



M.A.C. No.513/2018
(CNR No.MHK0010042812018)

ORDER BELOW EXH.5

1. Read the application. Perused say filed by opponent No.1 vide Exh.31 and say filed by the opponent No.2 & 3 vide Exh.27 & Exh.26. Heard Ld. Counsel of both parties.

2. On going through the record it reveals that the present application is moved by the applicant for seeking compensation of Rs.25,000/- as per section 140 of the Motor Vehicles Act under the head "No Fault Liability." It is submitted on behalf of the applicant that on 28-04-2018 at about 2-30 a.m. he along with his friend was travelling from Pune to Ahmednagar by Eirtiga car bearing No.MH-09/EK-9811. At that time the driver of the said Eirtiga car was driving the said car in moderate speed and from correct side of the road. When they reached on Pune-Nagar road in front of Hotel Tiranga, one TATA Truck bearing No.MH-12/FC-6460 came in high speed, rash & negligent manner from wrong side and dashed to their Eirtiga car, due to which the applicant sustained grievous injuries. It is further contended that at the time of accident the opponent No.1 was owner & the opponent No.3 was driver of the TATA Truck bearing No.MH-12/FC-6460 and the opponent No.2 was insurer of the said offending vehicle. Hence, the applicant has prayed for compensation of Rs.25,000/- under the head "No Fault liability" from the opponent No.1 to 3.

3. The opponent No.1 has resisted the application by way of filing his say vide Exh.31 and denied the nature of injuries and period of treatment. It is submitted that at the time of accident the driver of the Ertica car bearing No.MH-09/EK-9811 taken the excess passengers in his car and driving the said car in rash & negligent manner under the influence of alcohol, due to which he could not control his car and gave dash to the Truck bearing No.MH-12/FC-6460. It is further submitted that at the time of accident the opponent No.3, i.e. the driver of the said Truck was holding effective driving licence, therefore the liability of compensation be saddled on the opponent No.2 insurance company and prayed for rejection of the applicant.

4. The opponent No.2 insurance company has strongly objected the application by way of filing his say vide Exh.27. The opponent No.2 insurance company denied the place, date, time & occurrence of the alleged accident. On the contrary the insurance company admitted that the TATA truck bearing No.MH-12/FC-6460 was insured with it under the policy bearing No.35330031170100002523 for the period 19-08-2017 to 18-08-2018. It is further submitted that the driver of TATA truck bearing No.MH-12/FC-6460 was not holding an effective driving licence at the time of alleged accident and driving the said vehicle without permit & fitness, hence the opponent No.1 & 3 have committed breach of the terms & conditions of the policy. Therefore the opponent No.2 insurance company is not liable to pay the compensation to the applicant. Hence prayed for rejection of the application.

5. The opponent No.3 has resisted the application by way of filing his say vide Exh.26. The opponent No.3 denied the contentions made in the application and submitted that at the time of alleged accident the TATA truck bearing No.MH-12/FC-6460 was insured with the opponent No.2 insurance company and the opponent No.3 was holding an effective driving licence. Therefore the opponent No.2 insurance company be held liable to pay the compensation to the applicant. Hence prayed for rejection of the application.

6. Having regard to the arguments advanced by the Ld. Counsel of both parties and taking into consideration the relevant documents, it appears that, the applicant has filed on record the documents vide Exh.-6 viz. The F.I.R. lodged against the driver of the offending vehicle i.e. TATA truck bearing No.MH-12/FC-6460 dated 28-04-2018, the spot panchanama dated 28-04-2018, discharge summary of Surya Hospital, Pune dated 14-05-2018, discharge summary of Life Line Hospital, Kolhapur dated 30-05-2018, R.C. particulars & Insurance policy of the TATA truck bearing No.MH-12/FC-6460, Adhar card, PAN card & ration card of the applicant etc. Besides this the applicant has also produced on record the permanent disability certificate along with list Exh.30.

7. In the light of above circumstances and considering the relevant documents on record especially police papers & medical papers it prima-facie appears that due to vehicular accident the applicant Sandeep Sambhaji Chavan has sustained permanent disability. It is a matter of record that the TATA truck bearing No.MH-12/FC-6460 is owned by opponent No.1, driving by the opponent No.3 and insured with the opponent No.2 at the time of

accident. Therefore in view of attending circumstances of the case and considering the Section 140 of Motor Vehicles Act the applicant is entitled for interim compensation from opponent No.1 to 3. Accordingly in the interest of justice, I am inclined to allow the application and proceed to pass following order.

ORDER

- (1) The application is allowed.
- (2) Opponent No.1 to 3 are jointly and severally do pay Rs.25,000/- (Rs. Twenty Five Thousand Only) under No Fault Liability to the applicant, within a period of one month from the date of this order, failing which they would be liable to pay interest @ 7% per annum on the said amount from the date of this order till its realization by account payee cheque.

(Order dictated and pronounced in open court.)

Sd/-

(Dr. Anita Newase)

Member,

Motor Accident Claim Tribunal,
Kolhapur.

Date :- 02-02-2022