

MHKO010004032021 	<u>Order below Exh.5</u> <u>in M.A.C. No. 94 of 2021.</u>
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1. The applicant has filed the application under Section 140 of the Motor Vehicles Act at Exh. 5.

2. Opponent No. 2 has given reply cum objection at Exh. 21. In its reply the opponent No. 2 has raised various objections. According to the opponent No. 2 they are not liable to pay the compensation. Hence, urged for rejecting the application.

3. Heard Ld. Adv. A. B. Jadhav for claimant and Ld. Adv. Smt. A. N. Nipane for the opponent No. 2.

4. If death or permanent disabilities of any person has resulted from accident arising out of use of the vehicle, then claimant without pleading neglect or default of anybody can get compensation under section 140 of Motor Vehicles Act, 1988.

5. While granting such relief, it is to be seen that there is nexus between **vehicle involved, accident occurred and the death or permanent disability of the victim**. I also rely on the precedent of **Hon'ble Apex Court** in the matter of Shivaji Dadu Patil vs Vatsala More (1991 ACJ 777) wherein it is held that, while awarding compensation under no fault liability, Tribunal is required to satisfy itself in respect of the following matters

- a. an accident has arisen out of the use of a motor vehicle.
- b. the said accident has resulted in permanent disablement of claimant or death of the person whose legal representative is making the claim.
- c. the claim is made against the owner and the insurer of the motor vehicle involved in the accident.

6. In present case also, applicant has shown nexus between vehicle involved, accident occurred which can be seen from the FIR and the statements of the witnesses. In this case the applicant has produced permanent disability certificate. As per this certificate the applicant/injured is permanently disabled to the tune of 9 percent. It is also to be kept in mind that, Tribunal is not required to hold full trial on this issue and defences taken by the opponent can be considered at later stage. Therefore, I pass following order.

ORDER

1. Application is allowed.
2. Opponent nos. 1 to 3 jointly and severally, are hereby directed to deposit Rs.25,000/- towards "No Fault Liability" in this Tribunal within two months from the date of this order failing which they shall pay interest @6% p.a. from the date of order till the realization of the amount.
3. The amount if deposited be given to applicant by account payee cheque.

Date : 14.9.2023.

**(P. F. Sayyad)
Member, M.A.C.T., Kolhapur.**