



BEFORE MEMBER, MOTOR ACCIDENT CLAIMS
TRIBUNAL, AMBAJOGAI, DIST. BEED.

CLAIM PETITION NO.20/2020
CNR MHBI-04-000224-2020

Kavita w/o. Namdeo Sakhare

.. Vs ..

Jagadish s/o. Basappa Dombar and ors

ORDER BELOW EXH.5

(Passed on 16th of August, 2023)

1] Perused application under Section 140(1) of The Motor Vehicles Act, 1988 and reply filed by respondent No.2. Heard learned Advocates Mr. D.B.Kurade for the claimants and learned advocate Shri.S.N.Gurav for respondent No.2. The claim petition is proceeded *exparte* against respondents No.1 and 3.

2] Sec. 140 (1) of The Motor Vehicles Act 1988 provides and the case of **Eeshwarappa Vs. C.S.Gurushanthappa AIR 2010 S.C.2967** guides that to attract the liability u/s 140(1) of The M.V. Act, all that is required are (i) an accident arising out of the use of motor vehicles (ii) leading to death/permanent disability (iii) of any person.

3] Perusal of petition shows that on 05.02.2020 the deceased Namdeo s/o. Kishan Sakhare, R/o. Tandalwadi, Tq. Dharur was proceeding for sugarcane cutting by the tractor and two trollys were attached to it. A tempo bearing No.KA-22-0D-1878 came from its behind and gave dash to the trolley. The tempo was driven in high

speed. Due to said dash, the deceased fell on the road from the trolley and sustained serious head injury and multiple injuries and died on the spot itself. Thereafter the dead body of the deceased Namdeo was taken to Government Hospital Karad, where the *post mortem* was conducted on his body.

4] Record shows that such report was filed on 08.02.2020 by one Police Hawaldar Shri. Khalik Gani Inamdar, police station Karad at Karad police station and thereon crime No.94/2020 for the offences punishable under sections 279, 304(A), 337, 338 of IPC and 184 of Motor Vehicle Act, was registered. The Form Comp – AA supports the contention of Claimants.

5] The respondent No.1 found to be tempo owner of said offending vehicle, while the respondent No.2 Royal Sundaram Alliance Insurance Company Ltd., was insurer of said offending vehicle for the period from 03.04.2019 to 02.04.2020 covering the date of accident. In such circumstances, respondents Nos.1 and 2 found to be liable to pay no fault liability compensation under Section 140(2) of the Motor Vehicles Act.

6] Here it may be noted that there are some points of defences of the respondent No.2. However, taking the limited scope of No fault liability application and order, it is proper to keep said objection to be decided at final hearing.

7] Coming to the payment, it is to be Rs.50,000/- for no fault liability. In fact, the payment should be made within two weeks as per Rule 281(3) of the Motor Vehicles Rules, 1989. However, since this is the Moffusal area, there happens to be communication gap between the advocate and the head officer of insurance company. Therefore,

court feels it proper to give more time to insurance company to comply the order. Hence, following order.

Order

- 1] Application stands allowed.
- 2] Respondent Nos.1 and 2 are ordered to pay jointly and severally no fault liability compensation of Rs.50,000/ (Rs. Fifty Thousand only) to claimants and Respondent No.3 Satwashila W/o. Kisan Sakhare, within two months by transferring Rs.33,666/- (Rs. Thirty Three Thousand Six Hundred Sixty Six only) in the account of claimant No.1 Kavita w/o. Namdeo Sakhare for herself and her minor son Shreyas, the claimant No.2, and Rs. 16,333/- (Rs. Sixteen Thousand Three Hundred Thirty Three only) in the saving bank account of Respondent No.3 Satwashila W/o. Kisan Sakhare, preferably in Bank of Baroda Br. Ambajogai or in any nationalized Bank by RTGS mode.
- 3] On failure to pay the amount within time, respondents should pay interest @ 7.5.% p.a. on said amount from the date of order till the date of recovery.
- 4] The claimants would pay deficit Court fee stamp, if any, prior to withdrawal of this amount.

Date :- 16.08.2023.

[Deepak D. Khoche]
Ex-Officio Member of the Motor Accident
Tribunal & District Judge-1,
Ambajogai.

CERTIFICATE

"I affirm that all the contents of this PDF file are word to word as per original judgment/order".

Dictated on : 16.08.2023
Transcribed on : 16.08.2023
Checked & Signed on : 17.08.2023

Date : 17.08.2023

A.S.PANHALE
STENOGRAPHER GR-1