

Order below Ex.6

1. The applicants who are heirs and legal representatives of the deceased, who died in vehicular accident have submitted this application U/s. 140 of the M.V.Act. 1988 for claiming compensation of Rs.50,000/- on the principle of "No fault liability" on the ground of death of the deceased in the vehicular accident, which took place on dated 28.05.2012 involving offending vehicle truck bearing registration No. GJ-12 Z-2338 and vehicle toofan jeep No. GJ-12 T-1862.
2. In support of the present application the claimants have produced photo copy of following documentary evidence.
 1. Photo copy of F.I.R.
 2. Photo copy of Panchnama of the place of accident.
 3. Photo copy of Inquest Panchnama.
 4. Photo copy of P.M.Note.
 5. Photo copy of Death certificate.
 6. Photo copy of D.L. of Opponent No.1
 7. Photo copy of R.C. Book of Truck No.GJ-12 Z-2338.
 8. Photo copy of Insurance policy of Truck No.GJ-12 Z-2338.
 9. Photo copy of R.C. Book of Toofan jeep No.GJ-12 T-1862.
 10. Photo copy of Insurance policy of Toofan jeep No.GJ-12 T-1862.
 11. Photo copy of Pay slip.
 12. Photo copy of L.C. of deceased.
 13. Photo copy of Birth Certificate of Applicant No.3.
 14. Photo copy of Birth Certificate of Applicant No.4.
3. Heard Ld. Adv. for the claimants Mr. Chavada and Ld.Adv. Mr.V.S.Jethava for the Opponent No.3 & 6 Insurance company.
4. The Opponents No.1, 2, 4 & 5 were duly served with the process but have not appeared hence the application is ordered to be proceed exparte against them.
5. The Opponent No.3 insurance company was duly served with the process and appeared through its duly instructed Ld. Adv. Mr.V.S.Jethava and resisted this application by filing its written statement vide Ex.-13 and has denied the averments and contentions made in the claim petition.
6. The Opponent No.6 insurance company was duly served with the process and appeared through its duly instructed Ld. Adv. Mr.V.S.Jethava and resisted this application by filing its written statement vide Ex.-16 and has denied the averments and contentions made in the claim petition.

7. Persual of sec.140 of the M.V.Act. makes its abundantly clear that while deciding this application the Tribunal is required to ascertain the involvement of the offending vehicle in the accident and subsequential injuries resulting in death of deceased Naranbhai Oghadbhai. It also becomes clear that the applicants are not required to plead and prove the negligence of the driver of the offending vehicle for claiming compensation of the principle of "No fault liability". The Hon'ble Gujarat High Court in the case of Mahendrakumar Kalyani Vs. Haresh Bipinchandra Pathak & Ors. reported in 1998(2) GLH-1199 has elaborately discussed the scope of sec.140 of the M.V.Act. and has also set out the factors to be considered by the Tribunal while dealing with and deciding such an application. From the documentary evidence produced by the applicants it appears that the applicants have satisfied all the requirements for claiming compensation U/s. 140 of the M.V.Act. as per the guidelines of this Judgment.

8. The applicants have produced photo copy of complaint and panchnama of the scene of the accident. A conjoint reading of these documents establishes involvement of offending vehicles in the accident. The inquest panchnama and P.M. note show that deceased Naranbhai Oghadbhai has sustained injuries as a result of which he died. Under the circumstances this application deserves to be accepted and the following order is passed.

ORDER

1. The claim petition is partly allowed.
2. The opponents are order to pay Rs.50,000/- jointly and severally to the claimants with simple interest at 8% p.a. from the date of application U/s.140 of the M.V.Act. till realization of the compensation.
3. The opponents are hereby directed to deposit the above amount of award within 30 days from the date of this order.
4. The terms & conditions of payment will be ordered at the time of disbursement.

Pronounced in the open court on this 8th August, 2014.

Place : Una.

Date : 08/08/2014

(R.M.Vora)

M.A.C.T.

Una

Code No. GJ00343