

ORDER BELOW EXH.5 IN M.A.C.P. NO.674 OF 2021
(CNR NO.MH-DH01-002781-2021)

Kamlakar Bandu Chaure and other

Versus

Kailas Babulal Sonawane and other

1. This is an application for getting an interim compensation of Rs.50,000/- under the principle of “No Fault Liability” as per Section 140 of the Motor Vehicles Act. In short, it is the case of claimants that, on 09.07.2021, at about 2.00 p. m., Sachin Kamlakar Chaure and his relative Nilesh Gulab Gavit were returning to their village on a motorcycle bearing registration No.MH-41-R-9023 after meeting their aunt. On the curve road in front of Maruti Temple in Shelbari Ghat, respondent No.1 i.e. the driver of Pick-up Vehicle bearing No.MH-18-AA-5748 (**hereinafter referred as ‘offending vehicle’**) was driving his vehicle in high speed, rash and negligent manner, ignoring traffic rules of the road, gave forceful dash to the motorcycle of claimants from back side and accident took place. After the accident, Sachin Chaure and Nilesh Gavit were admitted to Dindayal Hospital, Pimpalner by people and relatives who were gathered on the spot. After that, Sachin suffered a serious head injury, therefore, he was admitted to Vighnaharta Hospital, Dhule. Sachin was treated at said hospital for 27 days but unfortunately on 08.08.2021 at about 3.30 p.m. Sachin died during the treatment. Accident took place due to rash and negligent driving of respondent No.1. Hence, this application for an interim compensation due to death of Sachin Chaure.

2. Respondent No.1 appeared, but failed to file his written statement, hence, claim proceeded without written statement against him. Respondent No.2 filed its written statement vide Exh.20. They submitted

that, offending vehicle was not involved in the accident. They further submitted that, motorcycle is also involved in the accident. However, claimants have not made a party to the rider, owner and insurer of motorcycle who are necessary parties. Likewise, the driver of offending vehicle is also not made a party to the claim petition who is also necessary party. As such, claim petition is bad in the law for non-joinder of necessary parties. There is delay in lodging FIR. Thus, the fact of lodging FIR after three days of accident is highly doubtful and it is apparent that said vehicle is involved in the accident with malafide intention to grab the compensation amount from respondent No.2. The driver of offending vehicle was not holding valid and effective driving licence at the time of accident. There is breach of terms and conditions of policy, hence, respondent No.2 is not liable to pay compensation to the claimants. Lastly, prayed for rejection of application.

3. Heard the Ld. Counsels for both the parties.

4. The claimants in order to substantiate their case, have produced the police papers, which are prepared by independent police machinery. There is no reason to disbelieve prima-facie these documents. Nothing has been placed on record to rebut these prima-facie evidence. The police papers prima-facie supported to the story of claimants. Therefore, respondent No.1 and 2 being respectively owner and insurer of said offending vehicle jointly and severally liable to pay an interim compensation to the claimants. So far as, objections raised by respondent No.2 is concerned, said objections will be considered at the time of final hearing. Hence, the following order.

ORDER

1. The application Exh.5 is allowed.

2. Respondent No.1 and 2 jointly and severally do pay an interim compensation of **Rs.50,000/- (In words Rs. Fifty Thousand)** under the principle of “**No Fault Liability**” as per Section 140 of the Motor Vehicles Act to the claimants within a period of 30 days from the date of this order, failing which, it shall carry interest @ **8 % p. a.**, from the date of application till it's realization.
3. The amount of compensation be apportioned amongst the claimants as under :
Claimant No.1 :Rs.25,000/- + proportionate cost of the petition + interest.
Claimant No.2 :Rs.25,000/- + proportionate cost of the petition + interest.
4. As per the directions of the Hon'ble Supreme Court in Writ Petition (Civil) No.534/2020 dated 16.03.2021 and the judgment of the Hon'ble Madras High Court in Civil Misc. Appeal No.428/2016, the Insurance Company is hereby directed to deposit the above said awarded amount in the following saving bank account of this Tribunal.
 - i. Name of Account : The Member, Motor Accident Claim Tribunal, Dhule.
 - ii. Bank Name :- State Bank of India, Treasury Branch, Dhule.
 - iii. Type of Account : Savings Account
 - iv. Account No.40709171826
 - v. IFSC Code :SBIN0008254
 - vi. MICR CODE : 424002955
5. After making such deposit, the insurance company shall also send a copy of the payment advice in the prescribed format as provided to the insurance company to this Tribunal and also serve its copy on the claimants.
6. Claimants to furnish following individual details on separate sheets along with the photocopy of first page of their bank passbook containing photographs of the claimants and PAN Card, (if any);

- a. Full name of the claimants with current address.
 - b. Name of the Bank and Branch.
 - c. Bank IFSC Code.
 - d. Bank Account Number of claimants.
7. Claimants to remain present in person for their personal verification at the time of furnishing the above said information.

Dhule.

Date :- 06.09.2023

(M. J. J. Baig)

Member, M.A.C.T., Dhule.

Certificate

I certify that the contents of this PDF File are word to word as per Original Judgment/Order.

Name of the Steno : B. T. Sonawane

Name of the Court : District Judge-3 & Additional Sessions Judge,
Dhule,

PDF Uploading Date : 11-09-2023

Sd/-

Stenographer(Grade-I)