



Order below Exh.5

1) The present application is filed under Section 140 of the Motor Vehicle Act, 1988 claiming interim compensation of Rs.50,000/- on account of death of deceased Sudhakar Puri caused in vehicular accident.

2) It is alleged that on 15-12-2020 deceased Sudhakar Puri and one Nitin Suresh Puri were proceeding by their Motorcycle bearing registration No.MH-24-BH-4339 from Latur towards Mushirabad. It is alleged that Nitin was driving the motorcycle and deceased was pillion rider. It is alleged that when they were crossing from the road in front of Diamond Hotel at Latur-Babhalgaon road, one Tractor with two trolleys coming from backside and driven by its driver in rash and negligent manner dashed forcefully to the Motorcycle driven by Nitin Puri. It is alleged that due to said accident both the rider and pillion rider have sustained injuries. They were taken to Hospital but during treatment Sudhakar who was pillion rider died. It is alleged that cousin brother of deceased filed complaint to Police Station Latur (R) in this regard and accordingly, crime No.220/2020, under Section 279, 304-A, 337 of the IPC was registered against the driver of Tractor. It is alleged that respondent No.1 was driving the Tractor owned by respondent No.2 insured with respondent No.3 alleging that the deceased died due to accident caused on

account of rash and negligent driving of respondent No.2, they claim interim compensation from all the respondents.

3) Application is objected by respondent No.3 by filing its reply below Exh.21. Respondent No.2 also contested the application of filing reply below Exh.16. Matter is proceeded ex-parte against respondent No.1. Respondent No.2 denied the negligency on the part of the respondent No.1 and alleged that accident occurred due to own negligency of rider of motorcycle. He further submitted that his vehicle is insured with respondent No.3 and the policy is in force and thus prayed to reject the application against him.

4) Respondent No.3 contested the application submitting that the driver of Tractor was not holding valid and effective driving license. He was also not having the license to drive the Tractor with trailer and thus, it is alleged that the respondent No.2 has committed the breach of terms and condition of the policy. It is further submitted in alternative that the accident has not occurred due to sole negligency of respondent No.1 and both are responsible for the accident. This respondent has admitted the policy but submitted that for breach of terms of condition of policy the insurance company is not responsible and thus prayed to reject the application.

5) Heard both the sides.

6) The learned Advocate for applicant submitted the application and relied upon the documents filed by him. He has filed on record the copy of FIR and copy of spot panchanama. It appears that crime is registered against driver of offending vehicle. He has also filed the copy of spot panchanama. It appears therefrom that on the spot of incident both the vehicles involved in the accident were lying, the motorcycle was lying near the second trolley of the Tractor. It thus prima facie appears that the accident as alleged had occurred. The claimants have also filed on record the copy of inquest panchnama and P.M. Report. The deceased died due to multiple injures certainly caused due to incident. Claimants have also filed on record the copy of insurance policy of Tractor as well as Trolley. It appears that the offending vehicle is registered with respondent No.3.

7) Since the respondent No.1 who was driving the offending vehicle has not appeared in the said matter and as he is the only person who can deny the allegations of claimants has not contested the application. The offending vehicle and trolley is admittedly insured with respondent. Whether accident occurred due to contributory negligency of both the drivers and whether either of them is responsible is question of fact which can not be considered at this stage of proceeding. Registration of crime and filing of charge-sheet against respondent No.1 prima facie shows that he was driving his vehicle negligently and caused the

death of deceased. The offending vehicle is insured and as such all the respondents are liable to pay compensation under Section 140 of the M.V. Act. Application thus deserves to be allowed and hence order.

**ORDER**

1. Application is hereby allowed.
2. The respondent Nos.1 to 3 shall jointly and severally pay an amount of Rs.50,000/- (Rupees Fifty Thousand only) to claimant Nos.1 to 3 within one month from today, failing which, it shall carry interest @ 9% per annum.
3. The claimants to furnish the details of their bank account.
4. The respondent Nos.1 to 3 are directed to deposit the amount in the bank account of M.A.C. Tribunal at Latur.
5. Preliminary award be drawn accordingly.
6. Parties to note.

(Pronounced in the open Court.)

Date :- 29/08/2023.

( K. S. Totla )  
Ex-Officio Member,  
Motor Accident Claims Tribunal,  
Latur.