

ORDER BELOW EX.2 IN MACP NO.1426 OF 2018

On account of death of Deepali in road traffic accident on 24.3.18 at about 3.20 at Marine Drive, Mumbai, due to rash and negligent driving of car No.MH-02-BP-4982 the legal heirs applied for interim compensation u/s.140 of the Motor Vehicles Act. The car was owned by opposite party and insured with insurance company on record.

The opponent failed to file reply. The insurer opposed the application by filing written statement at Ex.12. The company denied the involvement of the vehicle in the accident though it admitted its insurance.

Perused the documents. The offence appears to have been registered on the very day of incident on the complaint of one Yezdi-driver is the eyewitness who reported this incident. The FIR clearly disclosed that this deceased was dashed by a car bearing no.MH-02-BP-4982 violently. So, the prompt FIR established the involvement of the car in this accident. The P.M. report, inquest associate the death of the deceased in this accident. The insurance policy discloses the name of opposite party and the policy period covers the date of accident therefore both the insurer and insured are jointly and severally liable to pay the compensation. The learned counsel for the claimant who is present while dictating the order submitted that this amount be put to the share of claimant nos.1 and 2 only equally. The prayer is justified since to distribute this amount in four claimants would be impracticable. Hence the order,

ORDER

1. Application is allowed.

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2. The opposite party and insurer do pay jointly and severally interim compensation of Rs.50,000/- to the applicant within one month from today, failing which the interim compensation shall carry interest at 8% p.a. from the date of order till realisation.

3. If the amount is paid by the opposite party and insurer, the same be allotted to the share of claimant nos.1 and 2 only equally and they be paid through cross cheques on their due identification.

Dt.26-06-2019

(S.B.Hedao)
Member
MACT, MUMBAI