

Order Below Exh.5 in M.A.C.P.No.142/2018

- (1) Read the application, perused the documents on record. Accident was occurred on 25.01.2016. The complaint was lodged before police station. Applicants have produced a complaint, panchnama of the place of accident, inquest panchnama, postmortem report, Sale Certificate - Form 21, insurance policy of L & T Insurance, insurance policy of Cholamandal MS General Insurance Company Ltd., R.C.Book of vehicle No.GJ-18-AU-6482, driving license of Gunwantbhai Chauhan, charge-sheet, death certificate of Vijaysingh Ishwarsingh Yadav. Opponent No.1 to 4 and 6 and 7 have remained present with their learned advocates before the Tribunal. Opponent No.7 and 3 have submitted their written statements at Exh.33 and Exh.40. Opponent No.7 has produced an insurance policy.
- (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 death of the person whose legal representative is making the claim.
 - (c) The claim is made against the driver, owner and insurance company of the motor vehicle involved in the accident.
- (3) Looking to the provision of section 140 of the M.V.Act, applicants have established their prima facie case. Hence, under the principle of No Fault Liability, this application is allowed. Opponent No.1 to 4 and 6 and 7 are jointly and severally liable to pay Rs.50,000/- 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 applicants equally by A/c. Payee Cheque only, after verifying their identity and there is no order for investment in FDR.

Signed and pronounced in the open Court on 6th day of December,2022 at Gandhinagar.

Date : 06.12.2022
Place : Gandhinagar

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