

02.9.2019

M.V Claim Case No. 07/ 2018

Kala Devi.....petitioner/claimant

versus

Tipapu Jha & 02 Ors.Opposite Parties.

O r d e r

This order disposes the petition dated 19.04.2018 filed on behalf applicant-Kala Devi under Section 140 of the M.V. Act claiming *ad-interim* compensation of Rs.50,000/-(fifty thousand) on account of death of her daughter-Aarti Kumari in a motor vehicle accident.

2. The case of the claimant is that on 16.01.2018 at 6:00 P.M., the deceased-Aarti Kumar was returning by auto (*Piaggio*) after participating in the intermediate practical examination on the way near *Belha Mushahri* the said *Piaggio* was met with an accident rashly and negligently and the daughter of the claimant severely injured and with the help of local people the deceased was taken to the hospital nearby from where she was referred to Sadar Hospital Saharsa and further she was referred to a private clinic *Gayatri Nurshing Home*, Saharsa and lastly from where she was referred to Patna and on the way near Saharsa market the deceased succumbed due to her injuries. On the basis of written report of informant-Bablu Kumar Sah, Sour-Bazar P. S. Case No. 26/2018, dated 18.01.2018 u/s 279, 337, 338, 304(A) of IPC was registered against Tempo *Piaggio* without no. and chesis no. MBX0003BFVH497013. The impugned vehicle was insured by Tata AIG General Insurance Co. Ltd., Patna-(O.P.No.3).

3. It has been urged on behalf of the applicant/claimant that deceased daughter was young and was returning after participating intermediate practical examination and she was preparing several competitive exams in order to get Govt. job in such fatal accident she has lost her life. It has further been urged that the family member of the deceased are great sufferers on account of death of deceased-Aarti Kumar and it is prayed for grant of *ad-interim* compensation of Rs.50,000/- (fifty thousands) payable to the claimant-mother of deceased.

4. In order to substantiate their claim the applicant has produced the certified copy of FIR of Sour-Bazar P.S. Case No.26/2018 dated 18.01.2018 u/s 279, 337, 338, 304-A of the I.P.C, which shows that on 16.01.2018 deceased died due to the injury caused to her by an offending vehicle which was being driven by its driver and died due to such fatal accident. Photo copy of death

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certificate, Photo copy of postmortem report. Photo copy of owner book, Photo copy of Insurance, Photo copy of tax token, Photo copy of Driving License, photo copy of tax token have been filed. From perusal of these documents, it appears that the deceased died due to accident caused by the offending vehicle and the said vehicle had valid papers of ownership. Vehicle belonged to O.P. No.1 Tipapu Jha S/o Naina Jha, R/o At+P.O. Lagma, P.S. Sonbarsa-Raj, District, Saharsa. On the alleged date of occurrence, the vehicle in question was insured with O.P. No.- 3 Tata AIG General Insurance Co. Ltd., Grand Plaza, Fraser Road, Patna- (O.P.No.3) valid from 23.09.2017 to 22.09.2019 and the alleged accident took place on 16.01.2018 i.e. within the insured period. The applicant is mother of deceased and is legal guardian of the deceased. Thus it appears that the applicant is entitled to get payment of fixed amount of Rs.50,000/- (fifty thousands) as *ad-interim* compensation U/s 140 of the M.V. Act on the principle of *NO FAULT LIABILITY*.

5. Learned counsel on behalf of O.P. NO. 3 fairly conceded fact that vehicle was running under insurance cover and there is no dispute as to the casualty as submitted by the petitioner. He also did not raise protest against admissibility of *ad-interim* compensation if considered payable to the claimant

6. In the result, the application filed by the applicant-claimant U/s.140 of the M.V. Act is allowed and the O.P. No.3- The Tata AIG General Insurance Co. Ltd., 4th Floor, Room No. 4005, Grand Plaza, Fraser Road, Near Dakbunglow Chouraha, Patna – (O.P.No.3) is directed to pay fixed sum of Rs.50,000/- (fifty thousands) to the applicant/claimant as *ad-interim* compensation in respect to the death of daughter of applicant in the said motor vehicle accident. This payment be made within a month, failing which the applicant shall be entitled to realize the said amount through the process of the court at the rate of 6% interest *per annum* from the date of this order. The payment however shall be subject to final adjudication in the case.

Put up on **16.09.2019** for framing of issue.

Claimants are directed to file proposed issue.

Dictated & corrected by me

D.J-cum-M.A.C.T, Saharsa

