



CNR:MHLA01-000736-2022.  
M. A. C. P. No.36/2022.  
Shoheb Versus Adinath.

**ORDER BELOW EXH.5.**

1. This an application filed under Section 140 of the Motor Vehicles Act, 1988, for interim compensation under 'No fault liability' due to injuries to claimant.

2. It is the contention of claimant that on 12.10.2021 at about 11.20 am, claimant was riding on his motorcycle and was proceeding from his house to his shop. When he reached in front of Hotel Chhotumiya, at that time, one car bearing registration No.MH-09/EK-3900 stopped on the middle of the road by respondent No.1 and he suddenly opened right side front door of car without noticing incoming and outgoing vehicles from the road. Due to such sudden act by respondent No.1, claimant, who was coming from backside of the car, dashed to the open door of the car and fell down on the road and due to which he sustained fracture injury to his left leg i.e. tibia and also injury to his shoulder and hand. The parking lights of said car were not on at the relevant time. Thus, said accident took place only because of negligence and careless act of respondent No.1.

3. Respondent No.1 and 2 filed their W.S. at Exh.22 and denied entire contents of the petition and the application at Exh.5. It is specifically mentioned that claimant has not made party to the owner and insurance company of motorcycle bearing registration No.MH-24/S-6871. The Innova car mentioned in the

petition is not involved in the said accident. Claimant has not disclosed name of owner of said motorcycle. He is the claimant who was negligent while driving his motorcycle. Claimant has driven motorcycle without following traffic rules, without wearing helmet and he was in excessive speed, due to which he could not control his motorcycle and slipped on the road himself. The Innova car mentioned is not having any concern with the said accident at all. Therefore, petition and application is not tenable, hence deserves to be rejected.

4. Respondent No.3 filed their W.S. at Exh.11 and denied entire contents of the petition and the application at Exh.5. It is specifically mentioned that petition is not maintainable against respondent No.3. There is breach of terms of policy by respondent No.2. The injury certificate filed by claimant does not show any alleged history of accident. So, alleged accident is doubtful. Claimant did not possess valid licence to drive motorcycle and also did not wear helmet. So, respondent No.3 is not at all liable to pay any compensation.

5. It is argued on behalf of claimant that this is application for 'no fault liability' compensation. Therefore, it is required to be considered summarily. Advocate for claimant further reiterated the contents of application Exh.5.

6. It is argued on behalf of respondent No.1 and 2 that the said accident has not occurred due to the negligence of respondent No.1. The offending vehicle has been falsely involved. It is alleged falsely that on the day of incident

respondent No.1 parked Innova car in the middle of the road and suddenly opened the right side door of it, to which claimant gave dash and fallen down on the road and sustained injury. Thus, respondent No.1 is not having any concern with the accident. Therefore, the application is liable to be rejected.

7. It is argued on behalf of respondent No.3 that the alleged incident occurred on 12.10.2021 and on perusal of F.I.R. and spot-panchnama, it reveals that there is delay of 20 days in lodging F.I.R. Thus, the doubt creates about actual occurrence of incident. Therefore, application deserves to be rejected. Respondent No.3 is not liable to pay any compensation.

8. Section 140 (4) of the Motor Vehicles Act states that claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of injuries sustained in an accident. Thus, claimant in order to be entitled for compensation under Section 140 of the Motor Vehicles Act, are required to prima facie show that claimant sustained injuries on account of vehicular accident by offending vehicle.

9. On perusal of the documents, such as police papers and medical papers, prima facie it appears that said accident took place due to negligent and careless act of driver i.e. respondent No.1, of Innova car bearing registration No.MH-24/S-6871 by respondent No.1. The offending vehicle was owned by respondent No.2 and it was insured with respondent No.3.

10. Claimant relied on ruling in case of **Shivaji Dayanu Patil and another Vs. Vatschala Uttam More – in 1991 Mh.L.J. 61**, in which it is held that compensation also extends to the cases where death or disablement approximate or immediate but nonetheless arose out of use of a motor vehicle.

- In the present case, the accident has not occurred due to negligent driving of offending vehicle. However, it has occurred due to negligent act of respondent No.1. Thus, above ruling is in support of contention of claimant.

11. The proceeding under Section 140 of M.V. Act is summary in nature and interim liability based on principles of 'N.F.L.' can be fastened on the vehicle involved in the accident. The claimant has fulfilled the requisite conditions for grant of interim compensation. Hence, I proceed to pass following order :-

### **ORDER**

1. Application vide Exh.5 for interim compensation under 'No fault liability' under Section 140 of M.V. Act is hereby allowed.
2. The respondent Nos.1 to 3, jointly and severally, shall pay interim compensation of Rs.25,000/- (Rs. Twenty-five thousand only) to the claimant, within the period of one month from the date of this order, failing which it shall carry the interest @ 6% per annum from the date of filing of this application till its realization.
3. An interim award be drawn-up accordingly.

**Date : 21.03.2023.**

**( Smt. R.M. Kadam )  
District Judge-5 & Ex-officio  
Member of M.A.C.T.,Latur.**

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**CERTIFICATE**

I affirm that the contents of this Judgment/Order are same, word to word as per the original Judgment/Order.

Name of the Stenographer	:	V.S. Patil
Name of the Court	:	R.M. Kadam, District Judge-5 & Assistant Sessions Judge, Latur
Judgment/order dictated, declared and typed on	:	21.03.2023.
Judgment/order signed by P.O. on	:	21.03.2023.
Judgment/order uploaded on	:	21.03.2023.

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