



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

CLAIM PETITION NO.25/2023  
CNR MHBI-04-000451-2023

Anita w/o. Kalyan Dahipale and others

.. Vs ..

M/s Rushikesh Tours and Travels and others

**ORDER BELOW EXH.5**

(Passed on 07<sup>th</sup> of November, 2024 )

1] Perused application under Section 140(1) of The Motor Vehicles Act, 1988 and reply filed by respondent No.1 to 3. Heard learned Advocates Mr. D.D.Lamb for the claimants and learned advocate Shri.N.A.Jadhav for respondents No.1 and 2, Shri. S.M.Lohiya for respondent No.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 26.01.2024 the deceased Kalyan Patloba @ Patil Dahiphale and Maharudra s/o. Ram Kasarale were proceeding from Nashik to Chakan on motorcycle. Maharudra was driving the said motorcycle and deceased Kalyan was pillion rider. Maharudra was having valid driving licence and experience to drive the motorcycle. When they reached at Bhosari over bridge, on Nashik phata to Chakan road, a Swift Dsire car bearing No.MH-14-KA-4751 came behind in high speed, driven in rash and negligent manner. It has given

dash to their motorcycle. Therefore they fell down and sustained grievous injuries. Thereafter they were shifted to D.Y.Patil Hospital, Pune and prior treatment Kalyan died.

4] Record shows that, such report was filed on 26.01.2024 by Maharudra Kasarle at Bhosari police station and thereon crime No.54/2024 for the offences punishable under sections 279, 337, 338, 304-A, of IPC and section 184 of the Motor Vehicle Act was registered. The Form Comp – AA supports the contention of Claimants.

5] The respondents Nos.1 to 2 find to be owner and driver of said offending vehicle swift car. They have admitted the ownership of the said car. They contended that the motorcyclist himself drove it in zic zac manner and in rash and negligent manner. He has not taken care while overtaking the swift and himself dashed the care. Therefore, they are not liable to pay compensation. They further contended that, the swift car was insured with respondent No.3 insurance company, the policy was in force and it is filed on record. In such circumstances, respondents Nos.3 find to be liable to pay no fault liability compensation under Section 140(2) of the Motor Vehicles Act.

6] Here the respondent No.3 raised an objection that there is a breach of terms and conditions of the policy and therefore, the insurance company is not liable to pay the compensation. Even though the learned advocate for respondent No.3 admitted that the offending car is insured with their insurance company. Tribunal observes that the present application is only for no fault liability and that there is no document filed by respondent / insurance company on record which would show clear breach of terms and conditions of the policy. Therefore, at this stage, it is proper to keep said objection to be decided at final hearing, and to direct the respondent No.3 Insurance Company to contribute in the no fault liability compensation.

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 office 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 to 3 are ordered to pay jointly and severally no fault liability compensation of Rs.50,000/ (Rs. Fifty Thousand only) to claimants within two months by transferring it in the account of claimant No.1 Anita w/o. Kalyan Dahiphale for herself and for other claimant 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 :- 07.11.2024.

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

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CERTIFICATE

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

Dictated on : 07.11.2024

Transcribed on : 07.11.2024

Checked & Signed on : 12.11.2024

Date : 12.11.2024

A.S.PANHALE  
STENOGRAPHER GR-1