

MHKO010037362017



**Before the Member, Motor Accident Claims Tribunal, Kolhapur.**

**(Presided over by P.S. Vithalani)**

**M.A.C.P. No. 470/2017.**

Swapnil Laxman Kamble.

..... Petitioner.

Vs.

M.S.R.T.C., Kolhapur & Ors.

..... Opponents.

**Order below application Exh. 5**

1. This is an application filed under the provisions of Sections 140 of the Motor Vehicles Act, 1988 (For short, "M.V.Act") claiming interim compensation of Rs.25,000/- from the opponents as per the principle of "No Fault Liability".

2. In short, the case of the petitioner is as under:

That, on 12-07-2017, at about 11.50 a.m. the petitioner was proceeding from Sarud to Bambavade by riding his motorcycle bearing registration No. MH-09/EE-4274 slowly, cautiously and by following traffic rules. When the petitioner reached at the spot of accident i.e. Sagav Fata, one S.T. bus bearing Registration No. MH-40/N-9470 (hereinafter called as 'offending S.T. bus') came wrong side in high speed and gave dash to the petitioner. In the said motor vehicular accident, the petitioner sustained injuries. The injuries sustained by the petitioner has developed into the permanent disability.

The opponent No. 1 is the owner, the Opponent No. 2 is insurer; whereas the opponent No. 3 is driver of the offending S.T. bus. It is contended that the accident occurred due to rash and negligent driving of the offending S.T. bus. Therefore, the petitioner filed main petition under Section 166 of M.V. Act claiming compensation of Rs.4,00,000/- with interest from the opponents jointly and severally. In the main petition, the instant application claiming interim compensation is filed.

3. Opponent Nos. 1 and 2 marked their appearance and filed their written statement-cum-say at Exh. 19. All adverse contentions made in the petition are denied. It is denied that the driver of the offending S.T. bus was rash and negligent. The factum of permanent disablement of the petitioner is also denied. Ultimately, the opponents sought rejection of the application. On getting the notice, the opponent No. 3 marked his appearance but failed to file his written statement-cum-say. Hence, petition proceeded *without his written statement-cum-say* against him.

4. I have heard learned advocate Smt. A.A. Bhosale for the petitioner and the learned advocate Shri.B.D. Patil for the opponent No. 3. The learned advocate Shri. P.S. More for the Opponent Nos.1 and 2 is absent. Perused the record.

5. It is well settled that for considering application under Section 140 of M.V. Act, Tribunal has not to make detailed enquiry. It is only to be seen whether the motor vehicle in question was involved and whether there is proof of permanent disability. In the present case, the police papers on record show the involvement of the offending S.T. bus in the accident. Similarly, alongwith list Exh. 22, the permanent disability certificate is filed by the petitioner. Section 140(3) of M.V. Act itself lays down that the petitioner is not required to prove the fault of opponents in occurrence of the accident. The available material on record is found sufficient to grant interim

compensation under Section 140 of M.V. Act. Hence, I pass the following order.

**O R D E R**

1. Application Exh. 5 is allowed.
2. All opponents shall jointly and severally pay interim compensation of Rs.25,000/- (Rupees twenty five thousand only) to the petitioner as per Section 140 of M.V.Act, 1988 under "No Fault Liability" within one month from the date of order, failing which amount shall carry interest @7% p.a. from the date of order till realisation of entire amount.
3. On realisation of compensation and after collecting deficit court fees, if any, from petitioner, the amount shall be paid to the petitioner by account payee cheque or by online transfer in her bank account by RTGS or NEFT as per rules.
4. There shall be no order as to costs.

**Kolhapur.**  
**Date : 19-10-2019**

**(P.S. Vithalani)**  
**Member, M.A.C.T.**  
**Kolhapur.**