2 & BEFORE MOTOR ACCIDENTS CLAIMS TRIBUNAL AND HON’ 4 BLE DISTICT JUDGE OF COIMBATORE, - MCOP No: en 2016 1Th, $.Ramaraj 2Tmt Uthira -Versus- 8, 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   
1. PETITIONERS:   
1. Th. SRamaraj, 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, Wlo late R.Deepak Gaandh, Hindu, aged 25 years, residirig at ~do- address. “The address for service ofthe 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. I RESPONDENTS owl, CFD) YE Schiaonenthem D, agnd 252 at Dour No.30Parsalthih. P35 0s emp (Contd. P/2) 2 “B Dr. K. Kalpana, W/o Muthusamy Krishnan, age not known, Block 2, 3" Annai Therasa Apartments, Balaji Nagar ST, Paulpet Lawspet, Allianz General Insurance Co, Ltd, Door No: 11 (Office No fes Park, 3" Floor, Govt. Arts College Road, Coimbatore- (Policy No: OG-16-1503-1801-00012738, Validity of Policy: 17/01/2016 to 16/01/2017) 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 Di ‘The address for service of respondents is same as above. To, ‘The Motor Accidents Claims Tribunal, Coimbatore-18 TIL 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   
00.85 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, Namesand father’s name of the person dead “: RDeepak Gaandh S/o Ramaraj   
2. Full address of the person dead a Door No: 3, Alamelu Nagar Kamarajar Road Uppilipalayam Post batore-641-015 (Contd. P73) 3. Age of the person dead.   
4. Occupation of the person dead. {Local Office) 3N/A, Alamelu Nagar, Kamarajar Road, Uppilipalayam TIN No: 33231827736 CSENo: 1173359   
5. Name and addres’ of the employer of the person dead.   
6. Monthly income of the person dead.   
7.Does the person in respect of whom ‘Compensation is claimed pay.income tax? Ifso, state the amount of income tax? a   
8. Place, date and time of the accident?   
9. Name and address of the Police: Station int whose Jurisdiction the \* registered? 10Was the person in respect of whom compensation is claimed traveling : by the vehicle involved in the acci dent ? If 80, give names of places of \* starting of Journey and destination? 28 Years Alpha Charcoal (Charcoal business) Head Office: Coimbatore Branch Office: Manamadu- -rai, Sivagangai district -Own profession- B.E.(Hons) Mech.Engg, Rs.14,35, 000/- per annum (as per LT. Return) ‘Yes, IT Assessee. Copy of LT Retum for 2015 Enclosed On 01/05/2016 at 00-55 hrs near May Flower Gladiumn Apartment, Opposite to ioneer Mil] Road - Avinashi Road Junction SIL of Police, TIW (East) PS Cr No: 290/2016 dated 0/05/2016 w/s 279, 338 & 304 (AyIPC No, when the deceased was travelling as occupant in BMW Car bearing Regn No. PY-01-CA-6567, while at that time the first respon- -dent caused the.accident due to rash and negligent driving (Contd. P/4) - . 4 11, Nature of injuries sustained?   
11. (a) Details of damages caused to the property on account of the : accident?   
12. Name and address of the Medical: officer who attended the injured/ dead. :   
13. Period of treatment and expenciture iff any incurred thereon? : 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 Clothes and wrist watch Dr.Raghupathy, V PSG Hospitals Peelamedu - Coimbatore-18 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? 14, Registration No. and type of vehi- cle involved in the accident? 15, Name and address of the Owner - of the vehicle involved in the accident ?, Fatal case. BMW Car bearing Regn No: PY 01 CA -6567 DrKKalpana W/o-Muthusamy Krishnan Block 2, 3 Annai Therasa Apartments, Balajinagar ST, Paulpet Lawspet Puducherry (Conta. 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" 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? - Ifso,with what result? 2 No '   
18. Name and address of the appli- » :   
1. Th S Ramaraj je cants   
2. Tint Uthira No3, Alamelu Nagar Kamarajar Road, : Uppitipalayam Post Coimbatore-641015 19, Relationship with the dead + IstPetitioner-Father te . 2 Petitioner: Wife 4 spondent: Mother | added only as formal 7 party   
20. Title to the property of the it 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 (a) Loss of earnings Rs\_1,72,20,000-  
00. \_(b) Partial loss of earnings “Nil- (©) Transport to hospital Rs. 20,000-00 (@) Extra nourishment. Fs -Nil- (©) Damages to clothing/article Rs. . 5,000-00 (6 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 7 PARTU (g) Compensation for pain and suffer ings. : \_ (b) Compensation of permanent or-» ‘Continuing disability \_ (@ Compensation for loss of Future earning Capacity/Future Propects \_ Total Rs. 1,80,65,000-00 (Rupees One crore, eighty lakhs atid sixty five thousand only) (Restricted to Rs. 1,75,00,000/- only)   
22. Where the application is not made Within Six months of the occurrénce of the accident, the cause thereo:   
2. (a) (i) Whether the deceased has been involved in any other road accident earlier? If so, how as state the details/ (Gi), Whether the deceased has preferred acclaim for the damages in any cases earlier? Ifso,with what result? Does not arise as per the amended M.V. Act -No- \* Gil) Whether the deceased has preferred a sa claim from the Owner of the vehicle and if so, how? “No- (Contd. P/7) ~~ — 7   
22. (b) (i) Have you made any application for compensation from the Motér Accidents Claims Tribunal Authorities under So! Scheme? Pp No- (i) Ifso, whether the amount has been == (a) Approved but not paid : Nik {b) Paid. . : Nil-   
23. Any other information that may be necessary or helpful inthe disposal of claim (Here furnish a brief account of how the accident occurred and state how the applicants are entitled to claim compen- sation and how the respondents are liable to pay the compensation claimed). “As detailed below- - decengod S:crastraro |” (@. ThE Geeesgondent herein is driver of BMW Car bearing Registfation No: PY-01-CA-6567 involved in the accident, While this being s0, the 4 8\*.>respondent is its owner and#Arespondent is insurer with whom’the vehicle has been indemnified for insurance coverage as on the date of accident. The MRSA AIT Ae and died at the accident spot itself. (b) That the first vesionss i Sir of dpseastd Deepak Gaandh, R. While this beiig soft patent is his wife. They are legal heirs and dependents upon the eamings of deceased for their livelihood. ‘The deceased was highly educated i.e. B/E (Hons) Mechanical Engineering. He wa doing business in Charcoal having head’office at Coimbatore and branch office is situated at Manamadurai, Sivagangai district. He was TT assessed also. Income Tax Return filed for the year 2015 reveals the net earings beig Rs 14,35,000/- of deceased. After the death of Deepak Gaandh, R, the petitioners could not continu the profession due to lack of proficiency in the business field. (© The first petitioner who is father lost his son at the far end of his Jlife span. On the other hand the 2% petitioner who is widow lost“her husband at the’very young age of 25 years: Both the-petitioners do not deriveTany independent source of income. The deceased’s mother namely ‘Tmt Gandhimathi already separated from her husband (1 petitioner) and therefore: she has been ‘arrayed asa formal party and added as: respondent. (Contd. P/8) (@ Due to sudden and untimely dk 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 azises 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. - (©) On 01/05/2016 when the deceased Deepak Gaandh, R was travelling as an occupant in BMW Car bearir No: PY-01-CA-6567 and ark in BMW one deceseel eoainorn hin the car was driven by». ~ and at about   
00.55 hrs when cathe near May Flower Gladium Apartment, Opposite to Pioneer Mill ‘Road-Avinashi Road Junction from gast to western direction , due to rash and negligent driving of BMW Car by'&"Kaysscce> 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 tumed towanis 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 tuned towards north and hit against center median retention wall and jumped cover 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 severatice of left leg below ankle. deceased 8-croserow (® The \ sp/vtidw=> Who Was driver of BMW Car also found dead on the driver seat itself with severe blow to chest, head injury with bloddshed. The petitioner's bread winner namely Deepak Gaandh R who Was also traveling 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) i: a (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. a ty PERE SOE as aver of BMW Car bearing : registration number PY-01-CA-6567 is solely liable for tie said accident due t6 rast and negligent driving is no more ahd died at the accident spot. Therefore the-S.I. of Police, TTW East PS Coimbatore has registered a case against him for'the charges. under section 279,338 & 304 (A) of i IPC in Crime No: 290/2016 dated   
01.  
05.  
2016. The critninal case shall be tried by the learned Judicial Magistrate No: VII of Coimbatore. | [- () 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 jn sub + paragraph 21 (a) supra for a total sum of Rs.1,80,65,,000/- but testricted to Rs. 1,50,00;000/- only. The amount of compensation claimed by the petitioners is just, fair and reasonable claim amount. @) The pegetel 8 of BMW Car bearing régistration number PY-01-CA-6567 involved i the accident. 1 and@ respondents are its owner and insurer respectively. In view of death ofdecoaseds, crowtran we and 4 respondents tare jointly and severally liable to pay the compensation to the petitionets as claimed, . (Contd.P/10) -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 asum of Rs. 1,75,00,000/- towards compensation, (©) 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, (©, forthe costs of this application, and (qd) pass such other and further orders which are deemed fit and proper in the circumstance of the case and thus rerider 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 \_nei- -ther claimed nor received any compensation under the Workmen's \_ (Contd. P/11) “le ‘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 PE’ DINERS   
1.   
01.  
05.2016 - First information repért ~All documents are in 2 01:  
05.2016- Post mortem certificate, Xerox copies   
3.  
98.H.  
2016.- Death Certificate. 4,  
05.  
10.2016- Legal heir ship certificate   
5.20 @\S- Copy of IT Retumn The other documents will be produced at-the time of trial. ADVOCATE FOR PETITIONERS (Contd. P/12) = “12e Passport size Photograph of Petitioners ADVOCATE FOR PETITIONERS } i | j BEFORE MOTOR ACCIDENTS CLAIMS TRIBUNAL AND HON HON’ BLE DISTICT JUDGE OF COIMBATORE \w] McoP No: \"" ‘2016 |   
1.Th, SRamaraj   
2.Tmt Uthira ~ Petitioners -Versus-   
2.DrK Kalpana   
8. M/s Bajaj Allianz General Insurance Co. Ltd -   
3. Tmt Gandhimathi ~ Respondents PETITION FILED UNDER SECTION 166 (1) (c) OF i MOTOR VEHICLES A€T, 1988 - Encl : Vakalathnama - 1 , - Batta Memo with petition Copy Set +1 Proof affidavit -1 . Documents -4 Affidavit with petition copy Set -1 Total -8 | : Presentedon: - 11-2016 - Sri. M. Murugeswaran, MTM.,B.L. | | ADDRESS FOR SERVICE | | Advocate, Enrolment No: 1497/2000, No: 208, Lawyers’ Chamber, y< Combined Court Complex, Coimbatore-641018 . Mobile No: 98422 99585 =