

IN THE COURT OF Dr. SUMEDH KUMAR SETHI: PO , MACT
(SOUTH-WEST DISTRICT), DWARKA COURTS : DELHI

MACP No. 44/19

(Sarda Devi vs. Kilar Singh & Ors)

08.02.2021

INTERIM AWARD:

1. The present DAR has been filed qua the death of deceased- Mahender Singh caused in a road traffic accident which took place on 04.12.2018.
2. Further, in the present petition a prayer has also been made for passing of interim award on behalf of the applicants/petitioners- Sharda Devi (wife / LR of deceased-Mahender Singh.
3. The relevant facts of the present case as stated in the DAR are that on 04.12.2018 at about 4:30P.M, Mahender Singh (since deceased) met with an accident due to rash and negligent driving of the driver of the offending vehicle bearing no. HR-13F-0236 and as a result of the said accident, Mahender Singh sustained fatal injuries and died. It is also stated that the accident was caused solely due to rash and negligent driving of R-1 Kilar Singh and accordingly, the present case was registered vide FIR bearing No. 457/18, U/s- 279/304A IPC at PS: Palam Village.
4. In the instant case, it is stated that the accident took place due to sole rash and negligent driving of the R-1 i.e driver of the above-said offending vehicle bearing registration no. HR-13F-0236.
5. It is further stated that the offending vehicle bearing registration no. HR-13F-0236 was insured with R-3 / Bharti AXA General Insurance Co. Ltd at the time of the accident and therefore the liability for the payment of compensation if any, was of R-3/ Bharti AXA General Insurance Co. Ltd.
6. It is further stated that petitioner- Sharda Devi is the wife/ LR of deceased-

Mahender Singh, who died in the above-said accident. It is also stated that apart from the petitioner Sharda Devi, the deceased has left behind petitioner no.2 Raju Singh (son of the deceased), aged about 35 years, petitioner no. 3 Rajesh Singh (son of the deceased), aged about 30 years and petitioner no. 4 Soni Kumari (daughter of the deceased), aged about 29 year. There are no other LRs of deceased Mahender Singh.

7. The involvement of the offending vehicle bearing registration no. HR-13F-0236 prima-facie stands established in view of the contents of the above-said FIR No. 457/18, U/s- 279/304A IPC at PS: Palam Village as well as the DAR filed in the present case.

8. The counsel for the R-3 insurance company has primarily denied liability on the ground that the insurance policy bearing no. P13/I3240255/U4/01/006546 purportedly issued in the name of Shailesh Krishan Barman is a forged policy regarding which complaint has been filed by the insurance company with the police.

9. The counsel for R-1 and R-2 has submitted that the policy on which they are relying is bearing No. FCV/I3240255/14/12/006495 which was valid from 01.12.2018 to 30.11.2019 and was issued in favour of respondent no. 2 Manoj. The counsel for R-1 and R-2 has argued that in the reply of the insurance company there is nothing to show that the policy relied upon by R-2 is forged and they have no concern with the other policy issued in favour of Shailesh Barman. Therefore, in the opinion of this Tribunal, the onus to prove that the policy is forged would lie upon the insurance company which is a matter of evidence. Prima facie, the liability to deposit interim compensation shall fall upon the insurance company.

10. Hence, in view of the above and having regard to the facts and circumstances of the present case, an interim award for a sum of ₹50,000/- with interest @ 9% p.a from the date of filing of the present DAR i.e 10.01.2019 till date is passed in favour of the petitioner Sharda Devi and against the respondents and the said amount of interim award be released in favour of petitioner Sharda Devi (wife /LR of deceased- Mahender Singh).

11. Further, since the offending vehicle was insured with R-3 / Bharti AXA General Insurance Co. Ltd. at the time of accident, the said respondent i.e R-3 / Bharti AXA General Insurance Co. Ltd. (Insurer of offending vehicle) shall deposit / transfer the amount of interim award in the Account No. 37665510911 of 'MACT (South-West), Dwarka Courts, New Delhi' at State Bank of India, District Court Complex, Sector-10, Dwarka New Delhi, (IFSC Code SBIN0011566 and MICR Code 110002483) by RTGS/NEFT/IMPS within 30 days from the date of receipt of the order, under intimation, with proof of notice to the claimant/petitioners and their counsel, to the Nazir of this court.

12. In the instant case, it is stated that other LRs of deceased-Mahender Singh ie Sh. Raju Singh (son of the deceased), Sh. Rajesh Singh (son of the deceased) and Smt. Soni Kumari (married daughter of the deceased) wishes to relinquish their share in favour of their mother Sharda Devi.

The above-said amount of interim award shall be released in favour of the petitioner -Mahender Singh (wife /LR of deceased-Mahender Singh) as follows:-

S. No	Name	Status	Amount of Interim Award	Release Amount
1.	Sharda Devi	Wife / LR of deceased Mahender Singh	₹50,000/-	₹ 50,000/-

13. It is being requested on behalf of the petitioner -Smt. Sharda Devi that the above-said amount may be transferred to her SB Account 04642122007848 at Oriental Bank of Commerce, Branch Palam Village, New Delhi-110045 (IFSC Code: ORBC0100464).

14. Accordingly, the Manager, State Bank of India, District Court Complex, Sector-10, Dwarka New Delhi is directed to transfer the aforesaid amount of Rs.50,000/- to the above-said SB Account No. of petitioner -Smt. Sharda Devi at Oriental Bank of Commerce, Branch Palam Village, New Delhi-110045.

15. The R-3 / Bharti AXA General Insurance Co. Ltd. shall inform the petitioner as well as her counsel through registered post that the award amount is being deposited so as to facilitate the petitioner to know about the deposit in the account.
16. Copy of award be sent to the concerned Bank Manager, SBI, District Court Complex, Sector-10, Dwarka New Delhi and Manager, Oriental Bank of Commerce, Branch Palam Village, New Delhi-110045 for information/compliance.
17. The concerned bank is directed not to issue any cheque book and/or debit card to the petitioner and if the same have already been issued, the bank is directed to cancel the same and make an endorsement on the passbook of the petitioner to the effect that no cheque book and / or debit card shall be issued without the permission of the Court.
18. Oriental Bank of Commerce, Branch Palam Village, New Delhi-110045 shall permit account holder i.e petitioner / LR of deceased Sharda Devi to withdraw money from her above-said saving bank account by means of a withdrawal form.
19. Petitioner is further directed to produce the copy of this order before the concerned bank whereupon the bank is directed to make the endorsement on the passbook.
20. Petitioner is also directed to produce the above-said passbook with the necessary endorsement before this court on the next date of hearing.
21. Copy of this award be also given 'Dasti' to the petitioner / her counsel and respondent/ Insurance Company, as prayed.

(Announced in the open
Court on 08.02.2021)

(Dr. Sumedh Kumar Sethi)
PO, MACT (South-West District)
Dwarka Courts, New Delhi
08.02.2021