**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1980 OF 2015

1. Anusaya wd/o Ashok Kedar
Age : 44 yrs, occu.: housewife

2. Pallavi d/o Ashok Kedar
Age : 23 yrs, occu.: education.

3. Prasad Ashok Kedar
Age : 20 yrs, occu.: education.

4. Pooja d/o Ashok Kedar
Age : 15 yrs, occu.: education.
(Minor under guardianship of natural
mother i.e. appellant No.1).

5. Mukundrao Keshavrao Kedar
Age : 72 yrs, occu.: agri.,

6. Sagunabai w/o Mukundrao Kedar
Age : 66 yrs, oucc.: housewife

All r/o Raiwadi, Taluka Chakur,
District Latur. **Appellants.**

Versus

1. Waman Raosaheb More
Age : 47 years, occu.: agri.,
R/o Chalburga, Taluka Ausa,
District Latur.

2. The New India Assurance Co.Ltd.
Through its Branch Manager,
Branch Office Chandranagar,
Latur.

3. Shrihari Nivrutti Lahane
Age : major, occu.: driver
R/o Makegaon, Tal. Renapur,
District Latur. **Respondents**.

WITH
FIRST APPEAL NO.1981 OF 2015

Dhananjay Bhanudas Karad
Age : 31 yrs, occu.: service
R/o Raiwadi, Taluka Chakur,
District Latur. **Appellant.**

Versus

1. Waman Raosaheb More
Age : 47 years, occu.: agri.,
R/o Chalburga, Taluka Ausa,
District Latur.

2. The New India Assurance Co.Ltd.
Through its Branch Manager,
Branch Office Chandranagar,
Latur.

3. Shrihari Nivrutti Lahane
Age : major, occu.: driver
R/o Makegaon, Tal. Renapur,
District Latur. **Respondents**.

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Mr. B.R. Kedar, Advocate for the appellants.
Mr. S.G. Chapalgaonkar, Advocate for respondent No.2.

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CORAM : SUNIL K.KOTWAL,J.

Judgment reserved on : 16th October 2018.
Judgment pronounced on : 26th October 2018.

JUDGMENT.

1. First Appeal No. 1980 of 2015 is directed against judgment and award passed by Motor Accident Claim Tribunal (hereinafter referred to as the "Tribunal"), Latur in Motor Accident Claim Petition No.135/2009 and First Appeal No. 1981 of 2015 is preferred against the judgment passed by the same Tribunal in Motor Accident Claim Petition No. 357/2009. Both the claim petitions arose as a result of one and the same motor vehicular accident dated 18.01.2009. Both claim petitions are dismissed by the Tribunal for the reason that the involvement of offending Indica car bearing registration No. MH-12-DS-8943 owned by respondent No.1 and insured with respondent No.2 – Insurance Company is not proved by the claimants. So far as the involvement of offending car is concerned, identical evidence is to be considered. Therefore, these both appeals are disposed of by this common judgment. Only regarding quantum of compensation, separate reasons will be recorded while passing this common judgment.

2. For clarity hereinafter the parties are referred as per their status in original claim petitions.

3. In brief, the facts which lead to institution of these appeals are that, on 18.01.2009 at about 8.00 p.m. the claimant Dhananjay Bhanudas Karad was riding motorcycle bearing registration No. MH-24-M-4976 by Ambejogai to Latur road and deceased Ashok Mukundrao Kedar was the pillion rider on the said motorcycle. Near hotel Digvijay in the vicinity of village Borwati, the offending Indica car gave dash to the motorcycle from its rear side, resulting into serious injuries to the claimant Dhananjay Karad and deceased Ashok Kedar. Both of them were rushed to M.I.T. College Hospital at Latur. However, Ashok Kedar succumbed to his accidental injuries. Therefore, these two separate claim petitions came to be filed for compensation.

4. Respondent Nos.1 and 3 i.e. owner and driver of the offending car admitted involvement of the offending car in the accident. They raised a plea of contributory negligence. Respondent No.2 – Insurance Company of the offending car specifically denied involvement of the offending vehicle.

5. After considering the evidence placed on record by either parties, the Tribunal held that involvement of offending vehicle is not proved. In the result, both the claim petitions were

dismissed. However, while dismissing the claim petitions, the Tribunal held that Ashok Kedar died in motor vehicular accident and claimant Dhananjay Karad sustained permanent disability due to injuries sustained by him in motor vehicular accident. The Tribunal also held that the Insurance Company of the offending vehicle failed to prove that the owner and driver of Indica car committed breach of terms and conditions of insurance policy. Even contributory negligence by driver of motorcycle is not proved. In M.A.C.P. No.135/2009, which is death claim, the Tribunal also held that the claimants are entitled to compensation to the extent of Rs. 27,17,945/- and in M.A.C.P. No.357/2009, which is injury claim, the claimant is entitled to compensation of Rs. 1,73,833/-. Against those findings no cross objections are filed by Insurance Company or by owner of the offending vehicle.

6. Therefore, the entire fate of these both appeals revolves around the point, whether the involvement of offending vehicle in the above-said motor vehicular accident is proved or not.

7. Heard Mr. B.R. Kedar, learned Counsel for the

appellants, Mr. S.G. Chapalgaonkar, learned Counsel for respondent No.2- Insurance Company. Respondent Nos.1 and 3 i.e. owner and driver of the offending vehicle, though served, did not appear.

8. Learned Counsel for the appellants submits that in view of Section 169 of the Motor Vehicles Act, the procedure adopted in motor accident claim petitions is a summary enquiry. Strict rules of pleadings and rules of Evidence Act are not applicable in such petitions.

9. The next submission of the learned Counsel for the appellants is that the police statements were recorded on 19.01.2009 i.e. on next day of the occurrence of accident and those police statements show that registration number of the offending vehicle is stated by many witnesses in their statements before the police. He submits that though F.I.R. of the accident is lodged on 29.01.2009 by injured witness Dhananjay Karad, delay in lodging F.I.R. is explained for the reason of unconscious condition of injured Dhananjay Karad. He submits that due to sudden shock and trauma of the accidental death of deceased Ashok, his relatives were not expected to lodge F.I.R. to Police

Station immediately after the accident. Therefore, false involvement of offending vehicle by Investigating Officer in collusion with claimants is impossible.

10. The next submission of the learned Counsel for appellants is that claimant Dhananjay Karad is an eye witness of the occurrence and his oral evidence is recorded in injury claim petition. This witness has proved identification of offending Indica car who had opportunity to note its registration number. Therefore, at least under the principles of preponderance of probability, the claimants have duly proved the involvement of offending vehicle in the above-said motor vehicular accident.

11. Regarding the quantum of compensation, learned Counsel for the appellants submits that in death claim, compensation on account of loss of future prospects needs to be considered and in injury claim compensation needs to be awarded under the head of loss of amenities. He prays for enhancement of compensation.

12. In reply, learned Counsel for respondent No.2 – Insurance Company submits that this is second round of litigation as once the matter was remanded by the High Court for

awarding opportunity to the claimants to lead additional evidence. He submits that Exhs.82 to 86 are the certified copies of police statements, which cannot be considered as substantive evidence unless the concerned witnesses are examined. His next submission is that registration number of the offending vehicle is not mentioned even in the spot panchnama (Exh.30). He submits that the summons service to the driver (Exh.58) shows thumb impression of the driver, however, his written statement bears his signature in English. He submits that in collusion with claimants, the driver admitted involvement of the offending vehicle. The owner and insurer denied the same. He submits that in the charge-sheet filed against the driver, seizure panchnama and statement of owner have not filed and these documents are prepared by Investigating Officer after remand of the claim petitions. His next objection is that the spot panchnama (Exh.30) shows overwriting at the place of A.D. Number.

13. Contention of the learned Counsel for Insurance Company is that there was an inordinate delay in lodging F.I.R. though on the next day of the accident the Investigating Officer

was aware about registration number of the offending vehicle and he could have lodged F.I.R. without waiting for injured Dhananjay Karad.

14. Learned Counsel for the respondent – Insurance Company placed reliance on the judgments in the cases of **"Oriental Insurance Co. Ltd.Vs. Meena Variyal and others" [AIR 2007 SC 1609 (1)], "Pukh Raj Bumb Vs. Jagannath Atchut Naik and others" [2014 (4) Mh.L.J. 447], "Faridabegum Shaikh Yousuf Vs. Daulat Khan Sardar Khan" [2014 (6) Mh.L.J. 751], "Shriram General Insurance Co. Ltd. Vs. Narayan and others" (First Appeal No.1535 of 2013), "Bajaj Allianz General Insurance Co.Ltd. Vs. Manisha Lahu Kale and others" (First Appeal No.2742 of 2015)** and **"Anil and others Vs. New India Assurance Co. Ltd." [(2018) 2 SCC 482]**.

15. No doubt, in the case of "Oriental Insurance Co. Vs. Meena Varyal" (supra) the Apex Court ruled that in motor vehicle claim petitions for compensation arising out of the accident, is a beneficent piece of legislation. Subject to the rules

made in that behalf, the Tribunal may follow summary procedure in dealing with the claim. However, that does not mean that the Tribunal should ignore all basic principles of law in determining the claim for compensation. In "Pukhraj Vs Jagannath" (supra) also general proposition that the claimant can prove his case by preponderance of probability and strict proof of accident may not be required to be given by the claimant, is approved by this Court. In the case of "Faridabegum Vs. Daulatkhan" (supra), this Court has considered the case of **"Ravi Vs. Badrinarayan" [2011 (4) SCC 693]** where the Apex Court observed that if the Courts find that there is no indication of fabrication then even if there is delay in F.I.R., the claim case cannot be dismissed simply on that ground. The same view was reiterated by this Court in the case of "Shriram General Insurance Co. Vs. Narayan Bembde" (supra). The case of "Anil and others Vs. New India Assurance Company" (supra) is distinguishable on facts that there was no postmortem report and other medical evidence regarding death of deceased in motor vehicular accidental injuries. There was possibility of fabrication of false case to claim the compensation. Even I concede with the view expressed by this Court in the case of "Bajaj Allianz General Insurance Co. Vs. Manisha" (supra) that without examining the concerned witness, the copies of his police statement cannot be used as substantive evidence even in claim petitions.

16. However, in the case at hand, in M.A.C.P. No.357/2009 the driver of motorcycle i.e. Dhananjay Karad (PW-1) is examined. This witness is an injured witness, and therefore, his presence on the spot of the accident cannot be doubted. Dhananjay Karad (PW-1) has deposed on oath that alongwith deceased Ashok as a pillion rider, when he was riding the motorcycle and heading towards Latur, that time near M.I.T. College Hospital the offending car bearing registration No. MH-12-DS-8943 came from backside in rash and negligent manner and dashed against the motorcycle. Dhananjay Karad (PW-1) has made it clear that after the accident the offending car stopped for some time, and therefore, he had noted down the registration number of the said car. Thereafter the offending car fled away. From his further evidence, it emerges that when he was shifted to hospital, he lost his consciousness and regained it only after 4 to 5 days and he was admitted in M.I.T. College

Hospital for about 20 days and he was operated for fracture injury. This witness has duly proved F.I.R. (Exh.28) lodged to Latur Rural Police Station in M.A.C.P. No.357/2009 and Exh.29 in M.A.C.P. No.135/2009. The certified copy of deposition of Dhananjay Karad is also filed in M.A.C.P. No.135/2009 at Exh.58. Despite searching cross-examination of this witness, nothing could be elicited from his cross-examination to doubt the identification of offending car in the above-said motor vehicular accident.

17. It is to be noted that except injured Dhananjay Karad (PW-1), no witness out of the witnesses examined by the claimants in both claim petitions, was present at the time of accident. Therefore, the testimonies of other witnesses do not carry any importance so far as the point of involvement of offending car is concerned. As Dhananjay Karad (PW-1) was seriously injured and unconscious for certain days in the hospital and subsequently he was operated for fracture injury, the delay of 10 to 11 days in lodging F.I.R. cannot be viewed with suspicion. No doubt, the police officer, who inquired the accidental case, could have lodged F.I.R. when the witnesses in their statements

recorded on 19.01.2009 disclosed the registration number of the offending car. However, for the fault of the said police officer, the testimony of Dhananjay Karad (PW-1) cannot be doubted.

18. So also, the spot panchnama is a document which is nothing but a memorandum of the spot situation which is noted by the panchas at the time of inspection of spot of accident. Undisputedly, the offending car fled away from the spot and it was not available on the spot when the spot panchnama was prepared. Therefore, non-mention of registration number of the offending vehicle in the spot panchnama cannot be viewed with suspicion.

19. It is to be noted that in para 2 of the Written Statement filed in M.A.C.P. No.135/2009, respondent No.1 -owner of the offending car has also admitted involvement of offending car in the above-said accident. He only pleaded that because the motorcycle driver suddenly applied brakes, the car touched the motorcycle and accident took place. Even driver of the offending vehicle filed written statement (Exh.60) and admitted involvement of the offending car in the above-said accident. He has also taken similar defence that the motorcycle driver

suddenly applied brakes. In the case of **"Saroj and others Vs. Het Lal" (AIR 2011 SC 671)** the Apex Court held that admission by owner of the offending vehicle in the pleading itself is sufficient to hold that the concerned vehicle was involved in the accident. In the circumstances, when driver and owner of the offending car admit involvement of the offending car in the accident, considering their admissions together with oral testimony of injured eye witness Dhananjay Karad, at least applying the rule of preponderance and probability, I have no hesitation to hold that the claimants in both claim petitions have proved involvement of the offending vehicle in the said accident.

20. Even the summons issued to Shrihari Lahane, driver of the offending vehicle shows that thumb impression of Trimbak Nivrutti Lahane was obtained by the bailiff on 20.06.2014. Therefore, when thumb impression of respondent No. 3- driver was not obtained on summons, his signature in English script on written statement and Vakalatnama (Exh.49) cannot be doubted. So also, before the Tribunal the Insurance Company has not disputed the identity of driver Shrihari Lahane, who filed written statement. In these First Appeals the Insurance

Company cannot doubt the identity of driver Shrihari Lahane and genuineness of his written statement.

21. Accordingly, I hold that the claimants in both claim petitions have proved that the offending car was involved in the motor vehicular accident and the accident occurred only due to rash and negligent driving of the driver of offending car which gave dash to the motorcycle from its backside.

22. As the claimants have proved that in M.A.C.P. No.135/2009 deceased Ashok Kedar died and in M.A.C.P. 357/2009 claimant Dhananjay Karad sustained permanent disability due to motor vehicular accident, due to rash and negligent driving of driver of offending car, the claimants are entitled to recover compensation from the owner, driver and Insurance Company of the offending car. It will be joint and several liability of respondent Nos.1 to 3 to pay compensation to the claimants in both the claim petitions.

Quantum of compensation in M.A.C.P. No.135/2009.

23. For determining the quantum of compensation in death claim, the age of deceased Ashok plays an important role.

The claimants have filed School Leaving Certificate (Exh.36) of the deceased, which shows that his date of birth is 04.05.1966. Therefore, on 18.01.2009 the age of deceased was 43 years. In view of the verdict of **"Sarla Varma Vs.Delhi Transport Corporation Ltd." (AIR 2009 SC 3104)**, multiplier of "14" is applicable in this case.

24. To prove monthly income of the deceased, the claimants have examined Maroti Bandgar (PW-2), who is the Headmaster of Swatantryavir Savarkar Primary High School, Latur where the deceased used to serve as Peon at the time of his death. Maroti Bandgar (PW-2) has filed salary certificate at Exh.45 of the deceased, which shows that as per Sixth Pay Commission, the total salary of the deceased in the month of December 2008 was Rs.21,348/-. From this salary, in every month professional tax of Rs. 200/- was deducted. So also, the conveyance allowance of Rs. 75/- per month, which is personal allowance of the deceased, needs to be deducted from monthly salary. Thus, after deducting Rs.275/-, the total monthly salary of the deceased is assessed to the tune Rs.21,073/-. As at the time of death the deceased was in between age of 40 to 50 years

and was in permanent service, in view of the guidelines issued in the case of **“National Insurance Co. Ltd. Vs. Pranay Sethi and others” [(2017) 16 SCC 680]** , 25% income i.e. 5,268/- is to be added in the monthly salary of deceased towards loss of future prospects. After adding 25% amount in the monthly salary of deceased, his monthly income would be Rs.26,341/- (21073 + 5268). Therefore, annual income of the deceased is assessed as Rs.3,16,092/-.

25. In view of the verdict of “Sarla Varma” (supra), one-fourth amount i.e. Rs.79,023/- is to be deducted towards personal expenses of the deceased as the number of dependents in the family of deceased is “6”. After deducting one-fourth amount from the annual income of the deceased, his contribution to his family is assessed as Rs.2,37,069/- (3,16,092 – 79,023). By applying multiplier of “14”, the loss of dependency comes to Rs.33,18,966/-.

26. In view of the guidelines issued by Apex Court in the case of “Pranay Sethi” (supra), under the conventional heads, compensation of Rs. 40,000/- is to be awarded for loss of consortium and compensation of Rs. 15,000/- each is to be

awarded for loss of estate and funeral expenses.

27. Therefore, the claimants in M.A.C.P. No.135/2009 are entitled to following compensation under different heads.

Loss of dependency	:-	Rs. 33,18,966/-
Loss of consortium	:-	Rs. 40,000/-
Loss of estate	:-	Rs. 15,000/-
Funeral expenses	:-	Rs. 15,000/-
Total	**:-**	**Rs. 33,88,966/-**

(Rupees Thirty Three Lakh Eighty Eight Thousand Nine Hundred and Sixty Six).

28. This compensation shall be paid alongwith interest at the rate of Rs. 9 % per annum from the date of petition till realization of compensation amount. It shall also include the compensation received under the head “no fault liability”. Respondent Nos.1 to 3 are jointly and severally liable to pay this compensation to the claimants.

29. Out of six claimants, claimant No.5 being father of deceased, does not fall within the category of Class-I heir of deceased. Therefore, he does not fall within the category of dependent. Thus, the compensation is to be paid only to claimant Nos.1 to 4 and 6.

30. While apportionment of compensation, considering the advanced age of claimant No.6, only 10% amount out of entire compensation amount is to be paid claimant No.6. Remaining 90% amount shall be equally apportioned amongst claimant Nos.1 to 4. Claimant No.4 being minor daughter, compensation amount of her share deserves to be invested in her name through her mother, in any Nationalized Bank of the choice of claimant No.1, for the period of three years or till claimant No.4 attains majority, whichever event occurs earlier.

31. Out of the compensation amount payable to claimant Nos.1 to 3, 50% amount shall be invested in fixed deposit in their respective names in any Nationalized Bank of their choice for the period of three years and 50% amount shall be paid to them by issuing separate account payee cheques in their name. Fixed Deposit Receipts may be retained by the Tribunal till the date of its maturity and premature withdrawal is not permissible. The claimants will be entitled to receive quarterly interest accrued on fixed deposit amounts. The concerned Bank may be informed accordingly by the Tribunal.

32. Thus, First Appeal No.1980 of 2015 deserves to be allowed.

Quantum of compensation in M.A.C.P. No.357/2009

33. This is an an injury claim of claimant Dhananjay Karad, who deposes that due to accidental injury, he sustained permanent disability due to shortening of left leg. The claimant claims that he spent an amount of Rs. 35,000/- towards medical expenditure and the amount of Rs. 8,000/- to Rs. 10,000/- towards conveyance expenditure. He has also claimed that for 42 days he availed leave for treatment of accidental injuries and during this period salary was not paid to him. In support of his contention, the claimant has also examined Dr. Arunkumar Rao (PW-3), who has proved disability to the left leg of the claimant to the extent of 20%. This witness has also proved disability certificate (Exh.41). According to this witness, the claimant was admitted in his hospital on 18.01.2009 and he was discharged on 08.02.2009. Even the discharge card (Exh.31) indicates the same dates of admission and discharge. Even Headmaster Balaji Kadam (PW-2) of the school where the claimant used to serve as Peon, deposed on oath that the claimant obtained commutated leave

from 19.01.2009 to 28.02.2009 due to accidental injuries and it was without pay leave. According to this witness, in the month of December 2008 the salary of the claimant was Rs. 6,664/- per month. He has proved leave certificate (Exh.63).

34. As the claimant continued his service and joined his duty on 02.03.2009, no compensation can be awarded to the claimant for future loss of income. However, as the claimant was on leave from 19.01.2009 to 28.02.2009 without pay, he has sustained monetary loss during this period of 41 days for which compensation is to be paid in accordance with monthly income of the claimant. Monthly salary of the claimant is Rs. 6,664/-. After deducting profession tax of Rs. 175/-, the monthly salary of the claimant would come to Rs. 6,489/- i.e. Rs. 210/- per day. Thus, for the absence period of 41 days, the claimant is entitled to compensation of Rs.8610/-. In other words, the claimant is entitled to compensation of Rs. 8610/- under the head of "actual loss of income".

35. As the claimant was operated for fracture injury, he is also entitled to compensation of Rs. 25,000/- under the head "pains, suffering and trauma". During hospitalization period i.e.

from 18.01.2009 to 08.02.2009 i.e. for 22 days somebody must have attended the claimant. Therefore, for attendant charges the claimant is entitled to Rs. 22,000/-. The claimant has filed bills of medicines (Exh. 27 collectively) to the tune of Rs. 1486/-. Therefore, under the head "medical expenditure", the claimant is entitled to compensation of Rs. 1486/-. No bill is filed by claimant regarding hospital charges or operation charges.

36. In addition to the above compensation, the claimant is entitled to compensation for loss of amenities and loss of expectation of life as due to shortening of left leg, he would be limping for entire life and he cannot walk in normal manner. Therefore, compensation of Rs. 25,000/- would be adequate under the heads "loss of amenities and loss of expectation of life". As the claimant was shifted to hospital for treatment, compensation of Rs. 5,000/- is awarded for transport expenses.

37. Thus, the claimant is entitled to following compensation under different heads.

Actual loss of income	:-	Rs. 8,610/-
Pain, suffering and trauma	:-	Rs. 25,000/-
Attendant charges	:-	Rs. 22,000/-
Medical expenses	:-	Rs. 1,484/-

Loss of amenities and loss of expectation of life	:-	Rs. 25,000/-
Transport expenses	:-	Rs. 5,000/-
Total	**:-**	**Rs. 87,094/-**

38. On the above-said compensation amount, the claimant is entitled to interest at the rate of Rs. 9% per annum from the date of filing of petition till realization of entire compensation amount. This compensation amount shall be inclusive of the amount received under the head "no fault liability". Respondent Nos.1 to 3 shall jointly and severally liable to pay the said amount to the claimant.

39. In view of the above findings, First Appeal No.1980 of 2015 is allowed and First Appeal No.1981 of 2015 is partly allowed.

40. The judgment and award passed by the Tribunal, Latur in M.A.C.P. No. 135/2009 and M.A.C.P. No.357/2009 are set aside. Instead the following award is passed.

ORDER IN M.A.C.P.NO. 135/2009

"(I) M.A.C.P. No.135/2009 is allowed with costs.

(II) Respondent Nos.1 to 3 do jointly and severally pay an amount of Rs. 33,88,966/- (Rupees Thirty

Three Lakh Eighty Eight Thousand Nine Hundred and Sixty Six) to the claimant Nos.1 to 4 and 6 with interest thereon at the rate of Rs.9 % per annum from the date of filing of petition till realization of entire compensation amount. This compensation is inclusive of the amount received under the head “no fault liability”.

(III) On depositing the amount in the Tribunal, out of the compensation amount, 10% amount be paid to claimant No.6 Sagunabai w/o Mukundrao Kedar by issuing separate account payee cheque in her name.

(IV) The remaining amount shall be equally distributed amongst claimant Nos.1 to 4.

(V) Out of the amount payable to claimant No.1 Anusaya wd/o Ashok Kedar, claimant No.2 Pallavi d/o Ashok Kedar and claimant No.3 Prasad s/o Ashok Kedar, 50% amount shall be paid to them by issuing separate account payee cheques in their respective names and remaining 50% amount be separately invested in fixed deposit in their respective names, in any Nationalized Bank of their choice, for a period of three years. They are entitled to receive quarterly interest accrued on fixed deposit amounts.

(VI) Compensation amount of the share of claimant No.4 Pooja Ashok Kedar shall be invested in fixed deposit in the Nationalized Bank of the choice of claimant No.1, through her as guardian for claimant No.4, for the period of five years and fix deposits shall be renewed for next five years, till claimant No.4 Pooja attains the age of majority. Quarterly accrued interest on fixed deposit amount shall be payable to claimant No.4 through claimant No.1.

(VII) Fixed Deposit Receipts shall be retained by the Tribunal till the date of maturity of fixed deposits of claimant Nos.1 to 4 and premature withdrawal is not permissible.

(VIII) The concerned Bank may be informed accordingly by the Tribunal.

(IX) Deficit Court fees be recovered from the claimants.

(X) Award be drawn up accordingly".

ORDER IN M.A.C.P.NO. 357/2009

"(I) M.A.C.P. No.357 /2009 is partly allowed with proportionate costs.

(II) Respondent Nos.1 to 3 do jointly and pay severally an amount of Rs. 87,094/- (Rupees Eighty Seven Thousand Ninety Four) to the claimant Dhananjay Bhanudas Karad with interest thereon at the rate of Rs.9 % per annum from the date of filing of petition till realization of entire compensation amount. This compensation is inclusive of the amount received under the head "no fault liability".

(III) On depositing the amount in the Tribunal, it shall be paid to the claimant by issuing separate account payee cheque in his name through the Tribunal.

(IV) Award be drawn up accordingly".

41. Parties to bear their respective costs of the appeal. Both the appeals are disposed of in above-said terms.

(SUNIL K. KOTWAL)
JUDGE

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vdd/