not issued any letter to the owner of vehicle informing that the insurance company is not liable to pay compensation as the driver of said vehicle was not having valid driving licence. Furthermore said witness has admitted that insurance policy includes avoidance clause. So when opponent No.2 has failed to adduce rebuttal evidence about defence relating to no valid driving licence, the insurance company is jointly liable to pay the compensation to the applicant along with opponent No.1. Hence I have answered this point No.3 accordingly and proceed to pass the following order.

ORDER

1. Petition stands partly allowed with proportionate costs.

2. The opponent Nos. 1 & 2 do jointly and severally pay total compensation of Rs.2,97,846/- to the applicant along with interest at the rate of Rs.7.5% p.a. from the date of petition till the date of depositing said amount within the period of one month from the date of award, in bank account of the Member, Motor Accident Claims Tribunal, Kalyan by RTGS or NEFT as per directions of Hon'ble Apex Court in Writ Petition No. 534/2020.

3. The amount of compensation be transferred by RTGS or NEFT in the bank account of applicant as per details given

by her in Annexure-A.

4. The Insurance Company is directed to inform in writing to the applicant and the Tribunal after deposing the amount in MACT account by mentioning claim petition Number, date of depositing amount, amount, U.T.R. No. of NEFT or RTGS transaction and name of applicant.

5. The applicant to pay the deficit court fee, if any.

6. Award be drawn accordingly.

(Judgment delivered and pronounced in open Court.)

Digitally signed by RAJENDRA VITHOBA TAMHANEKAR
Date: 2026.08.13 19:20:09 +0530

(R.V. Tamhanekar)
Member, M.A.C.T. &
Dist. Judge–2, Kalyan.

Dt:- 13.08.2026.

CERTIFICATE

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

Name of Stenographer	:	S. V. Sawant (Stenographer Grade-1)
Court	:	Member, M.A.C.T. & Dist. Judge–2, Kalyan.
Dated	:	13.08.2026
Order signed by the Presiding Officer on	:	13.08.2026
Order uploaded on	:	13.08.2026