M.A.C.P. No.190/2016,
Sau. Vandana @ Gokulbai
Ramesh Hadole
Vs.
Mukinda Parsram Jumade & One Anr.
(CNR : MHBU010015612016)

Common order below Exh.5 & 35.
(Dt. 01-10-2021)

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. Learned counsel for the opponent No.2 - Insurance Company has filed objection (Exh.35) about the maintainability of application under Section 140 of the M.V. Act.

3. It is the case of the claimant that on 23-10-2015, she was working at her agricultural field near Eicher Tractor bearing No. MH-28-AJ-2168 attached with thrasher machine. The thrasher machine was in operation and the same was not affixed with safety cover; as a result of which, the claimant sustained injury due to negligence on the part of driver of the Tractor & thrasher machine, resulting into permanent disability. It is the case of the claimant that the offence vide Crime No.124/2015, for the offences punishable

under Sections 287, 337 and 338 of the I.P.C. was registered against the driver of tractor/thrasher machine bearing No. MH-28-AJ-2168. It is the case of the claimant that accident took place due to rashness and negligence on the part of driver of tractor/thrasher machine. Accordingly, she prayed for grant of interim compensation of Rs.25,000/- under no fault liability.

4. The opponent No.1 filed written statement/reply (Exh.15) and opposed the application.

5. The opponent No.2, filed reply (Exh.26) to application under Section 140 of M.V. Act and also written statement (Exh.29) to the main petition.

6. Primary contention of the learned counsel for claimant is that on 23-10-2015 at about 06-00 p.m., while she was working at her field, at that time, the tractor/thrasher machine was in operation wherein the safety cover was not put, therefore, due to negligence of the driver of tractor/thrasher machine, the claimant sustained injuries of which medical documents are filed on record. Learned counsel for the claimant contended that the tractor/thrasher machine was insured with opponent No.2 at the relevant time of accident. Hence prayed for interim compensation.

7. Learned counsel for opponent No.2 vehemently contended that the application under Section 140 of M.V. Act is not maintainable in view of the amendment to the Motor Vehicles Act in 2019. Learned counsel contends that the provision of Section 140 has been deleted and hence the claimant would not be entitled for interim compensation towards no fault liability.

8. Heard learned counsel for the claimant and learned counsel for the objector/opponent No.2. Perused the record.

9. The record demonstrates that F.I.R. has been lodged and crime has been registered against the driver-cum-operator of tractor/thrasher machine vide Crime No.124/2015. The certificate of registration shows ownership of opponent No.1 over the said Tractor/thrasher machine. The permanent disability certificate shows 45 % permanent disability is sustained by claimant. 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. The involvement of the vehicle in the accident is not disputed, further the said vehicle was insured with opponent No.2 at the time of accident.

10. As to the maintainability of application under Section 140 of the M.V. Act, the opponent

No.2 has not filed the 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.

11. 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.

12. As the claimant has duly proved involvement of the offending vehicle in the accident and the fact that the vehicle is insured with opponent No.2, further the 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/- under no fault liability from opponents Nos.1 & 2 jointly and severally.

3] The opponents Nos.1 & 2 shall jointly and severally pay the said amount within fifteen days from the date of this order. On failure, interest

at the rate of 6 % per annum would be imposed thereafter till the amount is realized.

4] The objection (Exh.35) is rejected.

Sd/-
(S.C. Khati)
Dated : 01-10-2021. Member, M.A.C.T., Buldana.

...

Certificate

"I affirm that, the contents of this PDF file order are same word for word as per original order."

Name of Steno :- D.V. Gaiki, Stenographer Grade I,
Name of Court :- Member, Motor Accident Claims Tribunal, Buldana.
Date of order :- 01-10-2021.
Order uploaded on :- 04-10-2021.

...