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CLAIM CASE NO. 108 OF 2019

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**ORDER BELOW EXH.6**

[01].           The present application has been filed by the claimants who are heirs and legal representatives of late Parsotambhai Bherumal Gajara who passed away on account of injuries sustained in an accident. It is claimed by the claimants that the deceased sustained serious injuries and thereby he succumbed to his grievous injuries due to the accident that took place on 27/02/2018 at the time and place specified in the application involving the vehicle being Tavera Car No. GJ-10-CG-7328. The claimants have thus, claimed an amount of Rs.50,000/- together with interest under the Provisions contained in Section 140 of the Motor Vehicles Act.

[02].           In support of the present application, the applicants have produced the following documentary evidence on record :

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- (i) F.I.R. dated 28.2.19 at Mark- 5/1
- (ii) Panchnama of scene of accident at Mark- 5/2
- (iii) P.M.Report of the deceased at Mark-5/3
- (iv) R.C. Book of the opponent No.1 at Mark-5/4
- (v) Insurance Policy of the opponent No.2 at Mark-5/5

[03]                   The opponents are duly served. But, no reply is filed and therefore, it is required to be inferred that no serious objections of any nature are raised objecting to the present application.

[04].                   Whereas, the Learned Advocate of the Opponent - Insurance Company has taken the dispute that at the time of accident the Tavera Car driver was not holding valid and effective driving license and therefore, he committed breach of the terms and conditions of the policy of insurance as well as the provisions of the M.V.Act.

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[05] Heard learned advocates for the parties and perused the papers.

[06] On perusal of the above referred documentary evidence, it is clear that the applicants have prima facie established the taking place of the accident at the time and place specified, the involvement of the offending vehicle and the resultant death of the late Parsotambhai Bherumal in the said accident. Further, the dispute raised by the opponent - Insurance Company regarding driving license is not required to be considered in detail at this interim stage and therefore, the objection raised by the opponent No.2 can always be considered at the time of final hearing of the claim.

[07] Sec.140 of the M.V. Act is a piece of beneficial legislation, providing immediate aid to the victim. The claimant is not requested to plead and establish that the death or disablement in respect of which the claim has

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been made, was due to any wrongful act, negligent or default of the owner of the vehicle concerned or of any other person. In constructing social and welfare legislation, the court should adopt a beneficial rule of construction and in any event, that construction should be preferred with the policy of the legislation. In my opinion, the ingredients contained in Section 140 of the Motor Vehicles Act are satisfied and therefore, the material placed on for my consideration makes me come to the conclusion that the applicants are entitled to reliefs that they seek.

[08] As per the principle laid down by Hon'ble High Court in a case of Dhirubhai Karshanbhai Chau Vs. Karmanbhai Harjibhai Pipaliya reported in 2014(3) GLR pg. no.2692, in which it is held that to provide immediate succour to the injured or to the heirs of the deceased, as well as considering the nominal amount involved, it was not permissible for the Tribunal to pass any order of depositing part of the awarded amount as the same would defeat the

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very object of Sec 140 of the Act under the circumstances, as and when such amount is deposited with the Tribunal entire amount shall be disbursed to the applicants.

[09] The claimants are also entitled to get interest at the prevailing rates on the small savings schemes, F.D. etc. As per RBI guidelines prevailing rates of interest on small savings schemes, FDR is between 7-8%. This tribunal is of the view that 8% interest is proper and reasonable, therefore, I award simple interest at the rate of 8% per annum from the date of the claim petition till the realization.

[10] In the event, I pass the following order in the interest of justice :-

**:: ORDER ::**

[01]. The application is hereby allowed.

[02]. The applicants are awarded the amount of Rs.50,000/- (Rupees : Fifty Thousand only) together with

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interest @ 8% per annum from the date of application till its realisation from the opponents jointly and severally.

[03]. The opponents are directed to deposit the aforesaid amount in this Tribunal within 30 days from the date of this Order.

[04]. On realization of the above said amount, 80% amount each to be paid to the applicant No. 1 and 10% each to applicant No.2 & 3 respectively, in cash by crossed account payee cheque in the name of applicants.

[05]. The application is ordered to stand disposed of accordingly.

Pronounced in the open Court today on this 25th day of August, 2021.

Jamnagar  
Dt : 25/08/2021

**[Smitaben D. Mehta]**  
Code GJ01541  
M.A.C.T. (Aux.) &  
3rd Addl. District Judge,  
Jamnagar

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