

MHAH010000942020



**ORDER BELOW EXH. 23 IN MACP NO.**  
**19/2020**  
**Sanjay Kashinath Sakat Vs. Mithun**  
**Shetty & Ors.**

Petitioner filed present application under Section 140 of the Motor Vehicles Act for grant of compensation on the principle of 'No Fault Liability'.

2. It is the case of the petitioner that, on 29/04/2019 the petitioner and his colleague Pankaj Chipade were went to Hatampura for bringing spare parts of motorcycle on Bullet motorcycle No. MH-16-BW-1107. At about 12.30 p.m. while returning from Hatampura to Royal Enfield showroom on Nagar – Pune road, Ahmednagar, when they were on railway over-bridge on Nagar – Pune road, at that time, one Swift D'zire car bearing No. MH-02-CL-4778 proceeding towards Pune gave a forceful dash to the bullet of petitioner from back side. Thus, Sanjay sustained serious fracture injuries.

3. The accident was reported to Kotwali police station by petitioner himself. On the basis of his report CR no. I-579/2019 was registered by Kotwali Police against the driver of the car for the offence punishable us. 279, 337, 338, 427 of Indian Penal Code and section 184 of the Motor

Vehicles Act.

4. Respondent No. 1 filed written statement at Exh. 24 and denied all the allegations in the application. It is admitted that he is owner of offending car. It is denied that the driver of car was rash and negligent while driving the car. It is also denied that the applicant was possessing valid driving licence while driving the motorcycle. It is denied that the applicant sustained grievous injuries and admitted in the hospital. It is contended that the offending car is insured with opponent No.3, therefore, the Insurance Company is liable to pay the compensation. Finally it prayed that the application may be dismissed.

5. As per the report of Bailiff, respondent No. 2 Sanjay Ravindra Goyal died on 30.10.2019. Hence, his name is deleted from the petition.

6. Respondent no. 03 filed written statement at Exh. 25. This respondent has specifically denied all the averments in the application. It is specifically denied that there is involvement of offending car in the said accident. It is denied that driver of the car was rash and negligent while driving the offending car. It is denied that applicant is 50 years old and serving as a Mechanic and getting salary of Rs. 17,000/- per month. It is denied the petitioner has sustained grievous

fracture injuries and suffered permanent disability. It is contended that the claim is exorbitant and excessive and without plausible basis. It is contended that the driver of offending car was not holding valid and effective driving licence at the time of accident, Lastly, It is contended that the opponent No. 1 has made several breaches of terms and conditions of insurance policy, therefore, this respondent is not liable to pay compensation to the applicant. Hence, this respondent prays for dismissal of the application.

7. Heard Ld. Advocate Shri. M.S. Zarekar for applicant and Ld. Advocate D.I. Gali for respondent no. 3.

8. Perused the complaint, spot panchanama, insurance cover note, disability certificate of the petitioner. The record reveals involvement of Swift D'zire car bearing No. MH-02-CL-4778 in the accident and injuries caused to the petitioner and Form Comp B reveals the percentage of permanent disability suffered by the petitioner.

9. The defence raised by Insurance Company about breach of policy and contributory negligence required to be considered at the stage of final hearing. The insurance policy is valid from 09/03/2019 to 08/03/2020 The accident took place on 29/04/2019. Thus, it covers the date of accident. Hence, respondent nos. 1 and 3 are liable to pay

compensation to the petitioner. Hence, I pass the following order :

**ORDER**

- 1] The application is hereby allowed .
- 2] Respondent Nos. 1 & 3 are jointly and severally directed to pay Rs. 25,000/- (Rs. Twenty Five Thousand only) to the petitioner under No Fault Liability within 60 days from the date of this award, with interest thereon at the rate of 9% p.a. from the date of filing petition, till realization of the entire amount.
- 3] Award be drawn accordingly.

Dt. 10-08-2022.  
Ahmednagar.

(Mahesh Krishnaji Jadhav)  
Member, M.A.C.T. Ahmednagar.