

**IN THE COURT OF CHAIRMAN, M.A.C.T., GONDIA.**

**M.A.C.P. No.14/2022**

**Gunwanta Mohare + 4 .Vs. SBI Gen. Insurance Co. + 2**

**ORDER BELOW EX.5**

**(Passed on 29.08.2024)**

1. This is an application filed by the petitioners for grant of interim compensation under section 140 of the M.V. Act for the accidental death of deceased Ravikant s/o Motiram Mohare, who was the husband of petitioner No.1, father of petitioners No.2 to 4 and son of petitioner No.5.

2. It is the submission of the petitioners that on 28.07.2021 the deceased Ravikant Mohare was going to village Murpar from Nagra by his motorcycle bearing No.MH-35/AN-0557. He was riding his motorcycle in moderate speed and by his left side. At that time, one Tata Sumo bearing No.MH-16/R-4948 came from opposite side in very high speed and gave dash to the motorcycle of deceased on Balaghat to Gondia road and accident took place. In the said accident the deceased Ravikant sustained severe injuries and died on the spot. Then postmortem was performed at G.M.C. & H. Gondia.

3. On the basis of report lodged by one Bachhulal Umed Baghele to Police Station, Rawanwadi, Crime

No.359/2021, registered U/s. 279, 304-A of IPC against the driver of offending vehicle Tata Sumo i.e. respondent No.3. The I.O. conducted spot panchnama, inquest panchnama etc.

4. The respondent No.1 is the insurer and respondent No.2 is the owner and respondent No.3 is driver of the offending vehicle Tata Sumo bearing No. MH-16/R-4948. The respondent No.1 and 3 filed their written statements-cum-reply at Exh.26 and Exh. 16 respectively. The respondent No.2 though appeared failed to file reply. The respondent No.1 raised the ground that the policy filed on record by the petitioners is fake.

5. Heard the learned advocate for petitioners and respondents. The petitioners in order to support their claim of N.F.L. produced documents such as copies of Form-Comp-AA, F.I.R., Crime details form/spot panchnama, inquest panchnama and postmortem report.

6. Learned Advocate for the respondent No.1 submitted that the insurance company never issued the policy bearing No.PBM2W00000302296 in favour of Shankar Patle i.e. respondent No.2. It is contended that the respondent No.2 Shakar Patle purchased the policy from online platform of Policy Bazar Insurance Pvt.Ltd., bearing No.

POPM2W00100172369 for two wheeler TVS Motors Scooty registration No. MH-16/R-4948 by paying premium of Rs.510/-. It is specifically submitted that when this fact came to knowledge of the insurance company, they issued letter to Shankar Patle to clarify the above incorrectness and requested him to provide the RC book of the vehicle, however, he did not provide the same. Then the insurance company issued letter to the Commissioner of Police, Cyber Cell, Bandra regarding filing of complaint for digital fraud against the policy holder or individuals on behalf of policy holder, for obtaining policy fraudulently.

7. Per contra, the learned advocate for the petitioners argued that the petitioners are not concerned as to how the policy was obtained by the respondent No.2. On this aspect, learned advocate for the petitioners relied on the unreported judgment of the Hon'ble Rajasthan High Court in the matter of **Laxminarayan .vs. Kamal Nathu Ram, dated 05 January 2024 in S.B.Civil Misc. Appeal No. 2227 of 2007.**

8. On perusal of the policy filed on record by the petitioners, the same was issued in the name of respondent No.2 covering the risk of Tata Sumo Gold vehicle No. MH-16/R-4948. Whereas, the respondent No.1 placed on record the written communication made to the respondent No.2

informing him that the vehicle MH-16/R-4948 insured with them is a two wheeler TVS motor Scooty. They have also made complaint to the Cyber Cell, Bandra Mumbai. Certainly, while dealing with the application under the no-fault liability, the court is only required to see the involvement of the vehicle in the accident and whether the policy was valid and effective. However, here in this case the respondent No.1 raised the contention of fake policy. For which, detail evidence is required to be adduced by either side. Therefore, I am not inclined to grant the application for no-fault liability. Hence, order.

**ORDER**

The application Exh.5 is rejected.

Date:29.08.2024

Sd/-  
(A. T. Wankhede)  
Chairman,  
M.A.C.T. Gondia.