

MHJN010011632022



ORDER BELOW EXH. 5 IN M.A.C. PETITION NO. 169/2022

1. This is an application filed by mother Aarati and father Deepak of deceased Siddhant Ghodke for compensation towards “No Fault Liability” U/s. 140 of the Motor Vehicles Act.
2. Read application and written statement cum say Exh.29 and Exh.27 filed by opponent Nos.1 and 3.
3. According to the applicants, on 25.03.2022 at about 5.00 to 5.30, their son Siddhant Age 9 years alongwith his uncle and aunt had been for Devdarshan. During the returning journey, on Watur to Jalna High-way, opponent No.2 the driver of the vehicle No.MH-21-X-0880 drove the vehicle rashly and negligently and so the vehicle went upside down. In the said accident, Siddhant Ghodke succumbed to the accidental injuries. He was admitted at Civil Hospital, Jalna for treatment. The offending vehicle is owned by opponent No.1, driven by opponent No.2 and insured with opponent No.3.
4. Opponent No.1 has filed his written statement at Exh.29. He has denied the claim and contended that opponent No.1 is not responsible for the accident. The vehicle Tempo MH-21-X-0880 is insured with opponent No.3. The policy was valid on the date of accident. Hence, necessary orders may be passed against opponent No.3.

5. Opponent No.3 The Oriental Insurance Company Co., Ltd. has filed its W.S cum say at Exh.27 and resisted the applicants' claim. It is contended that the vehicle Tempo MH-21-X-0880 is good carrying vehicle and at the time of alleged incident, it was being used for transporting passengers. There is breach of insurance policy. The opponent No.2 does not hold valid and effective driving licence at the time of accident. In the light of provisions of Motor Vehicle Act, 1988 and terms and conditions of insurance policy, opponent No.3 insurance company is not liable to pay the compensation. The claim is excessive, exorbitant and unreasonable.

6. Heard Ld. Counsel for both parties.

7. The documents viz. charge-sheet in S.C.C.No.928/2022 including F.I.R, Spot panchnama, inquest panchanama, insurance policy, registration certificate of offending vehicle, copy of driving licence of opponent No.2 and other documentary evidence placed on record prima facie indicates that, deceased Siddhant Ghodke died in motor vehicular accident on the relevant date involving offending vehicle Tempo No.MH-21-X-0880 which was owned by opponent No.1, driven by opponent No.2 and insured with opponent No.3.

8. It is to be noted that, application u/s. 140 of M.V.Act is based on the principle of 'No Fault'. The tribunal is not expected to consider the defence raised by opponents while deciding 'No Fault Liability' application under section 140 of

M.V.Act. The same can be considered after trial and at the time of final hearing. The averments in application and documents on record are sufficient to conclude that, the claimants being the legal heirs of the deceased are entitled to get compensation of Rs.50,000/- towards the 'No Fault Liability'. Hence, this Tribunal proceeds to pass the following order:-

ORDER

1. Application Exh. 5 is allowed.
2. Opponent Nos.1 to 3 are hereby directed to pay jointly and severally, Rs. 50,000/- (Rs. Fifty Thousands only) to claimants within two months from the date of this order. In default, the applicants will be entitled for interest thereon at the rate of 7% p.a. from the date of application till realization of the amount to the claimants.
3. The opponent Nos.1 to 3 do pay Rs.50,000/- (Rs. Fifty Thousand only) to applicants by drawing account payee cheque or similar modes. The amount of Rs.50,000/-- (Rs. Fifty Thousand only) be equally apportioned to applicants.
4. Interim award be drawn accordingly.

Date : 19.12.2022

Sd/-
(A.V.Choudhari-Inamdar)
Member, M.A.C.T.,Jalna.