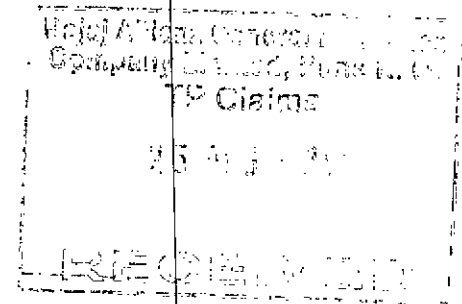


**BEFORE MOTOR ACCIDENT CLAIM TRIBUNAL PUNE
AT PUNE**

Claim Application No. 373/2022.

1. **Smt. Pratima Sagar Deshpande** }
Age: 46 Years, Occupation: Service }
}
2. **Master Manas Sagar Deshpande** }
Age: 17 Years, Occupation: Education }
Being minor through his Natural }
Guardian Mother **Smt. Pratima Sagar** }
Deshpande, the Applicant No. 1 }
}
3. **Mr. Nachiket Sagar Deshpande** }
Age: 22 Years, Occupation: Education }
}
4. **Mrs. Seema Janardan Deshpande** }
Age: 74 Years, Occupation: Household }
}
5. **Mr. Janardan Madhav Deshpande** }
Age : 82 Years, Occupation : Retired }
All R/at: Plot no. 58, Sector no. 27, Near }
Dhanwantari Hospital Pradhikaran, }
Nigdi, Pune – 411044. } **Applicants**



V/S

1. **Balaji Transport Company** }
- Through Prop. Bhushan L. Wadwani }
- Age - Adult, Occupation – Business }
- a. Permanent Address; 10/B, Wing, }
- Aziz Baug Mahul Road, Chembur, }
- Mumbai; 400074. }
- b. Temporary Address; Chandmari, }
- Kohima 797001, State of Nagaland }
- Registered Owner of Tanker No. NL-01-N-9124 }
- Notice be issued on both addresses }
- }
2. **Bajaj Allianz General Insurance Co. Ltd.** }
- Having its Head & Pune Office; Bajaj }
- Allianz House Airport Road, Yerwada }
- Pune – 411006 }
- Insurer of Tanker No. NL-01-N-9124 }
- Policy No. OG-22-4538-1803-00000044 }
- for the Period from 19/5/2021 to 18/5/2022. } **Opponents**

Claim Amount; Rs. 25,00,00,000/-

In Words Rs. Twenty Five Crores Only

Under Section 166 of Motor Vehicles Act.

To

The Hon'ble Member,

Motor Accident Claim Tribunal, Pune - 411 005.

We, applicants above named, do hereby apply for grant of compensation for death of **Mr. Sagar Janardan Deshpande** in a Motor Vehicle Accident took place on 09/05/2022 at about 11.20 A. M. Necessary particulars in respect of the Accident, Vehicle, Death etc. are given below;

1. Name & Father's Name of the deceased : Mr. Sagar Janardan Deshpande
2. Full address of the deceased : Sector no. 27, Plot no. 58, Dhanwantari Hospital Pradhikaran, Nigadi, Pune; 411044.
3. Age of the deceased : 51 Years
(Date of birth – 11/05/1970)
4. Occupation of the deceased : Professional; Classified Auditor / Consultant
5. Name & Address of the employer : NA.
6. Income of the deceased : Rs. 1,40,00,000/-per year.
7. Does person in respect of whom compensation is claimed pay income tax, if so, to be supported by the : Yes. The documents in that behalf have been filed along with this Claim Application.

documentary evidence.

8. Place, Date and time of the accident : Place: On Mumbai Pune Express Highway (On the lane going to Pune), Near KM Mark 39/00, Opposite to Apcon Company, near Village Khopoli, within limits of Khopoli Police Station, District – Raigad.
Date : 09/05/2022
Time: At about 11.20 A. M.
9. Name & address of the Police station under whose jurisdiction the accident took place. : Khopoli Police Station, District – Raigad, offence is registered under C.R. No 135/2022; U/s 279, 337, 338 304(A) of IPC and 184 of M. V. Act.
10. Was person in respect of whom compensation is claimed, traveling by the vehicle involved in the accident if so, state the place of the starting of journey and its destination. : Yes, the deceased was one of the occupants of the Hyundai Accent Car bearing no. MH – 01 CJ - 5446 & was proceeding from Mumbai to Pune direction by Mumbai – Pune Expressway.
11. Nature of injuries sustained : Severe Multiple Injuries &

- in the accident died on the spot due to the accidental injuries.
12. Name & address of the Medical Officer / Practitioner, if Any, who attended on the deceased. : Medical Officer of Khopoli Municipality Hospital, Khopoli.
13. Period of treatment and expenditure if any incurred : Not Applicable
- 13A Nature of injuries, whether it caused permanent disablement : Not Applicable
14. Registration No. and type of the vehicle involved in the accident. : Gas Tanker bearing no. NL-01-N 9124
Hyundai Accent Car bearing no. MH – 01 - CJ - 5446.
15. Name and address of the owner of the vehicle involved in accident : **Owner of Gas Tanker-**
Balaji Transport Company
a. 10/B wing, Sita Estate, Aziz Baug, Mahul Road, Chembur, Mumbai - 400074.
b. Chandmari, Kohima 797001, State of Nagaland.

16. Name and address of insured : **For Gas Tanker;**
of the vehicles involved in **Bajaj Allianz**
accident and policy number **General Insurance Co. Ltd**
& period **Bajaj Allianz House,**
Airport Road, Yerwada, Pune
411006. Policy No.
OG-22-4538-1803-00000044
for the Period from 19/5/2021
to 18/5/2022.
17. Has any claim been lodged : No.
With the owner/insurer & if
so, state the result.
18. Name & address of applicants : As stated in the title of the
Application.
19. Relationship with the : Applicant No. 1 - Wife
Deceased person of the Applicant No. 2 – Minor Son
Applicant Applicant No. 3 - Son
Applicant No. 4 - Mother
Applicant No. 5 – Father
20. Amount of compensation : Rs. 25,00,00,000/-
Claimed (In words Rs. Twenty Five
Crores Only)
21. Title to the property of the : Not Applicable
deceased
22. Any other information that may be necessary or helpful in the
disposal of in the claim application is as under:-
On 9/5/2022 at about 11.20 A. M. on Mumbai Pune Express
Highway (On the lane going to Pune), Near KM Mark 39/00,

Opposite Apcon Company, Near Village Khopoli, within limits of Khopoli Police Station, District – Raigad, the accident took place in the following manner;

- a) The Applicants submit that, on the day & material time of the accident, i.e. 09/05/2022, deceased & his colleague Mr. Yogesh Singh were returning their homes at Pune from Mumbai Airport. They were returning from South Africa, after finishing their official tour. They were travelling by a Hyundai Accent Car bearing no. MH – 01 CJ – 5446 as a passenger. The impugned Hyundai Accent Car was proceeding towards Pune Direction in slow and a moderate speed & by correct lane going towards Pune by Mumbai Pune Express Way, by observing all traffic rules & regulations. When the Hyundai accent Car came near the spot of accident, at that time, one Gas Tanker bearing no. NL-01-N 9124 was proceeding from Pune to Mumbai direction on the said Mumbai Pune Expressway. The said Gas Tanker was proceeding towards Mumbai direction in a very high & excessive speed and in a rash & negligent manner without overserving the rules & regulations of traffic. Because of the high and excessive speed & the rash & negligent driving, the Gas Tanker driver failed to control his tanker & the said Tanker suddenly came on right side of the road i.e. wrong side by breaking the road divider at very

high speed & came on the lane going towards Pune & heavily dashed to Hyundai Accent Car which was proceeding towards Pune Direction from correct lane. Because of the said dash deceased & other occupants of the Car & the Car Driver sustained severe multiple injuries & they died due to the accidental injuries. The said offending Gas Tanker also dashed other vehicles which were proceeding towards Pune direction on Pune Lane. The said dash was so severe & grave that, all occupants of the said car died on the spot & the said Hyundai Car totally damaged in the said accident. The applicants submit that, the accident occurred due to absolute rash and negligent driving on the part of the Tanker driver. The said driver was driving his vehicle without observing traffic rules and regulations and the accident took place because of his rash & negligent driving. The applicants submit that, the fact of the accident and police papers clearly shows that, the said accident took place because of the rash and negligent driving of the Tanker Driver.

- b) The accident taken place on Mumbai-Pune Express Way. The Gas tanker was proceeding from Pune to Mumbai direction. The Speed of the Gas Tanker was very fast & uncontrollable. As a result, the Tanker Driver lost his control over the Tanker and suddenly turned towards his right side i.e. wrong side, of the road. The fact of the accident clearly

shows that, the Tanker was proceeding in a high & excessive speed & rash & negligent manner, and came on the wrong lane. The principle of res ipsa locutor is applicable to present case.

- c) The applicants submit that, immediately after the accident the incident was reported to khopoli Police Station, District Raigad and the offence was registered against the Gas Tanker Driver, under FIR No. 135/2022 and prosecuted under section 279, 337, 338, 304(A) of IPC and 184 of M. V. Act. The investigating officer of the said Police Station visited the spot of accident and drew the Panchanama and recorded the statements of the witnesses & prepared the other relevant documents. After investigation, the investigating officer comes to the conclusion that, the said accident took place because of rash & negligent driving of the Tanker Driver. Therefore, the charge sheet is filed against the Tanker Driver. The said Criminal Case is pending before JMFC, Khalapur.
- d) The applicants most respectfully submit that, the age of the deceased was 51 years at the time of accident. The date of birth is 11/05/1970. The deceased was a very bright student in his education as he had completed & obtained his Engineering Degree in Instrumentation Faculty. He was MBA student & passed his post graduate degree into First

Class from Pune University. The deceased also had outstanding achievements throughout his career. Academically, he was very bright. He has obtained many certificates from well known & reputed Institutions. He had completed QMS Lead Assessor Training Course Conducted by International Auditor and Training Certification Association (IATCA) in the year 2004 and also completed IEMA Approved Advanced EMS Auditor Course conducted by TQM International Pvt. Ltd., in the year 2005.

- e) The Applicants submits that, at the material time of the accident, the deceased was working as Classified Auditor & running his proprietary firm under the name & style "ABS Certification". The deceased was the only Certified Auditor of IEMA by TQM International Pvt. Ltd. & International Auditor and Training Certification Association (IATCA), of TÜV AUSTRIA Hellas LTD. The Annual turnover of ABS Certification was around Rs. 5,00,00,000/-. The net income of the deceased as a Proprietor of ABS Certifications was around Rs. 1,40,00,000/- (Rs. One Crore Forty Lakh Only) per year. The documents pertaining to the Income of the deceased at the material time of the accident are filed along with this claim application. All documents are certified by the Chartered Accountant of the deceased who was looking after the accounts of the deceased. His accounts are audited

by the reputed chartered accountants by paying requisite Income Tax, every year.

- f) At the age of 50 years, the deceased achieved such a huge scale of earnings, due to his optimum performance in his profession. The Applicants strongly apprehend that, the income and business of the deceased would have achieved double the income without any doubt.
- g) The applicants submit that, the deceased was an extraordinary & unique professional and had achieved many goals in his career & certainly have had a very bright future ahead.
- h) The Applicants most respectfully submit that, TÜV AUSTRIA Hellas LTD, which is complete daughter company of TÜV AUSTRIA, having established and lawfully operating from Greece (having its registered office at 429, Mesogeion Ave. GR-153 43, VAT Nr. EL 095574110, Tax Office: Ag. Paraskevi, Athens Greece), had appointed the Deceased as its Cooperation-Partner to look after all affairs & business within the territory of INDIA.
- i) The business of TÜV AUSTRIA Hellas LTD, is mainly; certification of management systems and products, third

party inspections of products, training and certification of persons.

j) The business activities of TÜV AUSTRIA Hellas LTD are as under;

- i. Auditing of food safety management systems including GFSI standards such as: ISO 22000, HACCP, FSSC 22000, FSSC 22000 Packaging, IFS, IFS logistics, IFS Broker, IFS PAC SECURE, BRC, BRC IOP, etc.
- ii. Primary Production food standards such as: GLOBAL. G.A.P. for fresh fruits and vegetables, aquaculture, chain of custody, Supplier Audits (1s and 2nd party audits), etc.
- iii. Other Standards in Information Security such as: ISO 27001 for Information Security Management Systems, ISO 22301 for Business Continuity, CAAP for Cloud Security Certification, ISO 39001 for Road Safety Management Systems, ISO 22716 for Cosmetic Good Manufacturing Practices, etc.

k) The Applicants submits that, the ABS Certification was the Co-operation partner of TÜV AUSTRIA Hellas LTD. The scope of Co-operation Partner's was auditing & inspection for management systems and products certification and providing training services to the entire Indian Market. The

“ABS Certification” was the exclusive partner of TÜV. Being having exclusivity in this field of certification of management systems and products, third party inspections of products, training and certification of persons certification, the business/ profession of the deceased was unique. The deceased was the only person within the territory of India, as a classified auditor.

- l) The Applicants most respectfully submit that, the deceased was very kin, serious & upright with his work. Being satisfied with the work of the deceased, the TÜV AUSTRIA Hellas LTD assigned another territory to ABS Certification in addition to India. The Company added 'Tanzania, Africa' as the extended territory having same scope of work. This extension and assigning additional responsibility explain the satisfactory work of the deceased. Needless to say, the TÜV AUSTRIA Hellas LTD was very happy & contented with the work of the deceased.

- m) The Applicants submit that, the deceased was at the peak of his profession. The scope of work & its exclusivity, hard work, dedication, resulted into achievement of utmost level of glory, success, fame and charisma in the Indian Market. The deceased could have set & achieved some more benchmarks in future. The deceased was the only classified

auditor in the field of Process Certification in India. The early & sudden death of the deceased, caused irreparable damage to the applicants. The Applicants are therefore entitled for the prospective income of the deceased considering his extraordinary success & accomplishments.

- n) The applicants submit that, the deceased used to spend entire amount of his earnings at home. The applicants were totally dependent upon the income of the deceased. The applicants have lost their breadwinner. The applicants submit that, no one left behind who is capable to earn in the family. In the circumstances the applicants are entitled for the entire compensation as claimed.
- o) The applicants submit that, considering the educational qualification and the experience, the deceased would have certainly reached at a higher and excellent post in his profession, in the near future. The deceased must have received very handsome & fantastic amount in future. At the time of accident, the age of the deceased was 51 years. Therefore, the deceased could have worked in the industry at least another 25 years. The deceased could have received very handsome earnings from his profession in the future, more than what he was getting at the time of his death. Considering these factors, the applicants have suffered severe huge loss.

p) The applicants most respectfully submit that, the deceased was the only earning member in the family of the applicant. As stated herein above, he was heal and hearty. He could have lived his full span of life, till the age of 85 to 90 years and therefore, could have maintained the applicant at least for another 25 years. It is respectfully submitted that, because of the pre-mature and accidental death of the deceased, the applicants have suffered a tremendous shock and also suffered a set back in their life. The applicants submit that, the deceased was the loving husband of the Applicant no. 1 and loving father of Applicant no. 2 (Mater Manas; DOB 13th July 2005) & 3 & loving son of Applicant No. 4 and 5. It is submitted that because of the sudden and pre-mature death of the deceased, the applicant have suffered a serious set back in their life, which can not be cured. Because of the sudden and premature and accidental death of the deceased, the applicants lost their best support during their entire life time. The applicants are therefore entitled to receive an amount of compensation under the head of loss of consortium.

q) The applicant most respectfully submits that, as stated herein above, the deceased was earning above said amount as a net income from his Profession. It is also contended herein above that out of the said amount, the deceased was paying

substantial amount per month to the applicants to meet the day-to-day household expenses and also the expenses which are required to maintain the luxurious life of the applicants. The applicants submit that, the deceased was giving the above said amount to the applicants in order to maintain their standard of living and or their status in the society. Due to high qualification and successful professional, the deceased was having his own higher status in the society. The applicant used to maintain his standard of living along with the applicants. All the modern facilities with modern equipments have been provided to the applicants in their present residential house by the deceased. The applicants were also having their independent status and own standard of living in the society. Because of the accidental and premature death of the deceased, the applicants are now deprived of the many facilities during their life and therefore, the applicants had suffered a heavy set back in their life. It is further submitted that because of the accidental death, the applicants would not be in a position to maintain the standard of living and their own status in their life. It is further submitted that, the said loss now cannot be compensated in terms of money. Therefore, the amount so claimed is very moderate as compared to the life of the applicants.

- r) The applicants submit that, for all these reasons, the applicant has claimed an amount of Rs. 25,00,00,000/- (In words Rs. Twenty Five Crores Only) as and by way of compensation under the heads, which are permissible under the Motor Vehicle Act. Thus, amount claimed by the applicants is very just and moderately assessed.
- s) The applicants most respectfully submit that, the driver of the Gas Tanker was driving the Tanker bearing No. NL-01-N-9124 under the employment & for the benefit of the Opponent No.1. The said Tanker bearing No. NL-01-N-9124 was owned by the Opponent No. 1 at the time of accident. Hence the Opponent No.1 is primarily and vicariously liable to pay compensation to the applicants. The Gas Tanker was insured with opponent no. 2 under the insurance Policy No. OG-22-4538-1803-00000044 for the Period 19/5/2021 to 18/5/2022, which covers the date of accident. The Policy was valid on the date of the accident. As per the terms and conditions of the policy opponent no. 2 is statutorily liable to pay compensation to the applicants. Hence all the opponents are jointly and severally liable to pay compensation to the applicants.
- t) The applicants are residing at Nigadi, Pune, within the jurisdiction of this Hon'ble Tribunal and therefore this

Hon'ble Tribunal has got jurisdiction to try and entertain and decide the present application.

- u) The applicants therefore pray that: -
- a) The applicant be awarded an amount of Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) by way of compensation from the opponents.
 - b) The applicant be awarded an interest at the rate of 15% p.a. from the date of the applicant till the realisation of the amount from the opponents.
 - c) The applicant be awarded the cost of the application from the opponents.
 - d) That the Hon'ble court may pass such other orders, which are just and equitable in the interest of justice.

.....
Applicant No. 1 for herself
and for Applicant no.2.

.....
Applicant No. 3.

.....
Applicant No. 4.

.....
Applicant No. 5.

Place : - Pune

Date :- 22nd July 2022

Advocate for the Applicants

Bhushan M. Shalukar (Advocate)

VERIFICATION

We, Smt. Pratima Sagar Deshpande, Master Manas Sagar Deshpande through his natural guardian mother Smt. Pratima Deshpande, Mr. Nachiket Sagar Deshpande, Mrs. Seema Janardan Deshpande & Mr. Janardan Madhav Deshpande, the applicants herein do hereby on solemn affirmation that, no claim in respect of the above mentioned accident has been claimed by us or is pending before any other forum, and the contents of this application are true and correct to the best of our knowledge, belief and information and in witness whereof, we have signed this application at Pune on the date mentioned herein above.

.....
Applicant No. 1 for herself
and for Applicant no.2.

.....
Applicant No. 3.

.....
Applicant No. 4.

.....
Applicant No. 5.

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