

Order Below Exh.5 in M.A.C.P.No.87/2017

- (1) Read the application, perused the documents on record. Accident was occurred on 14.01.2017. Complaint was lodged before police station. F.I.R., Panchnama of the place of occurrence, Discharge Card, Insurance Policy, Discharge Summary, Insurance Policies, R.C.Book of vehicle No.GJ-27-BE-4452, R.C.Book of vehicle No.GJ-18-BA-9206, Permanent Disability Certificate are produced on the record by the claimant. Opponent No.1 and 3 have not remained present before the Tribunal. Opponent No.2 and 4 appeared through their Learned Advocates before the Tribunal and they have filed their written statements at Exh.26 and Exh.30.
- (2) Heard Learned Advocates for both the sides. Considering the above documents and pleadings, it is prima facie established that:

- (a) An accident has arisen out of use of motor vehicle.
- (b) The said accident has resulted in injury of the person, whose representative is making the claim.
- (c) The claim is made against the driver, owner and insurance company of the motor vehicle in the accident.
- (3) Looking to the provision of section 140 of the M.V.Act, claimant has established his prima facie case. Hence, under the principle of No Fault Liability, this application is allowed. The opponent No.1 to 4 are jointly and severally liable to pay Rs.25,000/- with interest @ 8% per annum.
- (4) Looking to the ratio laid down by the Hon'ble High Court in the case reported in **2014(3)G.L.R. pg.2692 in a case between Dhirubhai Karshanbhai Chau Vs. Karmanbhai Harjibhai Pipaliya & Ors.**, it has been held by the Hon'ble High Court that
- "the Tribunal cannot direct to deposit the entire amount of compensation under

Sec.140 of the M.V.Act in the Bank, it being to provide immediate succor.

- (5) On depositing the amount of compensation in the office of this Tribunal, the total amount of compensation awarded by this court, shall be paid to the applicant by Account Payee Cheque only, after verifying his identity and there is no order for investment in FDR.

Signed and pronounced in the open Court on 30th day of September,2022 at Gandhinagar.

Date : 30.09.2022 (D.K.Soni)
Place : Gandhinagar M.A.C.Tribunal(Aux.-III)
Gandhinagar
Code No.GJ00729

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