

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

AT : BHARUCH.

MAC PETITION NO. 294 OF 2018

Applicant :-

**SAVITABEN MAGANBHAI RATHOD,
D/O. GEMAL NARSINH RATHOD.
R/O.VAGRA, SUTHAR FALIA, TA.VAGRA
DIST.BHARUCH.**

VERSUS

Opponents:

- 1. YUSUFKHA SARDARKHA PATHAN
DRIVER OF S.T. BUS.
R/O. BUVA TA. AMOD DIST.BHARUCH
AT PRESENT: SERVICE IN S.T.DEPOT, BHARUCH.**
- 2. GUJARAT STATE ROAD TRANSPORT CORPORATION.
ADDRESS: AT.BHOLAV S.T. DIVISION,
ON OLD N.H.NO.8, BHARUCH.**

**L.A. MR. H.L. SHAH FOR THE APPLICANT.
L.A. Mrs. P.H. THAKAR FOR THE OPPONENTS.**

// ORDER BELOW EXH. 5 //

1. The above named applicant has submitted this application under Sec. 140 of the MV Act, for obtaining interim compensation from the opponents.

2. I have heard the arguments of Learned Advocate Mr. H.L.Shah for the applicant. The opponent nos. 1 and 2, driver and S.T. Corporation of the S.T. Bus bearing no. GJ.18 Y-6909 served with the notices, they have appeared before this tribunal through their lawyer and resisted this interim application by filing their written statement vide Exh. 14 wherein, they have denied all the allegations made in the interim application and also

contended that the applicant should prove the facts by producing documentary evidence and lastly prayed to reject the interim application of the applicant.

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 applicants/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 opponent/s are 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 owned by the opponent/s.

4. The applicant by way of Lists at Exh.6 has produced necessary and relevant documents, whereby, certified copy of F.I.R. is at Mark 6/1, Certified copy of Panchnama is at Mark 6/2, Copy of Medical Legal Certificate of the applicant is at Mark 6/3, Disability Certificate of the applicant is at Mark 6/4, Copy of statement of the applicant recorded by the police is at Mark 6/5, Copy of statement of Mr. Sandipbhai Karshanbhai Rathod is at Mark 6/6, Copy of statement of Mr. Sanjaybhai Magainbhai Rathod is at Mark 6/7 and copy of statement of Mr. Pravinbhai Mohanbhai Rathod is at Mark 6/8, copy of Charge-sheet filed against the driver of the aforesaid ST Bus involved in the accident is at Mark 6/9, Receipts of Rs.40/- and Rs.50/- for getting the case prepared are at Mark 6/10 and 6/11 respectively and copy of Caste Certificate of the applicant is at Mark 6/12. The applicant has suffered disability of 20%

which can be considered at half for body as a whole. Therefore, to my mind, applicant is entitled for obtaining interim compensation on account of the accidental injuries sustained by him which resulted into a permanent disability. The opponent nos. 1 is the driver of the S.T. Bus bearing No. GJ.18 Y-6909 and the opponent no. 2 is the S.T. Corporation of the said S.T. Bus involved in the accident are jointly and severally liable to pay interim compensation.

5. Thus, the following final order :-

//ORDER//

- (i) Application Exh. 5 is hereby allowed.
- (ii) The opponent Nos. 1 and 2 are hereby ordered to pay **Rs. 25,000/-** (Rupees Twenty-five thousand only) jointly and severally to the applicant with interest @ 9% p. a. from the date of filing application till realization of the entire amount.
- (iii) The opponent Nos. 1 and 2 are hereby ordered to deposit aforesaid sum along with the interest within one month from the date of this order.

Upon the aforesaid amount being deposited in the office of this tribunal, entire amount be paid to the applicant by crossed account payee cheque after taking 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 12th day of March, 2019 at Bharuch.

Date: 12.03.2019
Bharuch

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

