

**M.A.C.P. No. 30/2019**  
**CNR No.MHBI01000122-2019**

**Baliram Gade Vs. Ajmat Yakub & 1 other**

**ORDER BELOW EXH. 05**

1. This is a petition U/S. 166 of the M.V. Act, seeking compensation for having suffered permanent disability in an alleged accident involving Tata motors company truck bearing registration no.HR-74/A-4683, (hereinafter referred to as 'the offending vehicle') owned and driven by the respondent No.1 and allegedly insured with respondent No.2 at the relevant time. The Claimant has also sought compensation u/s 140 of the Motor Vehicles Act, 1988 ('Act' for the sake of brevity), by the present application.

2. It is the case of the claimant that, on 10.05.2018, he proceeding by walk on Dhule to Surat road in between Bedki R.T.O. Wakipada Gaon. At about 12.30 p.m. when he reached infront of Tata Motors, at that time one Tata motors company truck bearing registration no.HR-74/A-4683 came from Surat side in high and excessive speed in rash and negligent manner and gave forceful dash to the claimant. Due to which claimant fell down on the road and his right hand is crushed. Thereafter, the claimant shifted at Shivshanti Hospital, Navapur, but considering the seriousness of injuries the concern doctor referred to him at Aurangabad. Thereafter, relatives of the claimant shifted him at Bembde Hospital, Aurangabad. The claimant sustained grievous injuries. He was

indoor patient in the said hospital from 10.05.2018 to 04.06.2018 and 23.06.2018 to 28.06.2018. Thereafter, he again shifted at Lifeline Hospital, Beed, where he was indoor patient from 02.08.2018 to 07.08.2018. It is further case of claimant that, at the time of accident, respondent no.1 driven the offending vehicle in rash and negligent manner and high speed. Therefore, the respondent no.1 is sole responsible for this accident. The accident occurred due to negligence of respondent no.1. The claimant suffered about 42% permanent disability and hence this application for seeking no fault liability compensation.

3. The Respondent No.1 did not appear before the court despite duly served, hence, claim proceeded Ex-parte against him.

4. The Respondent No.2 filed its pursis to treat the written statement (Exh.15) filed to the application under Sec. 166 of the M.V. Act be treated as say to the application under Sec. 140 of the Motor Vehicles Act and sought exoneration on the counts that, the claimant has not filed MLC hospital, treatment papers, bills, discharge card and prescription etc. with the claim petition. There is delay of two months in lodging FIR. Spot panchnama is also prepared after two months of the alleged accident. The involvement of the offending vehicle and name of driver of alleged truck is not mentioned in police papers. It is further contended that, the alleged vehicle involved in the accident was driven by a

person, who was not holding valid and effective driving licence at the alleged date and time of accident. The respondent no.1 himself has violated breach contravention of the terms and conditions of policy knowingly. The form AA produced by the claimant does not show the driving licenses number and it's issuing authority. The claimant has not produced fitness certificate and permit of the offending vehicle. The claimant is not permanently disabled person, false disability certificate was filed by the claimant. This respondent is not either jointly or severally liable to pay the compensation to the claimant. It is contended by this respondent that, there is breach of specific terms and conditions of the policy. Lastly, the Respondent No.2 prayed that, the claim petition may be dismissed with costs.

5. I heard learned Adv. Smt.P.N.Jarange for the Claimant and learned Adv. Shri S.M.Salve for the respondent no.2. Following points arise for my determination and I have recorded my findings thereon, for the reasons given below:

**POINTS**

**FINDINGS**

01. Does Claimant prima facie prove that, he suffered permanent disability due to vehicular accident arising out of and use of the offending vehicle ?

...Yes.

02. What order ?

...As per final order.

## **REASONS**

### **As to Points No.1 and 2 :**

6. Sec. 140, of the Act envisages summary inquiry deciding the twin points which are jurisdictional facts so as to grant compensation to the Claimant. They being, sufferance of death or permanent disability arising out of use of motor vehicle. In case of death, the compensation is statutorily fixed at Rs. 50,000/- whereas, in case of disability, it is pegged at Rs. 25,000/-. Thus, a Claimant in order to be entitled for compensation U/S. 140 is required to prima facie show that he suffered permanent disability on account of vehicular accident by the Offending Vehicle. At this juncture, the Tribunal is not supposed to conduct a mini trial on the basis of rival contentions.

7. In order to substantiate his claim, the claimant has filed Form Comp AA, copy of FIR, copy of spot panchnama, copy of R.C. book of the offending vehicle, discharge card, Form Comp B etc. The copy of F.I.R. and Form Comp AA *prima-facie* shows involvement of the offending vehicle and it being the cause of accidental injuries to the claimant.

8. In this case, the claimant has submitted that, the respondent no.1 is the registered owner and driver of the Tata motor company truck bearing registration No.HR-74/A-4683 at the time of accident. The said vehicle was insured with respondent no.2 at the time of accident. The policy of offending vehicle was in force and valid from 28.01.2018 to

27.01.2019. Therefore, respondent nos.1 and 2 are jointly and severally liable to pay the compensation to the claimant.

9. On perusal of copy of F.I.R. and Form Comp AA *prima-facie* shows involvement of the offending vehicle and it being the cause of accidental injuries to the claimant. From the Disability Certificate issued by Bembde Hospital, Aurangabad, it is seen that, the Claimant has suffered 42% permanent disability. The Claimant has *prima-facie* proved that, he has suffered permanent disability in a vehicular accident, involving the offending vehicle. Thus, the Claimant has satisfied the prerequisites and hence is entitled for grant of compensation under Sec. 140 of the Act.

10. Though Adv. Mr.S.M.Salve for respondent No.2 submitted that, the driver of the offending vehicle did not possess valid and effective licence and these instances constituted breach of policy terms and conditions, therefore, respondent No.2 is not liable to pay any compensation amount to the claimant. However, on perusal of Insurance policy which admittedly covered the offending vehicle at the material time, discloses that the vehicle was insured with respondent No.2 at the material time of accident. Thus, Respondents No.1 and 2 being the owner, driver and insurer of the offending vehicle are jointly and severally liable to pay the compensation of Rs.25,000/- to the claimant towards "No Fault Liability". Thus, I have answered point No.1 in the affirmative and proceed to pass the following order;

**ORDER**

- A. Application for no fault liability vide Exh.5 is allowed.
- B. Respondents No. 1 and 2, shall pay an amount of Rs.25,000/- (Rupees Twenty Five Thousand only) jointly and severally to the Claimant within a period of 45 days from today, failing which the amount shall carry interest @ 9% per annum from date of filing of petition till its realisation.
- C. After depositing amount as directed above, the same shall be paid to the claimant on his due identification and verification of his bank account details as per the rules.
- D. Cost in cause.
- E. Interim award be drawn accordingly.

Date : 20.06.2020

(Durgadas N. Khadse)  
Member,  
Motor Accident Claim Tribunals,  
Beed.