

**ORDER BELOW EXH.05 IN M.A.C.P. NO. 11 OF 2020****(Vijay VS. Satish & Others.)**

1. Claimants filed present application under Section 140 of the Motor Vehicles Act, claiming 'No Fault Liability' amount of Rs.50,000/- in death claim of Rambhau, father of claimant Nos.1 and 4 and husband of claimant No. 3.

2. The pleading of claimants reveal that on 12.04.2018 at about 08.00 p.m. deceased Rambhau while crossing the road by walking on Pune-Saswad Road, near Shani Mandir Road, Saswad one Truck bearing No. MH-11-AL-546 came from Pune side and proceeding towards Saswad, gave forceful dash to Rambhau. Due to which Rambhau fell down on the road and sustained grievous injuries. Traffic constable Rajaram Uttam Fadtare stopped the said truck. Concern police officer shifted Rambhau sontakke to Bhawana Hospital, Fulsungi, where doctor declared him as dead. The said vehicle was owned and driven by respondent No.1 and insured by respondent No. 2.

3. The respondent No. 1 failed to file his say and written statement.

4. Respondent No. 2 filed its written statement at Exh. 14 and denied the contents of claim petition. It

is contended that driver of the truck vehicle bearing No. MH-11-AL-0546 was not holding a valid and effective driving license at the time of accident and was not qualified for holding or obtaining such driving license and therefore contravened the provisions of M.V. Act and the rules framed thereunder and committed the breach of terms and conditions of the policy.

5. Perused pleadings and documents produced on record by the parties. Learned advocates for claimants and for respondent No. 2 advanced arguments as per rival pleadings of the parties.

6. Claimants have filed on record true copy of complaint on which Crime No. 1050 of 2018 is registered at Hadapsar Police Station, Dist. Pune. On the complaint, offence is registered under Section 279, 304-A, of I.P.C. and under Sec. 132(1)(C), 184, 119 and 177 of M.V.Act against the respondent No. 1 for the accident. Claimants have produced on record certified copies of complaint, Spot panchanama, inquest panchanama and P.M. Report. Accidental death of the deceased is admitted by learned advocates of both the parties.

7. The settled principle of law is that application filed under Section 140 of the Motor Vehicles Act is summary proceeding and it does not require a regular proceeding for adjudication of all the facts pleaded/alleged by the parties. The contents of F.I.R. and charge-sheet could be looked into at this stage only to see that the deceased died in vehicular accident. The above said

documents on record reveal that after the accident, crime of said accident is registered against respondent No.1 and it prima-facie prove that the accident is the result of rash and negligent driving of by respondent No.1.

8. The respondent No. 2 Insurance Company took defence that respondent No. 1 was not having valid and effective driving license to drive the vehicle involved in the accident on the date of accident. But, defence can be considered while deciding main claim petition and same could not be a ground to reject present application for no fault liability.

9. Thus, the documents produced on record by claimants reveal that claimants have fulfilled all the necessary conditions required for grant of interim compensation under Sec. 140 of Motor Vehicles Act. Hence, the application deserves to be allowed on the principles of 'No Fault Liability' against the respondent Nos.1 to 4. They are jointly and severally liable to pay the amount of 'No Fault Liability'. Hence, following order is passed.

Order

- 1) Application (Exh.5) is allowed.
- 2) The respondent Nos.1 and 2 jointly and severally, do pay compensation of Rs.50,000/- (Rupees fifty thousand only) towards no fault

liability to claimants within the period of one month from the date of this order, failing which it shall carry interest @ 9% per annum from the date of this application till realisation.

3) On deposit of N.F.L. amount, same be equally apportioned between the claimants.

4) Preliminary award be drawn accordingly.

(A.V. Gujarathi)

Date : 04.04.2022.

Ex-Officio Member, MACT, Latur
and District Judge-1, Latur.