

Order below Exhibit 5 in MACP No. 68/2022

1. Heard the learned advocates of both the sides.
2. This application is submitted under Section 140 of the Motor Vehicles Act for getting compensation of Rs. 50,000/- on account of death of Ravindrasinh Rajubhai Zala caused in the accident. As per the petition, the accident took place on 28/01/2022. The deceased was going as a pedestrian towards Khatraj crossroads. At that time, at about 7:15 p.m., the opponent No. 1, driver of a Maruti car bearing registration No. GJ-18-BL-9631, had driven the said vehicle in full speed and in rash and negligent manner, knocked down the deceased from behind and caused the alleged accident. As a result thereof, the deceased sustained serious injuries and succumbed thereto. Thus, this application for interim compensation.
3. The opponent Nos. 1 and 2 driver and owner of Maruti car bearing registration No. GJ-18-BL-9631 respectively, appeared before the Tribunal through their learned advocate and filed the written statement at Exhibit 10 and denied each and every allegation made by the applicants in the application and contended that the opponent No. 3 being the insurer of the offending vehicle, is liable to pay compensation to the applicants, whereas the opponent No. 3 Go Digit General Insurance Co. Ltd. has filed its written statement *vide* Exhibit 17 denying the contents of the interim application. The opponent Insurance Company has taken a plea that at the time of the accident, the opponent No. 1 was driving his Maruti car No. GJ-18-BL-9631 on right side of the road, but the deceased was crossing the road without seeking around or behind and taking care of vehicles moving on the road and hence, the accident took place due to negligence of

the deceased and this being the reason, this opponent is not liable to pay any compensation.

4. The applicants have produced documentary evidence with list at Exhibit 4 which consists of copy of FIR at mark 4/1, panchnama at mark 4/2, inquest panchnama at mark 4/3, identity card at mark 4/6, driving licence of the opponent No. 1 at mark 4/8, RC Book of the said Maruti car at mark 4/9, Insurance Policy of Maruti car at mark 4/10 and PM Report at mark 4/11. The complaint and panchnama prove the factum of the accident i.e. date, time and place of the accident. The inquest panchnama and PM Report prove the death of the deceased due to the accident. The Insurance Policy *prima facie* proves the insurance of the vehicle.
5. Considering the underlying idea behind Sec 140 of the Motor Vehicles Act regarding prompt and immediate payment of compensation, no defences produced by and on behalf of the opponents can be taken into consideration because the Tribunal has not to apply its mind to such various defences at this stage. While awarding the interim compensation, the only things, which the claimant requires to prove, are that the vehicle is involved in the accident and death was caused due to the accidental injuries. Furthermore, relying upon the ratio laid down by **Honourable High Court of Gujarat in New India Assurance Company Ltd. V/s Kalabhai Maganbhai Koli & two in First Appeal bearing No. 2103 of 2015**. Hence, the opponents being the driver-cum-owner and insurer of the offending vehicle, are liable to pay interim compensation together with interest at the rate of 9% per annum from the date of the application till payment. Hence, I pass the following order:

ORDER

This application for interim compensation stands allowed.

The applicants do recover from the opponents jointly and/or severally, a sum of **Rs. 50,000/- (Rupees fifty thousand only)** by way of compensation under "No Fault Liability" with interest @ **9% per annum** from the date of main petition within the period of thirty days subject to provision of Section 141 (3) of the Motor Vehicle Act.

The opponent Nos. 1, 2 and 3 are hereby directed to comply with the provisions of Section 194A of the Income-tax Act and deposit the aforesaid amount of interim compensation directly by RTGS or NEFT to the following Bank Account of this Tribunal within 30 days from the date of this order:

Account Name	Additional District Judge Sabarkantha at Himmatnagar
Account No.	33848262083
Name of Bank	State Bank of India
Name of Branch	Opp. Civil Hospital, Himmatnagar
IFSC Code	SBIN0000381
MICR Code	383002106
Email address	nazirmacthmt@gmail.com

The opponents shall instruct their Banks to remit the payment with the following information:

MACP No.	
Claims Tribunal Name, Place	
Date of Award	
Compensation Amount	
Income Tax Deducted at Source	
Bank Transaction Reference No./ Unique Transaction Reference (UTR) No.	
Name of Bank	
Name of Insurance Co.	

On such deposit being made, the opponents shall submit a letter enclosing a copy of the bank advice in the prescribed format as above on email at nazirmacthmt@gmail.com at the earliest and shall also send a copy of the aforesaid payment advice to the Claims Tribunal concerned and serve a copy of the same on the applicant or his advocate as the case may be.

Insofar as tax deduction at source is concerned, Form 16-A of the Income-tax Act should be provided to the applicant on whose behalf the deduction has been made so as to enable him to seek refund of the tax deducted.

On depositing the aforesaid amount in the office of this Tribunal, applicant Nos. 1, 2, 3, 4 and 5 are entitled to get 40%, 20%, 20%, 10% and 10% of the amount of interim compensation respectively, which shall be paid by NEFT or RTGS directly in the bank account of the applicants after due verification. So far as the share of the minor applicant Nos. 2 and 3 is concerned, their entire share be kept in Fixed Deposit Receipt in the name of the said minor applicants through their mother and natural guardian – applicant No. 1 in any nationalized bank of her choice for a period of five years or till the minor attains majority, whichever is later, with liberty to withdraw the periodical interest accrued on the said FDRs from time to time.

The order is pronounced in the open Court on the 10th day of August, 2023 under my hand and seal.

Date: 10/08/2023
Place: Himmatnagar

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[K.R. Rabari]
MAC Tribunal (Main)
Sabarkantha at Himmatnagar
UIC No. GJ 00477