IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1984 OF 2005

SATISH RAMCHANDRA SANGAR
Digitally signed by SATISH RAMCHANDRA SANGAR
Date: 2026.10.08 10:22:28 +0530

Mrs.Mitali Manohar Sawant,]
(Formerly known as Miss Sundar Krishna]
Mali, Age : 25 Years, Occupation : Housewife,]
Residing at : Amale Sadan, Line Ali, Shivaji] ...**Appellant**
Road, Panvel – 410206, Raigad.](**Ori.Applicant**)

Versus

1. **Shri Datta Maruti Ghuule**,]
Adult, Occupation : Transport Business,]
(Owner–cum–Driver of Tempo Trax]
No.MH–2–P–9215), R.O. 168, Somwar Peth,]
Pune–11.]

2. **The New India Assurance Co. Ltd.**]
Div. Office at Alibag, Behind Alibag S.T.Stand,]
Alibag, (Raigad).]
(Cover Note No.PN/No.709882,]
Policy No.31/5630319939 issued from]
New India Assurance Co. Ltd., Karve Road,]
Pune – 411004.]
Branch No.150103, Omshri, 1st Floor,]
Above Suvarna Sah. Bank, Karve Road, Pune.]
Valid from 1-11-195 to 31-10-96 in respect of]
Tempo Trax No. MH-12-P-9215.]

3. **Shri Santosh Ramesh Wani**,]
Residing at : Kalamboli, Cidco Colony,]
Room No. B–17, LIG, Sector No.3, Kalamboli,]
Taluka : Panvel (Raigad), Owner of Jeep No.]
MH-06/C-2745.]

4. **The Oriental Insurance Co. Ltd.**,]
Shivram Sadan, 2nd Floor, Shivaji Road,] ...**Respondents**
Panvel–410206, Insurer of MH-06/C-2745.](**Ori.Opponents**)

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

==========

Mr.T.J.Mendon:-	Advocate for Appellant.
Mrs.Urmila K. Sanil:-	Advocate for Respondent No.2 – New India Assurance Co. Ltd.
Mr.Devendranath S. Joshi:-	Advocate for Respondent No.4 – Oriental Insurance Co. Ltd.

==========

CORAM : S. M. MODAK, J.

RESERVED ON : 29th SEPTEMBER 2026

PRONOUNCED ON : 7th OCTOBER 2026

JUDGMENT :-

1. The Motor Accident Claims Tribunal–Alibag ("**Tribunal**") as per the judgment dated 27th June 2005 passed in M.A.C.P. No.150 of 1997 has dismissed the claim of the Claimant–Appellant. Though the issue of negligence was answered against the driver of the tempo trax, finally the Claim Petition was dismissed as the Appellant could not prove the injury. It is challenged by the Appellant. So, the issue involved in this Appeal is *"whether the Tribunal was justified in dismissing the Claim Petition in toto without granting compensation on any head and whether disability is required while granting compensation under the head 'injury'."*

2. On this background, I have heard learned Advocate Shri.Mendon for the Appellant, learned Advocate Ms.Sanil for

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

Respondent No.2 – New India Assurance Co. Ltd., and learned Advocate Shri.Joshi for Respondent No.4–Oriental Insurance Co. Ltd.

3. The owner of tempo trax was held negligent whereas the driver of jeep was exonerated and consequently, their Insurance Company – Opponent No.4. The Claimant injured was proceeding towards Jejuri on 15th July 1996 along with family members in jeep belonging to Opponent No.3. It was insured with the Opponent No.4 – Oriental Insurance Company. At Karla phata, the offending tempo trax owned by Opponent No.1 insured with the Opponent No.2 came from opposite side. It overtook the truck. By way of precaution, the driver of the jeep took jeep on one side. The tempo trax driver was rash and negligent. Instead of going ahead, he gave dash to the back side of the jeep as said driver could not control the tempo trax. The Appellant was travelling in that jeep, sustained injuries.

4. She got a certificate from Dr.Ghodke on 27th February 1997. The injuries are as follows:-

(i) Sutured CLW 2½" in length upper part of ociput anteropost essive.

(ii) Maematruna Rt. & Left side occipotel region (a) Rt.2" x 1 ½" in diemeter (b) Lt. 2" x 1".

(iii) Abrasion marks membrance lower lip ruddle 1 c.m. x ½ cm. x mm deep.

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

5. On this background, the Appellant has filed Claim Petition claiming compensation. Only the Insurer of tempo trax has contested the Claim Petition. They have denied the allegations. The policy is not disputed. The trax was used contrary to the terms and conditions of the Insurance policy. There is breach of those terms. However, this was not proved. Even the Insurance Company of the jeep has also filed the Written Statement. The have alleged the misconduct of the tempo driver.

6. On this background, the evidence was adduced. The Appellant herself entered into the witness–box and she was cross-examined only by Opponent No.2. She relied upon the following documents:-

(a) Panchnama (Exhibit–31).

(b) F.I.R. lodged by the Head Constable dated 16th July 1996 with Lonawala Police Station for the offence under Sections 279, 337, 427 of IPC and under Section 184 of MV Act. The tempo trax driver was negligent.

(c) Certificate issued by Dr.Ghodke dated 27th February 1997 (Exhibit–33).

(d) Copy of medico legal certificate served by Police.

(e) School leaving certificate.

(f) The statement showing the total expenses incurred Rs.1591.35 paisa along with the bills.

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

7. Though the learned Advocate Ms.Sanil tried to argue that tempo trax driver was not negligent, for two reasons, I am not accepting her submission because this issue cannot be raised in Appeal filed by the Claimant and there is categorical finding arrived after proper appreciation of evidence.

8. The findings of the Tribunal are as follows:-

(a) The Claimant was taken to Lonavala hospital and then to Sion hospital for C.T. Scan and further treatment.

(b) She took treatment for one month at Panvel and incurred expenses on medicines and treatment to the tune of Rs.5,000/-.

(c) The certificate issued by Dr.Ghodke at Exhibit–33 is referred. The certificate further mentions that the Appellant was prevented from attending her normal duties upto 15th August 1996. The date of accident is 15th July 1996. The certificate does not mention about permanent disablement.

(d) The expenses of Rs.5,000/- is not fortified.

(e) The bills issued by the hospital were not produced. The discharge card of Dr.Ghodke is not produced.

(f) The nature of injury is not of such a nature which will enable her to claim compensation. It is not of such a nature as contemplated under Sections 140, 142 and 165 of M.V. Act.

Provisions of M.V. Act

9. **Section 140** of M.V.Act talks about *"no fault liability"*. It is true, there is no permanent disablement to Claimant as contemplated in

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

Section 140 of the said Act. Section 142 of the M.V. Act lays down three categories of permanent disablement. They are as follows:-

(a) Permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or

(b) destruction or permanent impairing of the powers of any member or joint; or

(c) permanent disfiguration of the head or face.

Sections 140 to 144 are deleted by 2019 amendment.

10. Whereas, **Section 165** empowers the Government to constitute Motor Accident Claims Tribunal for inquiring into claims. One of the categories is ***'causing bodily injury'*** to person arising out of use of motor vehicle. In other sense, if bodily injury is there, the Tribunal can inquire about compensation. This was held by the Tribunal. A bodily injury means injury of any kind to a person that may be temporary or permanent. It may attract hospitalization or may not attract. All injuries are covered. Except denial, there is no cross-examination on behalf of the Opponent No.2. During chief-examination, she has said about her hospitalization and the injury certificate issued by Dr.Ghodke and incurring the expenses of Rs.5,000/-.

11. We can certainly read the certificate given by Dr.Ghodke because it is not challenged during cross-examination. There is contused

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

lacerated wound to occipital region. Doctors have put sutures. The sutures can be put only when injury is of such kind and it is for uniting of parts. Hematoma and abrasion are minor injuries. For one month, she could not attend her normal duties. **This can certainly be said to be injuries which are described in Section 165 of the M.V. Act**. The Tribunal was wrong in holding that there were no injuries.

12. In case of ***R.D.Hattangadi V/s. Pest Control (India) (P) Ltd.***[1], the Supreme Court has bifurcated the damages into pecuniary damages and special damages. The pecuniary damages are those which can be calculated in terms of money whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculation. The pecuniary damages may include expenses and loss of earning. Whereas, non-pecuniary damages include damages for mental shock, pain, suffering and loss of amenities, loss of expectation. This is the consistent view taken by the Supreme Court till the case of ***Benson George v. Reliance General Insurance Co. Ltd.***[2], & in case of ***Mohd. Sabeer Alias Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation***[3].

13. Admittedly, no disability certificate is there on the basis of which

1 (1995) 1 SCC 551
2 (2022) 13 SCC 142
3 (2023) 2020 SCC 774

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30

we can assess loss of income. But, on account of expenses, pain and suffering, compensation ought to have been awarded by the Tribunal. Other heads cannot be considered because facts do not warrant it on account of expenses she claims. She has incurred Rs.5,000/-. However, bills are for Rs.1591.35 paisa. Even as per no fault liability, Rs.25,000/- can be ordered as per the law then in force. I am inclined to Award the same amount on all heads to the Claimant along with 7.5% interest from the date of Petition till realization. Hence the order:-

-: **O R D E R** :-

(a) **The Appeal is allowed**.

(b) The judgment dated 27th June 2005 passed by the Motor Accident Claims Tribunal – Alibag is set aside.

(c) The Respondent Nos.1 and 2 are jointly and severally liable to pay Rs.25,000/- along with 7.5% interest within 8 weeks from the date of Petition till the realization.

14. In the light of the above observations, **the Appeal is disposed of**.

15. **Pending Applications, if any, also stand disposed of**.

[S. M. MODAK, J.]

Uploaded on - 08/10/2026 Downloaded on - 10/10/2026 09:04:30