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Registered On	21/03/2012		
Decided On	26/07/2021		
Duration	DYS	MTS	YRS
	06	04	09

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL (MAIN)
AT DAHOD**

M.A.C.P.No.74/2012

CLAIMANT :-

Pratapsinh Ganpatbhai Baman
(Labana),
Aged 35 Years,
Occupation : Grocery Store and
Transport (At present Nil),
Resident of Chandvana, Tal.Dahod,
Dist.Dahod.

VERSUS

OPPONENTS :-

(Driver, Owner and Insurer of
Maruti Van No.GJ-20 A-1264)

1. Prakash Girvarsinh Nayak,
Aged Adult,
Occupation : Driver,
Resident of Bim Faliya, Tal.
Dist.Jhabua, Madhya Pradesh.

2. Seemaben Kasursingh Baman,

wife of Prakash Girvarsinh
Nayak,
Aged Adult,
Occupation : Owner,
Resident of Bim Faliya, Tal.
Dist.Jhabua, Madhya Pradesh.

3. United India Insurance Co.
Ltd.,
Insurer,
At Padav, Dahod.

Claim of Rs.15,00,000/-

Mr.C.B.Nayak Ld. Adv. for Claimant

Mr.M.D.Rathod Ld. Adv. for Opponent No.1

-: JUDGMENT :-

(1) The present claim petition u/S.166 of the Motor Vehicle Act, 1988 (hereinafter referred to as "M.V.Act") is filed by the claimant to recover Rs.15,00,000/- as compensation for the injuries sustained by him in a vehicular accident.

(2) The short facts giving rise to the present petition are that, on 19/10/2011 at 12.30 hours, the claimant was returning on foot after leaving his daughter Bindal in 'Sarasvati Sishu Mandir' and was going

towards Mandavav Circle, at that time, opponent No.1 came from Mandavav Road driving Maruti Van No.GJ-20 A-1264 in rash and negligent manner and he lost control over the Maruti Van and hit the claimant whereby he sustained injuries on different parts of body. He has taken primary treatment at Dr.Kavsar's private hospital and thereafter, referred to Baroda and taken treatment in Dr.Uday R. Pundekar's hospital. For this accident, a complaint lodged with Dahod Town police station vide 1st C.R.No.113/11.

- (3) Looking to the record, opponent No.1 appeared through Mr.M.D.Rathod, learned Advocate but no written statement has been filed by the opponent No.1, hence, right of the opponent No.1 to file written statement is closed vide order dated 17/02/2021.

The opponent No.2 though served with notice has not appeared before the Tribunal either in person or through duly instructed advocate. Therefore, it is ordered to proceed ex-parte against the opponent No.2.

The opponent No.3 Insurance Company is not

served with notice and no attempt has been made by the claimant to serve notice on the opponent No.3 Insurance Company. The claimant has not remained present before the Tribunal either in person or through his learned Advocate since long period. Hence, the claim petition against the opponent No.3 is dismissed vide order dated 18/01/2021.

- (4) Both the parties are given sufficient opportunity to produce their ocular and documentary evidence to prove their case. Considering the facts of petition, the matter is pending at the stage of claimant's evidence and sufficient opportunities have been provided to the claimant side but till date, the claimant has not given any heed to appear and adduce any cogent evidence before the Tribunal. The claimant has remained continuously absent before the Tribunal. The claim petition is of the year 2012 whereas the accident is of the year 2011. Thus, considering the lapse of time and absence of the claimant before the Tribunal, right of the claimant to produce evidence is closed on 14/07/2021 and the claim petition is taken for its final decision.

- (5) Following issues have been framed by this Tribunal for determination of the petition vide Exh.13.

ISSUES

1. Whether the applicant proves that, he sustained injuries on account of rashness or negligence in driving on the part of driver of vehicle i.e. opponent No.1 involved in the accident?
 2. What amount, if any, the claimant is entitled to by way of compensation and from which of the opponents ?
 3. What order and award ?
- (6) My findings to the above issues are as under:
1. In the Negative.
 2. In the Negative.
 3. As per Final Order.

(7) **REASONS**

Issue Nos.1 to 3 :

The claimant has filed the claim petition on 21/03/2012. The opponent No.1 has appeared through Mr.M.D.Rathod, learned Advocate.

The Tribunal has framed issues for determination on 17/02/2021 vide Exh.13.

Since then, the claim petition is pending for evidence of the claimant.

The Tribunal has given sufficient time to the claimant to produce his ocular and documentary evidence to prove his claim petition.

Motor Vehicle Act is beneficial Law, hence, looking to the interest of the claimant, the Tribunal has adjourned the matter from time to time but the claimant remained absent and has not come forward to prove his case. It shows that, the claimant is not interested to proceed with the matter, hence, right of the claimant to produce evidence is closed on 14/07/2021 and the claim petition is taken for its final decision.

In view of the above and considering the facts on record, this application is pending for claimant's evidence and the claimant has not adduced any evidence to prove that, he sustained injuries on account of rashness or negligence in driving on the part of the driver of offending vehicle. The claimant is, therefore, not entitled to compensation as claimed in the claim petition.

Accordingly, I decide Issue Nos.1 and 2 in the Negative and pass the following order for Issue No.3.

O R D E R

1. The claim petition is hereby dismissed.
2. Both parties are left to bear their own costs.
3. Decree be drawn accordingly.

Pronounced in the open Court, today on this 26th Day of July, 2021.

Place : Dahod
Dt.26/07/2021

(Rashida M. Vora)
M.A.C.Tribunal(Main),
Dahod.
(Code : GJ00343)

DSS, ES