

MHAH010014702022



Order Below Exh. 5 in M ACP No.82/2022
(Utkarsha Sanjay Gotral V. Namdeo Waman More)

This is an application made under Section 140 of the M.V. Act for getting compensation of Rs. 25,000/- towards No Fault Liability.

2. It is stated that, on 23/01/2021 applicant Utkarsh Sanjay Bothra was proceeding from Parner to Belhe with his friend Shaukat Havaladar by riding on motorcycle no. MH-16-CM-3205. Shaukat was driving the motorcycle and applicant Utkarsh was pillion rider. When they reached in front of bus stand of Loni Mavala village at 6.30 p.m., at that time, Mahindra Pick up no. MH-12-KP-0559 came from Alephata and it was driven by respondent no. 2 in rash and negligent manner without considering traffic rules and by coming at wrong side gave forceful dash to their motorcycle. Due to which applicant sustained fracture injury to his nose. Also sustained grievous injury to his right leg, knee and he has sustained permanent disability. Accordingly, applicant has sustained injury in vehicular accident. Lastly prays for granting the NFL compensation of Rs.25,000/-.

3. The respondent No. 1 and 2 filed their say at Exh.15 stated that, the offending vehicle is duly insured with the respondent no. 3 insurance company. Hence, insurance company is liable to pay the compensation.

4. Respondent no. 3 insurance company by filing say at Exh. 18 stated that, offending vehicle was not having fitness certificate and driver of the vehicle was not holding valid driving licence. Respondent no. 1 and 2 caused breach of terms and conditions. Hence respondent no. 3 is not liable to pay the compensation.

5. Perused the police papers and FIR, from which it appears that,

when the applicant was travelling with his friend, at that time offending vehicle gave dash to their motorcycle and applicant has sustained fracture injury.

6. While considering the application u/s. 140 of M. V. Act is concerned, it has to be seen, "*whether the death or permanent disablement of any person has resulted from an accident arising out of the use of motor vehicle*". In this matter also the applicants Utkarsh has get severe injuries in the vehicular accident. Accordingly, with above observation, it can be inferred that injured Utkarsh get disability in the vehicular accident. Therefore, application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- 1) The application Exh. 5 is allowed.
- 2) The respondent Nos. 1 to 3 are jointly and severally directed to pay Rs. 25,000/- (Rs. Twenty Five Thousand only) to the applicant as the compensation under section 140 of Motor Vehicles Act 1988, within the period of two months from today by account payee cheque or ECS/NEFT.
- 3) If the compensation is not paid within the above period, the respondents shall pay the future interest @ 7.5% p.a. from the date of application.
- 4) Amount of compensation be given to the petitioners on their proper identification and after recovery of deficit court Fee, if any.

Date : 25/01/2023

(W.J. Daithankar)
Member,
Motor Accident Claims Tribunal
Ahmednagar