



M.A.C.P. No.76/2022,
Sarjerao Mahipatrao Pawar
Vs.
Dattatray Shatrughna Solanki+1
(CNR : MHB010008192022)

Order below Exh.5.
(Dt. 13-06-2023)

1. The applicant/claimant has filed present application under Section 140 of the Motor Vehicles Act for grant of interim compensation under no fault liability.

2. It is the case of the claimant that on 31-08-2021, he alongwith his wife Sau. Kasabai went to Deulgaon Raja; after completing their work, while they were returning back towards their village Kinhil Pawar, they were standing below the road side, near Krida Sankul at Deulgaon-Kinhil Pawar Road, towards northern side of Jalna-Chikhli National Highway (Bye-pass) and waiting for a vehicle for going to their village. At that time, one vehicle i.e. Chevrolet Spark LT bearing registration No. MH-12-HV-2631 came from Jalna side driven by its driver-cum-owner rashly and negligently, in a high speed and gave forceful dash to the claimant and his wife, due to which ghastly accident took place, in which the claimant sustained injury resulting into permanent

disability. It is the case of the claimant that the offence vide Crime No.395/2021, under Sections 279, 337 and 338 of the I.P.C. was registered against the driver of offending vehicle bearing No. MH-12-HV-2631. It is the case of the claimant that accident took place due to rashness and negligence on the part of driver of Chevrolet Spark LT vehicle. Accordingly, he prayed for grant of interim compensation of Rs.25,000/- under no fault liability.

3. The opponent No.1 filed written statement /reply (Exh.16) and opposed the application.

4. The opponent No.2 filed written statement /reply (Exh.15) to application under Section 140 of M.V. Act and opposed the application.

5. Heard learned counsel for the claimant and learned counsels for the opponents. Perused the record.

6. The record demonstrates that F.I.R. has been lodged and offence was registered vide Crime No.395/2021 against the driver of vehicle i.e. Chevrolet Spark LT bearing registration No. MH-12-HV-2631. The certificate of registration shows that the said vehicle is owned by opponent No.1 and the insurance policy shows that it was insured with opponent No.2 at the time of accident. The permanent disability certificate shows that the

claimant has sustained 45% permanent disability. At the time of deciding application under Section 140 of M.V. Act, negligence of driver or who is at fault need not to be gone into.

7. As to the maintainability of application under Section 140 of the M.V. Act, the opponent No.2 has not filed copy of newly Amended Act, wherein the provision under Section 140 is shown to have been deleted. Further, there is no record to show from which date the newly amended Act has come into force; and on which date, it has received the assent of the Hon'ble President.

Further, in view of above, the opponent No.2 has failed to demonstrate that the application under Section 140 of M.V. Act is not maintainable.

8. As the claimant has duly proved involvement of offending vehicle in the accident and the fact that the vehicle was insured with opponent No.2 at the time of accident, further crime is registered against the driver of offending vehicle, this much is sufficient prima facie, to provide the interim compensation to the claimant under no fault liability. Hence, the following order.

Order

1] Application (Exh.5) is allowed.

2] The applicant/claimant is entitled to get interim compensation of Rs.25,000/- (Rs. Twenty five thousand only) under no fault liability from opponent Nos.1 & 2 jointly and severally.

3] The opponent Nos.1 & 2 shall jointly and severally pay the aforesaid compensation within fifteen days from the date of this order. On failure, interest at the rate of 6 % per annum would be imposed till the amount is realized.

(S.C. Khati)

Dated : 13-06-2023.

Member, M.A.C.T., Buldana.

...