

Order Below Exh.2

(Dt.06-01-2022)

1. This application is filed under section 140 of Motor Vehicle Act for interim compensation on the ground of no fault liability.

2. Brief facts in application are as under:-

Claimant was proceeding from near Kakaddati Phata on 25.09.2016 at 19.00 hours auto registration No. MH-14-EC-4732 driven by opponent no. 1 who lost control and accident happened. In that claimant sustained several injuries on her head, right shoulder. She took medical treatment. Opponent no.1 driver, opponent no.2 owner and opponent no.3 insurer of the offending vehicle are responsible jointly and severally to pay interim compensation to the claimant, hence this application.

3. Opponent No.1 & 2 though served but remain absent. Therefore matter proceeded ex-parte against them. Opponent no.3 filed written statement at Exh.12. Happening of accident due to rash and negligent driving of opponent no.1 is denied. There is breach of policy condition. Claimant on the day of incident was going alongwith her husband and son by one motorcycle. Said motorcycle was rash and negligent, hence incident happened. Opponent no.1 is falsely implicated. Lastly he prayed to dismiss application.

04. Perusal of record shows that claimant alongwith Exh.4 filed documents of hospital, medical bills. Alongwith Exh.14 document of policy of offending vehicle is filed which shows that at the time of incident offending vehicle was insured with opponent no.3. Alongwith Exh.16 permanent disability certificate in form in COMP "B" is filed. At Exh.18 copy of FIR No.236/2016 is filed. It is registered under sections 279, 337, 338 of Indian Penal Code and u/s 184 of M.V.Act against the driver of offending vehicle. From these documents it is prima facie established that there is use of vehicle in the accident, wherein claimant sustained injuries. Whether claimant sustained injuries due to rash and negligent driving of the motorcycle or not, whether there is any breach of policy condition this could be taken into consideration while deciding application under section 166 of the Motor Vehicle Act. As per section 140 (2) the amount of compensation shall be Rs.25,000/- in case of permanent disablement. Opponent no.1 is the driver, opponent no.2 owner and opponent no.3 insurer of the offending vehicle, therefore claimant is entitled to interim compensation for opponent no.1 to 3 jointly and severally, thus following order is passed.

ORDER

- 1] Application is allowed.
- 2] Opponent No.1 to 3 do pay jointly and severally Rs.25,000/- to the claimant towards no fault liability as per section 140 of Motor Vehicle Act, within a period of six weeks

from today. On failure it will carry interest @ 7.50 % per annum from the date of order till the actual realization.

(Delivered and pronounced in open Court.)

Dt.06/01/2022

Sd/-
(K.F.M.Khan)
Member, M.A.C.T.,
Pusad.

As per directions of P.O. dated 21/12/2019 :-

Date of dictation of order : 06/01/2022

Date of transcription of order by stenographer : 06/01/2022

Date of checking of order by P.O. : 06/01/2022

Date of signature of P.O. on order : 06/01/2022

Date of order uploading : 06/01/2022

I affirm that contents of this PDF file **order** are same, word by word, as per original **order**.

Name of Stenographer : V.B.Wankhede

Designation : Stenographer Grade-II