



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

WRIT PETITION NO.2431 OF 2025

- 1) Karim S/o. Papabhai Shaikh,
Age: 79 years, Occu: Retired,
R/o. Bolhegaon Fata Ahmednagar,
Tq. & Dist. Ahmednagar.
- 2) Rashida Ali Mohammad @ Iqbal Mujawar,
Age: 62 years, Occu: Household,
R/o. Pimpalgaon Rather, Tq. Parner,
Dist. Ahmednagar.
- 3) Nisar Papabhai Shaikh,
Age: 55 years, Occu: Service,
R/o. Tikhhol, Tq. Parner,
Dist. Ahmednagar.
- 4) Gulshanbi Hanif Shaikh Hawaldar,
Age: 54 years, Occu: Household,
R/o. R. No. 29 Vighangarta Housing Society,
Amritnagar, Mumbra, Dist. Thane.

....PETITIONERS

(Successor of deceased
Orig. Claimant Nos.5 & 6)

VERSUS

- 1) Bismilla Hanif Shiakh,
Age: 58 years, Occu: Household
 - 2) Raisa Hanif Shaikh,
Age: 35 years, Occu: Household
 - 3) Jakir Hanif Shaikh
Age: 33 years, Occu: Business
 - 4) Shakur Hanif Shaikh
Age: 30 years, Occu: Business
-(Ori. Claimant Nos.1 to 4)

Respondent Nos.1 to 4 are R/o. Alkutti,
Tq. Parner Dist. Ahmednagar

- 5) Pushpabai Dattare Kandalkar
Age: 51 years, Occu: Business
R/o. Kanhurpathar, Tq.Parner

(Res. No.5 deleted as
per order dated 28.07.2025)

- 6) National Insurance Company Ltd.
Raj-Chamber, Kothla Maidan, Dist. Ahmednagar ...**RESPONDENTS**

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Adv. Pathan Ziya J. h/for Mr. G. R. Syed, Advocate for petitioners

Mr. Y. B. Kale, Advocate for respondent Nos.1 to 4

Mr. S. V. Kulkarni, Advocate for respondent No.6

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 28.07.2025

ORDER :-

1. The petitioners are impugning order dated 27.01.2025 passed by learned Member of Motor Accident Claims Tribunal in Civil M. A. No.169 of 2024 in Motor Accident Claims Petition No.81 of 2002, regarding apportionment of compensation amount.

2. Late Hanif Papabhai Shaikh died in motor vehicular accident. His widow, children and parents filed MACP No.81 of 2002 before Motor Accident Claims Tribunal at Ahmednagar. The claim was allowed and compensation of Rs.9,19,000/- (Rs. Nine Lac Nineteen Thousand Only) along with interest at the rate of 9% per annum from the date of filing petition was awarded in favour of claimants. Respondent No.6-Insurance Company deposited amount as per award.

3. Since there was no apportionment of compensation amount in award, Tribunal vide order dated 30.11.2019 directed equal apportionment in favour of claimants. However, parents of deceased i.e., Original claimant

Nos.5 & 6 expired before receipt of amount of their shares. Petitioners, who are legal heirs / successors of original claimant Nos.5 & 6, filed Civil M.A. No.169 of 2024 and claimed release of amount of Rs.3,23,908/- (Rs. Three Lac Twenty Three Thousand Nine Hundred and Eight Only) in their favour. Learned Tribunal, after considering rival contentions, passed following order:

“Applicants and opponent No.1 to 4 shall share the amount equally lying with the office of deceased Claimant No.5 Papabhai Fakirbhai Shaikh and claimant No.6 Hussainbe Papabhai Shaikh in MACP No.81 of 2002.”

4. Mr. Pathan Ziya, learned Advocate appearing for petitioners submits that respondent Nos.1 to 4 have already received compensation amount of their shares. Now, the amount which fell to the share of parents of petitioners was lying with Tribunal. Therefore, Tribunal ought to have released entire amount in favour of petitioners, but aforesaid order is passed which is erroneous.

5. Per contra, Mr. Y. B. Kale, learned Advocate appearing for respondent Nos.1 to 4 submits that respondent Nos.1 to 4 are also legal heirs of original Claimant Nos.5 & 6 and therefore, they are entitled for share in compensation apportioned to deceased claimants.

6. Having considered submissions advanced, it cannot be disputed that claim was originally filed by six claimants. Respondent Nos.1 to 4 are widow and sons of deceased and two other claimants were parents of deceased Hanif Shaikh. Learned Tribunal, vide order dated 30.11.2019, apportioned compensation amount equally amongst all six claimants. Respondent Nos.1 to 4-original Claimant Nos.1 to 4 have already withdrawn compensation amount of their shares. The issue before Tribunal was regarding distribution of amount that come to the shares of parents of deceased.

7. Admittedly, petitioner Nos.1 to 4 are legal heirs of deceased claimants. Respondent Nos. 1 to 4 are also legal heirs of deceased claimants. Therefore, compensation amount which is apportioned in name of original Claimant Nos.5 & 6 will have to be apportioned between petitioners and respondent Nos.1 to 4. Petitioner Nos.1 to 4 are sons and daughters of original claimant Nos.5 & 6 or brothers and sisters of deceased Hanif Shaikh. Therefore, compensation amount can be equally distributed amongst all legal heirs. Although respondent Nos. 1 to 4 would be getting additional compensation, fact remains that they were only dependents of deceased Hanif and they have better right on compensation amount paid under the award. The scheme under Motor Vehicles Act emphasis on

dependency of individual claimants, which is prime factor for consideration while releasing amount awarded. Although respondent Nos.5 & 6 parents were given equal share with original claimant Nos.1 to 4, maximum share must go to original dependents of Hanif Shaikh.

8. In that view of the matter, Petitioner Nos.1 to 4 and respondent Nos.1 to 4 shall equally receive compensation amount along with accrued interest thereon.

9. Writ petition stands **disposed of** in aforesaid terms.

[S. G. CHAPALGAONKAR, J.]

HRJadhav