

C.M.A. Regn.No.658/2022

Main Petition Regn.No.44/2021

Anjana Kumari & others Versus Firoz Khan

02.05.2023.

Present:- Shri K.C.Bhatia, Advocate for petitioners.
Shri Bhagish Sharma, Advocate for respondent No.1.
Shri Kishore Sharma, Advocate for respondent No.2.

This order shall dispose of an application under section 140 of Motor Vehicles Act (in short M.V.Act) filed by petitioners for grant of interim compensation of ₹.50,000/-.

2. Briefly stated, the facts of the case are that the petitioner No.1 is widow of the deceased Ashok Kumar and petitioners No.2 and 3 are children of the deceased. It has been averred that the petitioners being legal heirs of the deceased has filed a claim petition under section 166 M.V.Act seeking compensation to the tune of ₹20,00,000/- on account of untimely death of Shri Ashok Kumar, who used to work as a mason. It has further been averred that deceased was travelling pillion on motorcycle bearing No.HP-21A-8750 when it was hit by car bearing No.HP-24D-0131 being driven by respondent No.1 and insured by respondent No.2.

3. The application has been contested by the respondents by filing reply. The respondent No.1 has filed reply in which it has been averred that the respondent No.1 was having a valid driving licence and the vehicle in question was insured by respondent No.2.

4. The respondent No.2 has also filed reply in which it has been averred that vehicle was being driven by respondent No.1 in a rash and negligent manner and as such the respondent is not liable to pay any compensation.

5. I have perused the record of the case and from the perusal of the record it is evident that Shri Ashok Kumar aged 47 years was working as a mason and expired in a motor vehicle accident when riding pillion on motorcycle bearing No.HP-21A-

8750 and hit by a car bearing No.HP24D-0131 being driven by respondent No.1 and FIR No.65/2021 was got registered at Police Station Bhoranj.

6. Further perusal of record reveals that respondent No.1 Firoj Khan was having a valid driving licence which is valid till 11.06.2024. The copy of driving licence has been placed on record. The insurance cover note of the vehicle has also been placed on record which reveals that the insurance was valid upto 06.05.2021 and as such the vehicle in question was valid insurance on 20.04.2021 which is the date of the accident.

7. It is prima facie established on record that accident has taken place on account of use of vehicle bearing No.HP-24D-0131 which is insured by respondent No.2 and as such the applicants are entitled for compensation to be paid by respondent No.2 on account of pain and suffering sustained by them due to untimely death of Shri Ashok Kumar.

8. Therefore the present application is hereby allowed and interim compensation of ₹.50,000/- is awarded to the applicants under no fault liability. The applicant No.1 shall be entitled to 60% of the amount and applicants No.2 and 3 shall be entitled to 20% each of the amount. The respondent No.2 is directed to deposit the amount within a period of 30 days from this order. The application stands disposed of. Be tagged with main case file.

Now to come up for filing rejoinder and framing of issues on 05.08.2023.

(Gaurav Mahajan)
Motor Accidents Claims Tribunal-II,
Hamirpur (HP).