

**IN THE COURT OF ADDL. SESSIONS JUDGE V, KAIMUR AT
BHABUA
M. V. CASE No. 15 of 2015**

16.11.2019

The present order is on an application u/s 140 of the M. V. Act moved by the claimant in the above stated M.V. claim case. Heard the Ld. Counsel for the claimant and the Id. Counsel for O.P No. 3.

The claimant has stated that he is an agriculturist and shop keeper and as on 03.12.2012 at about 9.00 a.m. while he was going to Kudra from his home he was hit by a red coloured tractor of Mahindra make and under Registration No. BR45G1128 which was being driven rashly and negligently. The said accident took place near Sheomandir Golaudih Police Station, Kudra. After the accident the tractor driver alongwith the tractor speedily rushed away from the spot and the villagers and passers-by took him to the Government Hospital, Kudra from where he was referred to B.H.U, Varanasi. As a result of the accident the claimant states that he has suffered serious injuries and an F.I.R. No. 211 dated 07.12.2012 u/Ss 279/337/338 was registered with P. S. Kudra. After investigation the police has submitted a Charge-sheet in the case. The claimant has also filed a claim petition u/s 166 of the Motor Vehicle Act and alongwith the same has filed the present petition u/s 140 of the said Act.

The Id. Counsel submits that the claimant due to the accident has suffered permanent disability of about 45 (Forty five) percent as per the 'Handicapped Certificate' as issued by the office of the Civil Surgeon-Cum-C.M.O., Kaimur at Bhabua dated 03.03.2016. He submits that on the said certificate on examination the medical board found that the claimant has suffered 'Post traumatic deformity of left shoulder and left lower limb' and further that 'he is a case of orthopedically handicapped'. He further submits that the said offending vehicle as on the date of accident was duly insured by the O.P No. 3 Insurance Company as per the certified copy of the Insurance Cover Note No. 0096093 dated 21.09.2012 and valid up to 20.09.2013. That the claimant who as on the date of accident was aged about 45 years and was of sound physical and mental health and further that he had a good income. He submits that due to the serious injuries he has incurred heavy medical expenses and is unable to do any work. Therefore he pleads that his present application for ad-interim compensation be allowed.

The Id. Counsel for the O. P. No. 3 Company had denied the allegations of the claimant and submits that the claimant has no legal and valid cause of action to file the present case. He however in his written statement as admitted that the offending vehicle under Registration No. BR45G1128 was duly insured by the O. P. No. 3 Company.

The O. P. No. 1 owner and O. P. No. 2 driver have filed a common

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written statement as well as reply to the instant petition and has stated that the offending vehicle was duly insured with the O. P. No. 3 Company as on the date of accident.

I have heard the submissions of the respective Id. Counsels and perused the record of the case. From perusal of the record it is apparent from the annexed 'Handicapped Certificate' that the claimant has suffered 45% (forty five percent) permanent disability and further from the F.I.R. No. 211 dated 07.12.2012 and the charge-sheet in the case it is apparent that in the said accident the vehicle under Registration No. BR45G1128 was involved which was allegedly being driven rashly and negligently. It is an admitted fact that the said offending vehicle under Registration No. BR45G1128 was as on the date of accident duly insured with the O. P. No. 3 Company. That a substantial medical record has also been annexed alongwith the claim petition. Therefore the present application u/s 140 Motor Vehicle Act for interim compensation to the injured victim is allowed. All the O.Ps are liable pay an interim compensation of Rs. Twenty Five thousand to the injured victim. Since the offending vehicle was insured with the O.P. No. 3 Insurance Company it is directed to pay interim compensation of Rs. 25,000/- to the claimant within 30 days of receipt of this order failing which the claimant shall be at liberty to avail appropriate legal recourse. Put up on 21.12.2019 for issue.

(Dictated)

Sd/-

A. D. J.-V