

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(MAIN) OF BHARUCH
AT : BHARUCH.**

MAC PETITION NO. 187/2015

APPLICANTS

- (1) DAXABEN, WIDOW OF VINODBHAI CHHAGANBHAI CHAUHAN
- (2) MINOR SHIVANI VINODBHAI CHAUHAN
- (3) MINOR MAYURI VINODBHAI CHAUHAN
/APPLICANT NO.1 IS THE GUARDIAN OF MINOR
APPLICANTS NOS. 2 AND 3//
- (4) CHHAGANBHAI RAMSANG CHAUHAN AND
- (5) VIDYABEN CHHAGANBHAI CHAUHAN

ALL ARE RESIDENTS OF : AT.PO. TANKARI BANDAR,
TA.JAMBUSAR DIST.BHARUCH.

VERSUS

OPPONENTS:

- (1) MOHSIN ABDUL PATEL
R/O. GUJARAT SOCIETY, OPP.VISHAL JIN,
AT.PO. AMOD DIST.BHARUCH.
- (2) DEVJI LAXMANBHAI JADAV
R/O. B-114, MANGALTIRTH SOCIETY,
DAHEJ BY-PASS ROAD, BHARUCH.

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L.A. MR.J.R. ROHIT FOR THE APPLICANTS.

L.A. MR.S.G. PATEL FOR THE OPPONENT NO.1.

L.A. MR.C.R. PARMAR FOR THE OPPONENT NO.2.

ORDER BELOW EXH. 5

1. The above named applicants have submitted this application under Sec. 140 of the MV Act, for obtaining interim compensation from the opponent.

2. I have heard the arguments of Ld. Advocate for the applicants. The opponents driver and owner of the Indica Car bearing No. GJ.16 K-3937 have appeared through their lawyers, but despite granting sufficient time to file written statement against this interim application, they have not filed any written statement and hence, their right to file the written statement has been closed.

3. When interim compensation is prayed for under “ **No Fault Liability**”, Section 140 of the M.V. Act being the relevant provision must be borne in mind. As per requirements of this section, involvement or use of vehicle has to be established and because of such involvement/use of the vehicle, it is to be shown by the applicant/dependents that injuries are sustained or death is caused. Who is at fault for the accident is not to be investigated into, for the purpose of awarding compensation under “ No Fault Liability “. If the insurance company is to be fastened with the liability under 'No Fault Liability' principle, it is to be prima-facie shown that the vehicle involved in the accident was insured with the insurance company and the insurance was in force, covering the risk.

4. The applicants by way of List at Exh.6 have produced necessary and relevant documents, whereby, Certified copy of FIR is at Mark 6/1, certified copy of panchnama of scene of offence is at Mark 6/2, Certified copy of the Inquest Panchnma is at Mark 6/3, Certified copy of P.M. Report of the deceased is at

Mark 6/4, Copy of Driving License of the driver of the vehicle at Mark 6/5, R.C. Book of the Indica Car bearing No. GJ.16 K-3937 involved in the accident is at Mark 6/6 and copy of driving license of the deceased is at Mark 6/7. It is also found from the record that the aforesaid Indica Car has not been insured with any Insurance Company. The deceased who died in the accident was the husband of the applicant no. 1 and father of minor applicant Nos. 2 and 3 and son of applicant Nos.4 and 5. The aforesaid Indica Car was prima facie involved in the vehicular accident. Therefore, to my mind applicants are entitled reason for obtaining interim compensation on account of death of the deceased Vindobhai Chhaganbhai Chauhan. The opponents are the driver and owner of the aforesaid Indica Car involved in the accident, and the said Indica Car is not insured vehicle, and therefore, the opponents are liable to pay interim compensation as follows :-

5. Thus, the following final order :-

ORDER

- (i) Application Exh. 5 is hereby allowed.
- (ii) Opponents are hereby ordered to pay **Rs. 50,000/-** (Rupees Fifty thousand only) to the applicants with interest @ 9% p. a. from the date of application till realization of the entire amount.
- (iii) The opponents are hereby ordered to deposit aforesaid sum along with interest within one month from the date of this order.

(iv) On depositing the aforesaid amount in the office of this tribunal, the said interim amount be disbursed amongst the applicants are as under :

- | | |
|--|-------|
| 1. Applicant No. 1, widow of the deceased | - 60% |
| 2. Applicant No. 2, daughter of the deceased | - 10% |
| 3. Applicant No. 3, daughter of the deceased | - 10% |
| 4. Applicant No. 4, father of the deceased | - 10% |
| 5. Applicant No. 5, mother of the deceased | - 10% |

Upon the aforesaid amount being deposited in the office of this tribunal, respective amounts be paid to the applicant No. 1 for herself and on behalf of the minor applicant Nos. 2 and 3 as their guardian and applicant Nos.4 and 5, by crossed account payee cheques after due identification and verification in view of the judgment in the case of **Dhirubhai Karshanbhai Chau Vs. Karmanbhai Harjibhai Pipaliya and others, reported in (2014 (3) G.L.R. P. 2692 (Guj.))**.

Pronounced in open court today on this 24th day of August, 2018 at Bharuch.

Date: 24.08.2018

Bharuch

(Utkarsh Thakorbhai Desai)

Motor Accident Claims Tribunal
(Main) Bharuch
Code No.GJ01314.