

**MACP 58/2018,
Vishnu .Vs. Kamaljit Singh**

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(CNR-MHAK010009742018)*

ORDER BELOW EXHIBIT No.6

[Passed on 01.04.2019]

1] **Heard, learned counsel appearing for the claimant and learned counsel appearing for the Non-applicant no.3, at length.**

2] **The claimant has filed present application under S.140 of Motor Vehicle Act, 1988 and prayed for ₹.25,000/- towards interim compensation on account of vehicular accident caused on 16.10.2017 at about 10.45 P.M. when he was proceeding on road Wadegaon to Balapur road within the jurisdiction of Balapur Police Station, Dist. Akola.**

3] **According to the claimant, when he was proceeding from front side of the Balapur Court on Wadegaon to Balapur road, one truck bearing registration No. RJ-06/GB-2617 driven by the Non-applicant no.1, gave dash to him. The said accident solely caused due to rash and negligent driving on the part of the Non-applicant no.1 and sustained severe injuries, hence, prayed for interim compensation to the tune of ₹.25,000/- under S.140 of Motor Vehicle Act.**

4] **The learned counsel appearing for the claimant submitted that, on 16.10.2017, FIR came to be registered**

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with P.S. Balaur against the non-applicant no.1 on which basis Crime No.390/17 registered against him for the offence punishable under section 279, 337, 304-A of IPC and S. 184 of M.V. Act. The claimant was hospitalized and the Medical certificate issued wherein neither functional nor permanent disability shown.

5] The Non-applicant no.3 filed written statement/reply at Exh.12 and denied claim of the applicant. According to the Non-applicant no.3 at the relevant time, the non-applicant no.1 was not holding valid driving licence and said truck was not holding valid permit and fitness certificate, therefore, contravened the provisions of M.V. Act and Rules and committed breach of terms and conditions of the policy, hence, prayed for rejection of the application and claim petition dismissed as against the respondents no.1 and 2.

6] On face of record it appears that, on 16.10.2017 at about 10.45 P.M. in front of Civil Court, Balapur, accident occurred. As per the contents of FIR, the claimant was pedestrian and the respondent no.1 gave dash to the claimant, due to which he sustained injuries. The Medical certificate issued by the Icon Hospital, Akola wherein neither functional nor permanent disability shown. Section 140 of M.V. Act provides for payment of compensation on account of no-fault-liability in case of death or permanent disability of any person resulted out of vehicular accident, however, in case in hand, the

claimant himself produced medical certificate which does not speak about functional or permanent disability of the claimant. Therefore, it will not proper to award compensation under S.140 of M.V. Act to the claimant at this juncture without cogent and substantial evidence. In view of above, I declined to grant present application and proceed to pass following order :-

ORDER

- i] Exhibit-6, Application under section 140 of Motor Vehicle Act, is hereby rejected.**
- ii] However, claim of the claimant will be considered on merit after adducing substantial evidence.**
- iii] No order as to costs.**

Date: 01.04.2019

**[Y.G.Khobragade]
Chairman, M.A.C.T., Akola
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Certificate

**I hereby certify that the contents of this PDF
file are same word for word as per original order:**

Name of Steno : S M. Kale
**Court's Name : Principal District & Sessions
Judge, Akola**
Date : 01.04.2019
Signed by P.O. on: 03.04.2019
Uploaded on : 09.04.2019