

M.A.C.P. No.688/2021

(CNR No. MHDH010029022021)

ORDER BELOW EXH.5

(18.10.2022)

1. The applicants have prayed for compensation of Rs. 50,000/- under the head No Fault Liability under section 140 of the Motor Vehicles Act (for short “M. V. Act”).

2. According to the applicants, on 20.07.2021 at about 12:30 p.m., in Deopur area, while Atul Pratap Patil was riding on his motorcycle, Eicher vehicle MH-15/GV-9599 dashed the said motorcycle, whereby Atul fall down and sustained fatal injuries and succumbed to death. Thus, Atul died in a motor vehicular accident. The applicants are the dependents of deceased Atul. The respondent No.1 is the insurer, respondent No.2 is the owner whereas respondent No.3 is the driver of the offending vehicle.

3. Respondent No.1 filed written-statement-cum-say at Exh.22. The learned Advocate on behalf of respondent No.1 strongly objected to the application contending that the application is illegal and there is delay of one day in lodging the first information report and the vehicle MH-15/GV-9599 has been falsely involved. Therefore, he requested to reject the application.

4. The respondents No. 2 and 3 filed their written-statement at Exh.20. They contended that incident took place due to negligence of the deceased. Further, their vehicle is insured with respondent No.1 and therefore liability, if any, is of respondent No.1.

5. True that, there is delay of lodging first information report. However, it being a death case, the relatives or family members may be under mental stress and in the funeral process. Therefore, delay of one day is usually possible in such cases. Same cannot be a ground to suspect the case. The first information report, the spot panchanama, the inquest panchanama and the provisional post-mortem report at this stage prima facie show that Atul died in the motor vehicular accident involving the Eicher MH-15/GV-9599. At the stage of application under Section 140 of the Motor Vehicles Act, only prima-facie case has to be considered and it has been made out in the present matter. Considering overall circumstances at this stage, prima-facie case is made out to grant the compensation under Section 140 of the Motor Vehicles Act. Considering all these aspects the respondents No. 1 to 3 are liable to pay compensation of Rs. 50,000/- to the petitioners. Hence, order as follows is passed:-

ORDER

1. Application Exh.5 is allowed as under.
2. The respondents No.1 to 3 jointly and severally by virtue of Section 140 of Motor Vehicles Act, 1988, shall pay to the petitioners interim compensation of Rs.50,000/- (Rupees Fifty Thousand only).
3. The respondents No. 1 to 3 shall pay the amount as above mentioned on or before 21.11.2022, failing which they would be liable to pay interest at the rate 8% per annum on the said amount from the date of application till payment thereof.
4. The compensation amount payable to applicants No. 2 and 3 be paid to their mother applicant No. 1 by account payee cheque on her giving undertaking that she would spend the said amount for the benefits of the minor applicants No.2 and 3 only.

5. As per the directions of Hon'ble Supreme Court in Writ Petition (Civil) No. 534/2020 dated 16/03/2021 and the judgment of 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 Account	: Saving Account.
iv)	Account No.	: 40709171826.
v)	IFSC Code	: SBIN0008254.
vi)	MICR Code	: 424002955.

6. 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 petitioners.
7. The petitioners are directed to furnish following details on a separate sheet along with photocopy of first page of their Bank Passbook containing their photographs and PAN Card, (if any):-

(i)	Full name of the petitioners with current address ;	
(ii)	Name of the Bank and Branch	
(iii)	Bank IFSC Code	
(iv)	Bank Account Number of the petitioners.	

8. The petitioners are directed to personally remain present at the time of furnishing the above said information.

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9. On depositing the above said amount in the Tribunal, it be given to petitioners in equal proportion by transferring the same in their account as per the directions of the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 534/2020.

Date : 18.10.2022

(Deepak L. Bhagwat)
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 : A. P. Wagh,

Name of the Court : District Judge-7 & Member, M.A.C.T.,
Dhule.

PDF Uploading Date : 18.10.2022

Sd/-
Stenographer