

ORDER BELOW EXH.5

1. Advocate of the claimant has filed application for compensation amount of Rs.25,000/- under the no fault liability with interest at the rate of 12% p.a. Say of the respondent is called for. He has given his say at Exh.13.

2. Heard both the Learned Counsels. It is the contention of Advocate of claimant that on 08/07/2015 the claimant and her husband were going from Latur to Alandi by walking from Latur-Barshi road. The accident occurred on 08/07/2015 at about 6-45 p.m. on Latur-Barshi road near half kilometer of 12 pati in front of Ajinkya Tarathe hotel chowk on the west side of 50 feet road. When the claimant and her husband were walking from Latur-Barshi road the respondent came on motorcycle bearing No.MH-24/AH-5071 from behind at a very high speed, in a rash and negligent manner and gave forceful dash to the claimant. She fell on the ground and sustained injuries. She was taken to the Civil Hospital as O.P.D. patient and Gajanan Hospital at Latur. C.R. No.163/2015 was registered under Section 279 & 337 of the I.P.C. against the driver of motorcycle. Respondent is the driver cum owner of said motorcycle. The claimant has, therefore, claimed compensation amount of Rs.25,000/- under no fault liability from him.

3. It is the contention of Advocate of respondent that the accident did not occur due to fault or negligence of the respondent. He has prayed for rejection of the application.

4. In *Himachal Road Transport Corporation v. Garji Devi (1993) 2 Acc.C.C.652 (Him. Pra.) (D.B.)*, wherein it was held that before an order is passed under S. 140, the Tribunal must, on the basis of material on record, *prima facie* satisfy itself that : (i) the accident arose out of a motor

vehicle; (ii) which resulted in permanent disablement or death of a person; (iii) and the claim is made against the owner and the insurer of the motor vehicle involved in accident. In view of above case law for deciding compensation under no fault liability negligence on part of respondent is not required to be seen.

5. Upon perusal of F.I.R. at Exh.4/1 and spot panchnama at Exh.4/3 it is seen that the claimant prima-facie sustained grievous injuries leading to permanent disability in the accident involving motorcycle bearing No.MH-24/AH-5071. Upon perusal of medico legal certificate at Exh.4/4 and disability certificate at Exh.4/5 it prima-facie appears that the claimant sustained permanent disability due to the grievous injuries. Upon perusal of R.C. book at Exh.4/8 it is seen that the respondent is owner of said motorcycle. It is settled legal position that at the time of deciding no fault liability application only involvement of the vehicle in the accident is required to be seen. Negligence or fault is not required to be seen while deciding NFL applications. Thus, on the basis of above mentioned documents the respondent is liable to pay compensation amount of Rs.25,000/- to claimant. Interest claimed at the rate of 12% p.a. is found to be excessive and it is reduced to 9% p.a. Hence, the order-

ORDER

1. The application is allowed.
2. The respondent to pay compensation of Rs.25,000/- to Sumanbai w/o. Anurath Nagargoje by NEFT/RTGS within one month from today. In default said amount would incur interest at the rate of 9% p.a. till realization.
3. Preliminary award be drawn up accordingly.

Place : Latur
Date : 20/03/2019

(Dr. Gauri Kawdikar)
Adhoc DJ-2 and Ex-officio
Member of MACT, Latur.