



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

CLAIM PETITION NO.21/2020

CNR MHBI-04-000225-2020

Vishnu s/o. Mahadeo Kale

.. Vs ..

Jagadish s/o. Basappa Dombar and ors

**ORDER BELOW EXH.5**

(Passed on 16<sup>th</sup> 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 respondent No.1.

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 brother of claimant deceased Krishna s/o.Mahadeo Kale and others, R/o. Sarfarajpur, Tq. Parali were 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 tractor and trolley. The tempo was driven in high speed. Due to said dash, Krishna, the brother of claimant Vishnu, deceased fell on the road from the trolley

and sustained serious head injuries and multiple injuries and died without taking medical aid. Thereafter he was taken to Government Hospital Kolhapur, 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 respondents Nos.1 find to be tempo owner of said offending vehicle, while the respondent No.2 Royal Sundaram Alliance Insurance Company Ltd., is 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 find 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.

8] At this stage, Tribunal observes that the Claimant Vishnu is though entitled as brother of the deceased Krishna, to get the No Fault Liability compensation, yet he never expressly disclosed about the existence or non existence of the parents, wife, issues of the deceased. Therefore, prior to accepting said payment, he shall give in writing with an affidavit as to why those are not joined in this petition. Thereafter, necessary order of distribution of payment would be made. 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 claimant Vishnu, within two months by transferring it in the account of claimant Vishnu s/o. Mahadeo Kale preferably in Bank of Baroda Br. Ambajogai or in any nationalized Bank by RTGS mode.
- 3] Said payment would be subject to the written disclosure of the Claimant about the parents, wife and children of the deceased Krishna, along with an affidavit filed by him in support of such written disclosure.
- 4] On failure to pay the amount within time, after the satisfaction of condition no. 3 above, respondents should pay interest @ 7.5% p.a. on said amount from the date of order till the date of recovery.
- 5] The claimant 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