

MHBI010015982020



ORDER BELOW EXH.12
IN MACP NO. 200/2020.

By way of this application the claimants have claimed an amount of Rs.50,000/- as compensation under the no fault liability under Sec. 140 of the Motor Vehicles Act (in short "MV Act") on account of death of Santosh Girmaji Pattekar (in short "the deceased") in a motor vehicular accident dated 11.06.2020.

02. The claimants are the widow and son of the deceased. The deceased was proceeding by walk from Nandalgaon towards his village Takarwan by N.H. 61. When the deceased reached near Dharmewadi Phata on Gadi to Majalgaon Road, TVS motorcycle bearing registration No.MH-23/U-4654 came from his behind in high and excessive speed and gave dash to him due to which, he sustained serious injuries and shifted to Civil Hospital, Majalgaon where the Doctor declared him to be dead. The application is supported by the documents filed with list exh.4.

03. The respondent No. 1 has resisted the application by filing written statement at exh.7. He has denied the averments made in the application. It is contended by him that the deceased suddenly came in the middle of he road and put he motorcycle rider in trouble and accident occurred. The accident occurred due to fault on the part of the deceased, therefore, application be dismissed.

04. The application is resisted by the respondent No. 2 by filing written statement at exh.11. The respondent No. 2 has denied the averments made in the application for want of knowledge. In addition to

that it is contended that there is unexplained delay in lodging FIR and the vehicle in question is falsely implanted in the crime. It is further contended that there is no compliance of mandatory provisions of the MV Act. The motorcycle rider was not holding valid and effective driving licence, thus, it is breach of the conditions of insurance policy and the respondent No. 2 is not liable to pay the compensation.

05. Heard Mr. R.J. Karande, the learned Advocate for the claimants, Mr. R.S. Waghmare, the learned Advocate for respondent No.1 and Mr. A.S. Bade, the learned Advocate for respondent No. 2 insurance company. Perused the record more particularly documents filed in support of the application by the claimants.

06. On perusal of the documentary evidence on record and after considering submissions of both the parties, it appears that there is prima-facie material on record to show that the deceased died due to accident. In view of Section 140 sub section (3) of the Act, for claiming compensation any wrongful act, neglect, or default of the owner of vehicle or of its driver is not required to be pleaded or established. Section 140 of the Act is meant to provide immediate relief to the sufferer on account of death or disablement due to the use of motor vehicle. So many defences were raised by respondents No.1 and 2 that the deceased was riding motorcycle in rash and negligent manner and by coming to wrong side dashed the motorcycle in question and accident occurred and the accident occurred due to fault on the part of the deceased; that there is unexplained delay in lodging FIR and the vehicle in question is falsely implanted in the crime. It is further contended that there is no compliance of mandatory provisions of the MV Act. The motorcycle rider was not holding valid and effective driving licence, therefore, there is breach of terms and conditions of the insurance policy and respondent No. 2 is not

liable to pay the compensation. However, at this stage, it is not necessary to go into merits of the case. The said defences will be considered on merits at the time of final hearing. Considering over all circumstances of the case, it is desirable to grant ad-interim compensation to the claimants. Hence, I pass following order.

ORDER.

01. The application is allowed.
02. The respondents No. 1 and 2 jointly and severally shall pay Rs.50,000/- (Rupees Fifty thousand) to the claimants on the count of "**No Fault Liability**" within two months from today, failing which the claimants shall be entitled for interest at the rate of 7 % per annum on the said amount from today till its realization.
03. The amount shall be distributed amongst claimants as Rs.25,000/- to claimant No. 1 and Rs.25,000/- to claimant No. 2. Amount of claimant No. 2 be invested in the Bank till they attain majority and amount of claimant No.1 be paid to her, after payment of requisite court fees, if any.
04. Respondents No. 1 and 2 are directed to deposit the amount in the name of respective claimants through cheque.

Place: Beed,

Date: 14.02.2022.

(C.M. Bagal,)
Member,
MAC Tribunal, Beed.

I affirm that the contents of this P.D.F. file order are same word to word as per original order.

Name of Steno. :- P.K. Pandav, Stenographer, Grade-1.
Court Name :- District Judge-2 and Addl. Sessions Judge,
Beed.

Sd/-
Stenographer Grade-I