

ORDER BELOW EXH. 5 IN M.A.C.PETITION NO. 32 OF 2020

1. This is an application preferred for the fixed amount of Rs. 50,000/- for the death of family members of petitioners. The three ingredients required to be proved are 1) the offending vehicle was involved in the accident; 2) death of victim resulted from the accident; 3) the claim is made against the owner and insurer of vehicle involved in the accident.
2. Heard the Learned Advocates of both the sides.
3. It is proved that the vehicle is involved in the accident as the petitioner has filed FIR, panchnama of the scene of accident which prima facie show that the accident has occurred with the vehicle in question. The inquest panchnama and P.M. note go to show that death of victim resulted from the accident. The claim is against the owner and insurance company as it is seen from the cop of R.C. book and the insurance policy which is a valid insurance covering the period on the date of the accident, and therefore, the insurance company is to indemnify the owner of vehicle who is liable under Section 140 of M.V. Act to compensate the petitioners.
4. The facts are covered by the decision of the Hon'ble High Court of Gujarat in the case of PayalbenJayeshbhaiYagnik V/s. Jayeshbhai G. Yagnik, reported in 2003 (2) G.L.R. 10558, the New India Assurance Co. Ltd., V/s MethakhanDinakhanNotiyar and Ors., reported in 1995 (2) G.L.R. 1111 and 2006 (2) G.L.R. 1257, the petitioners are entitled to get the amount of Rs.

50,000/- under the provisions of Section 140 of M.V. Act. All the objections at this stage cannot be considered in light of aforesaid decisions and can be considered at the final disposal of the petition. Therefore, all the opponents are jointly and severally held liable to pay compensation to applicants with interest at the rate of 9 % p.a. Hence, following order.

ORDER

1. The application is allowed.
2. The opponent Nos. 1 and 2 are jointly and severally liable to pay the amount of compensation of Rs. 50,000/- (Rupees Fifty Thousand Only) with interest at the rate of 9 % p.a. from the date of application till payment within a period of one month from the date of this order.
3. Orders for Fix Deposit shall be passed after amount is deposited.

Pronounced in open Court today on this **30th** day of **July, 2021** at Gandhinagar.

GANDHINAGAR
DATE: 30/07/2021

(Ms. Nipa C. Raval)
GJ00370
M.A.C.T. (Main)
Gandhinagar