

BEFORE MOTOR ACCIDENTS CLAIMS TRIBUNAL AND HON'BLE DISTRICT JUDGE OF COIMBATORE

MCOP No: 1917 /2016



1.Th. S.Ramaraj  
2.Tmt Uthira

**-Versus-**

1. Dr.K.Kalpana  
2, M/s Bajaj Allianz General Insurance Co. Ltd  
3, Tmt.Gandhimathi

## Respondents

**PETITION FILED UNDER SECTION 166 (1) (c) OF  
THE MOTOR VEHICLES ACT, 1988**

**I. PETITIONERS:**

1. Th. S.Ramraj, S/o P.Srinivasan (late), Hindu, aged 60 years residing at Door No: 3, Alamelu Nagar, Kamarajar Road, Uppilipalayam Post, Coimbatore - 641015.
2. Tmt Uthira, W/o late R.Deepak Gaandh, Hindu, aged 25 years, residing at -do- address.

The address for service of the petitioners is same as above and in care of their counsel Sri M.Murugeswaran, M.T.M. B.L. Advocate, Enrolment No: 1497/2000, No: 208, Lawyers' Chamber, Combined Court Complex, Coimbatore-641018. Mobile No: 98422 99585.

## II. RESPONDENTS

- 1.1. Gowdian, (D) C. S. Sridhyanantham D, aged 25 years, residing at Door No.32, Parasakthi, K. T. S. Road, Kengal, Bangalore, PIN: 561 007.

(Contd. P/2)

1. Dr. K. Kalpana, W/o Muthusamy Krishnan, age not known, Block 2,  
3<sup>rd</sup> Annai Therasa Apartments, Balaji Nagar ST, Paulpet Lawspet,  
Puducherry.

2. M/s Bajaj Allianz General Insurance Co. Ltd, Door No: 11 (Office No  
6.A) Peoples Park, 3<sup>rd</sup> Floor, Govt. Arts College Road, Coimbatore-  
641018.

(Policy No: OG-16-1503-1801-00012738, Validity of Policy: 17/01/2016  
to 16/01/2017)

3. Tmt Gandhimathi, D/o N Natarajan, aged 48 years, residing at Door  
No: 123/1, Naas Nagar, Karuvanna Rayar Koil (Near), Udumalpet Road,  
Dharapuram, Tiruppur District.

The address for service of respondents is same as above.

To,

The Motor Accidents Claims Tribunal,  
Coimbatore-18

III. We, the petitioners 1 and 2 herein do hereby apply for the grant of  
compensation for the death of Deepak Gaandh, R S/o Ramaraj, in a  
motor vehicle accident that occurred on **01.05.2016 at 00.55** hours  
involving a car BMW bearing Registration No: PY-01-CA-6567.

The details of accident, vehicle involved in the accident etc are  
furnished below:-

- |   |   |   |
|---|---|---|
| 1. Name and father's name of the<br>person dead | : | R.Deepak Gaandh<br>S/o Ramaraj  |
| 2. Full address of the person dead              | : | Door No: 3, Alamelu Nagar<br>Kamarajar Road<br>Uppilipalayam Post<br>Coimbatore-641-015 |

(Contd. P/3)

3. Age of the person dead. : 28 Years
  
4. Occupation of the person dead. : Alpha Charcoal  
(Local Office) (Charcoal business)  
3N/A, Alamelu Nagar, Kamarajar Head Office: Coimbatore  
Road, Uppilipalayam Branch Office: Manamadurai,  
TIN No: 33231827736 Sivagangai district  
CST No: 1173359
5. Name and address of the employer of the person dead. : -Own profession-  
B.E.(Hons) Mech.Engg
  
6. Monthly income of the person dead. : Rs.14,35, 000/- per annum  
(as per I.T. Return)
  
7. Does the person in respect of whom Compensation is claimed pay income tax? If so, state the amount of income tax? : Yes, IT Assessee. Copy of I.T Return for 2015  
Enclosed
  
8. Place, date and time of the accident? : On 01/05/2016 at 00-55 hrs  
near May Flower Gladium Apartment, Opposite to Pioneer Mill Road - Avinashi Road Junction
  
9. Name and address of the Police Station in whose Jurisdiction the registered? : S.I. of Police, TIW (East)  
PS Cr No: 290/2016 dated 01/05/2016 u/s 279, 338 & 304 (A) IPC
  
- 10 Was the person in respect of whom compensation is claimed traveling by the vehicle involved in the accident? If so, give names of places of starting of Journey and destination? : No, when the deceased was travelling as occupant in BMW Car bearing Regn No. PY-01-CA-6567, while at that time the first respondent caused the accident due to rash and negligent driving

11. Nature of injuries sustained? : Fatal-injuries-  
1.Bruise over lateral aspect  
of right chest wall  
2.Multiple abrasions over  
both forearm  
3.Bruise over medial aspect  
of left thigh  
4.Linear abrasions below  
right knee  
5.Deformity present in  
distal part of right leg.  
6.Abrasion over medial  
aspect of right ankle  
7.Multiple body and head  
Injuries with fracture  
near right ankle

11. (a) Details of damages caused to the  
property on account of the : Clothes and wrist watch  
accident?

12. Name and address of the Medical:  
officer who attended the injured/  
dead. : Dr.Raghupathy, V  
PSG Hospitals  
Peelamedu  
Coimbatore-18

13. Period of treatment and expenditure  
if any incurred thereon? : Died on the way to hospital

(Post mortem held at CMCH on 01 May 2016 at 03.50 pm)

13. (a). Disability for work, if any  
Caused? : Fatal case.

14. Registration No. and type of vehi-  
cle involved in the accident? : BMW Car bearing Regn No:  
PY 01 CA -6567

15. Name and address of the Owner  
of the vehicle involved in the  
accident ? : Dr.K.Kalpana  
W/o-Muthusamy Krishnan  
Block 2, 3<sup>rd</sup> Annai Therasa  
Apartments, Balajinagar ST,  
Paulpet Lawspet  
Puducherry

(Contd. P/5).

16. Name and address of the insurer  
of the vehicle involved in the  
accident

: M/s Bajaj Allianz General  
Insurance Co. Ltd.  
Door No.11 (Office No.6A)  
Peoples Park, 3<sup>rd</sup> Floor  
Govt. Arts College Road  
Coimbatore-641018

(Policy.No:-OG-16-1503-1801-00012738; Validity of Policy: 17/01/2016  
to 16/01/2017)

16. (a) Name and address of the  
driver-in-charge of the vehicle

: S.Gowtham  
S/o Sachithanantham D  
Door No: 32,  
Parasakthi Koil Street  
Kongunagar, Tiruppur  
PIN-641607

17. Has any claim been lodged with  
the owner/Insurer of the vehicle?  
If so, with what result?

: -No-

18. Name and address of the appli- :  
cants

1. Th S Ramaraj  
2. Tmt Uthira  
No.3, Alamelu Nagar  
Kamarajar Road,  
Uppilipalayam Post  
Coimbatore-641015

19. Relationship with the dead

: 1st Petitioner-Father  
2<sup>nd</sup> Petitioner: Wife  
3<sup>rd</sup> Respondent: Mother  
added only as formal  
party

20. Title to the property of the  
deceased?

: As Legal heirs

21. Amount of compensation  
Claimed?

: Rs.1,75,00,000/-

(Contd. P/6)

21. (a) PARTICULARS OF LOSS AND EXPENSES

PART-1

(a) Loss of earnings	:	Rs 1,72,20,000-00
(b) Partial loss of earnings	:	-Nil-
(c) Transport to hospital	Rs.	20,000-00
(d) Extra nourishment.	:	-Nil-
(e) Damages to clothing/article	:	Rs. 5,000-00
(f) Others		
(i) Funeral expenses	:	Rs. 20,000-00
(ii) Loss of love and affection	:	Rs. 3,00,000-00
(iv) Consortium to spouse	:	Rs. 5,00,000-00

PART II

(g) Compensation for pain and sufferings.	:	---
(h) Compensation of permanent or Continuing disability	:	---
(i) Compensation for loss of Future earning Capacity/Future Prospects	:	---
Total	:	Rs. 1,80,65,000-00

(Rupees One crore, eighty lakhs and sixty five thousand only)  
(Restricted to Rs. 1,75,00,000/- only)

22. Where the application is not made  
Within Six months of the occurrence  
of the accident, the cause thereof:

Does not arise as per  
the amended M.V.  
Act

22. (a) (i) Whether the deceased has been  
involved in any other road accident  
earlier? If so, how as state the  
details/

-No-

(ii) Whether the deceased has preferred  
a claim for the damages in any cases  
earlier? If so, with what result?

-No-

(iii) Whether the deceased has preferred a  
claim from the Owner of the vehicle and  
if so, how?

-No-

(Contd. P/7)

22. (b) (i) Have you made any application for compensation from the Motor Accidents Claims Tribunal Authorities under Solatium Scheme? : -No-

(ii) If so, whether the amount has been :-  
(a) Approved but not paid : -Nil-  
(b) Paid. : -Nil-

23. Any other information that may be necessary or helpful in the disposal of claim (Here furnish a brief account of how the accident occurred and state how the applicants are entitled to claim compensation and how the respondents are liable to pay the compensation claimed).

-As detailed below-

(a) The ~~1st~~ <sup>deceased S. Gownam</sup> respondent herein is driver of BMW Car bearing Registration No: PY-01-CA-6567 involved in the accident; While this being so, the ~~1st~~ <sup>2nd</sup> respondent is its owner and ~~2nd~~ <sup>3rd</sup> respondent is insurer with whom the vehicle has been indemnified for insurance coverage as on the date of accident. The ~~1st~~ <sup>deceased S. Gownam</sup> respondent is no more and died at the accident spot itself.

(b) That the first petitioner is father of deceased Deepak Gaandh, R. While this being so, ~~the respondent~~ <sup>2nd petitioner</sup> is his wife. They are legal heirs and dependents upon the earnings of deceased for their livelihood. The deceased was highly educated i.e. B.E (Hons) Mechanical Engineering. He was doing business in Charcoal having head office at Coimbatore and branch office is situated at Manamadurai, Sivagangai district. He was IT assessed also. Income Tax Return filed for the year 2015 reveals the net earnings being Rs 14,35,000/- of deceased. After the death of Deepak Gaandh, R, the petitioners could not continue the profession due to lack of proficiency in the business field.

(c) The first petitioner who is father lost his son at the far end of his life span. On the other hand the 2<sup>nd</sup> petitioner who is widow lost her husband at the very young age of 25 years. Both the petitioners do not derive any independent source of income. The deceased's mother namely Tmt. Gandhimathi already separated from her husband (1<sup>st</sup> petitioner) and therefore she has been arrayed as a formal party and added as ~~3rd~~ <sup>2nd</sup> respondent.

(Contd. P/8)

(d) Due to sudden and untimely death of Deepak Gaandh, R who was bread winner, both the petitioners are put to severe mental shock, financial constrains and their family set up is totally shattered into pieces. the vacuum arises out of sudden death of Deepak Gaandh, R cannot be over emphasized and the loss cannot be made good by way of mere compensation to the petitioners of any extent but they deserve much more.

(e) On 01/05/2016 when the deceased Deepak Gaandh, R was travelling as an occupant in BMW Car bearing Regn No: PY-01-CA-6567 and when the car was driven by ~~the deceased S. Gownam~~ and at about 00.55 hrs when came near May Flower Gladium Apartment, Opposite to Pioneer Mill Road-Avinashi Road Junction from east to western direction, due to rash and negligent driving of BMW Car by ~~deceased S. Gownam~~ eventually dashed against a moped bearing Regn No: TN 37S 4253 which came at the junction from Pioneer Mill Road from north to south and at the junction turned towards west. As a violent hit the BMW car towed the moped towards west up to a distance of 500 meter and then hit against a cement platform of PSG Public School forcibly and in the same speed turned towards north and hit against center median retention wall and jumped over it and rolled down the other end of road. In the cruel road accident the rider of moped was found dead with crush injuries over head and severance of left leg below ankle.

~~deceased S. Gownam~~  
(f) The ~~intereponed~~ who was driver of BMW Car also found dead on the driver seat itself with severe blow to chest, head injury with bloodshed. The petitioner's bread winner namely Deepak Gaandh R who was also travelling in the car was found trapped underneath the car and remained in the state of trauma due to grievous head injuries and fracture in right leg below ankle. Deepak Gaandh. R was immediately rushed to PSG Hospital but he died on the way to hospital. Post mortem held on 01 May 2016 at 03.50 p.m.

(Contd. P/9)



(g) The death of Deepak Gaandh R. gave a severe blow to the petitioners herein and it axed them very cruelly, leaving them in a desperate grief, mental shock, agony and financial constraints since the petitioners expected that their bread winner would look after them at these hard days very comfortably. But their imagination and expectations vanished and shattered in to pieces irretrievably.

(h) The ~~deceased S. Gowdnam~~ who was driver of BMW Car bearing registration number PY-01-CA-6567 is solely liable for the said accident due to rash and negligent driving is no more and died at the accident spot. Therefore the S.I. of Police, TIW East PS Coimbatore has registered a case against him for the charges under section 279, 338 & 304 (A) of IPC in Crime No: 290/2016 dated 01.05.2016. The criminal case shall be tried by the learned Judicial Magistrate No: VIII of Coimbatore.

(i) Though any quantum of compensation would help out the petitioners to get back the deceased Deepak Gaandh, R. alive, but for the sake of social justice and for livelihood of petitioners in the materialistic world, the compensation preferred under the relevant heads in sub paragraph 21 (a) supra for a total sum of Rs.1,80,65,000/- but restricted to Rs. 1,50,00,000/- only. The amount of compensation claimed by the petitioners is a just, fair and reasonable claim amount.

(j) The ~~deceased S. Gowdnam~~ is driver of BMW Car bearing registration number PY-01-CA-6567 involved in the accident. 1<sup>st</sup> and 2<sup>nd</sup> respondents are its owner and insurer respectively. In view of death of ~~deceased S. Gowdnam~~ 1<sup>st</sup> and 2<sup>nd</sup> respondents are jointly and severally liable to pay the compensation to the petitioners as claimed.

(Contd. P/10)

IV. A court fee of Rs. 1,74,372.50 is due and paid on the claim application in accordance with rule 24.(1) of the M.A.C.T. Rules as amended subsequently.

(V) The petitioner, therefore most humbly pray that this Hon' ble court may kindly be pleased to pass an award in the following terms:-

- (a) for a sum of Rs. 1,75,00,000/- towards compensation,
- (b) directing the respondents to pay the said amount along with interest at 12 % per annum from the date of filing of claim application till the date of realization jointly and severally,
- (c) for the costs of this application, and
- (d) pass such other and further orders which are deemed fit and proper in the circumstance of the case and thus render justice.

ADVOCATE FOR  
PETITIONERS

PETITIONERS

VERIFICATION

We, the petitioners herein do hereby declare that the facts what are furnished in the above paragraphs are true and correct to the best of our knowledge, information and that we further declare that we have neither claimed nor received any compensation under the Workmen's

(Contd. P/11)

compensation Act, 1923 so far this accident is concerned and that I signed this verification at Coimbatore on this the      day      Nov 2016.

PETITIONERS

LIST OF DOCUMENTS FILED BY THE PETITIONERS

1. 01.05.2016 - First information report      -All documents are in
2. 01.05.2016 - Post mortem certificate.      Xerox copies
3. 08.07.2016 - Death Certificate.
4. 05.10.2016 - Legal heir ship certificate
5. 2014-15 - Copy of IT Return

The other documents will be produced at the time of trial.

ADVOCATE FOR  
PETITIONERS

(Contd. P/12)

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Passport size Photograph of  
Petitioners

IDENTIFIED BY ME

ADVOCATE FOR  
PETITIONERS



III ADJ

**BEFORE MOTOR ACCIDENTS  
CLAIMS TRIBUNAL AND HON  
HON' BLE DISTICT JUDGE OF  
COIMBATORE**

MCOP No: 1947/2016

1.Th. S.Ramaraj

2.Tmt Uthira

- Petitioners

-Versus-

1. Dr.K.Kalpana

2. M/s Bajaj Allianz General  
Insurance Co. Ltd

3. Tmt Gandhimathi

- Respondents

**PETITION FILED UNDER  
SECTION 166 (1) (c) OF  
MOTOR VEHICLES ACT,  
1988**

Encl : Vakalathnama - 1

Batta Memo with petition

Copy Set - 1

Proof affidavit - 1

Documents - 4

Affidavit with petition copy

Set - 1

Total - 8

Presented on: - 11-2016

**ADDRESS FOR SERVICE**

**Sri. M. Murugeswaran,**

**MTM.,B.L.**

Advocate,

Enrolment No: 1497/2000,

No: 208, Lawyers' Chamber,

Combined Court Complex,

Coimbatore-641018

Mobile No: 98422 99585