

MHND010009592020



Order below Exh.5 in M.A.C.P. No. 98/2020
Jaipalsingh V/s Muktarsingh and another.

This is an application filed by petitioner under section 140 of the Motor Vehicles Act for grant of compensation amount of Rs. 25,000/- under 'No Fault Liability' .

2- It is contended, on 12/04/2019 petitioner alongwith his companion-Ranjeetsingh was proceeding towards Matoshri College, Khupsarwadi, Vishnupuri from Nanded by motorbike bearing No. MH-26/AY-3962. It is contended, petitioner was riding the motorbike in moderate speed and when he crossed Hotel Manju on Nanded-Big Bazar road at that time, driver of truck bearing No. CG-04/JA-5866 proceeded in the same direction, was driving said truck in rash and negligent manner, without any care and caution so also without indication or signal suddenly stopped truck on road. It is contended, due to sudden stoppage of truck, the motorbike which was running behind the said truck ultimately colluded with the said truck from back side which resulted into causing grievous injuries to petitioner and his companion.

3- It is further contended, concerned hospital informed to police about accident and accordingly, police of Police Station Nanded Gramin visited the injured petitioner on 19/4/2019 and recorded his statement. In the police station crime No. 181/2019 u/secs. 279, 337, 338 of the I.P.C. was registered. It is contended due to rash, negligent driving of driver of truck, accident occurred. Respondent No.1 is owner of the truck and

respondent No.2 is Insurance Company with which the said truck was insured. Therefore, both respondents are jointly and severally liable to pay compensation to the petitioner. Hence this application.

4- Respondent No.1 though duly served with summons, he failed to appear hence petition proceeded ex-parte against him as per order below Exh.1 dated 3/2/2022 .

5- Respondent No.2 appeared and filed its Written Statement at **Exh.13** and resisted the application. Respondent No.2 also filed adoption pursis below Exh.14 . According to respondent No.2, said vehicle was covered at the material time under the policy of insurance subject to terms and conditions

6- Heard Learned Advocate Shri. Kamthekar for the petitioner and Shri. A.G. Kadam, Advocate for respondent No.2 at length. I have gone through the papers filed on record alongwith list Exh.4.

7- On perusal of police papers vide Exh.4, it appears that, the FIR was lodged against the driver of truck. A perusal of spot panchnama shows that, accident occurred due to rash and negligent driving on the part of truck driver. It also seems from Medico Legal (Injury) Certificate that, petitioner sustained four grievous injuries and one simple injury. Petitioner has filed Permanent Disability Certificate on record, which shows 35% permanent disability sustained to the petitioner. Respondent has not raised objection about occurrence of accident, on the contrary, accident in question is not in dispute. At this stage, it is not necessary to decide who was at fault? Prima facie, the police papers show that, the driver of offending truck drove truck in rash and negligent manner and in said accident, petitioner sustained injuries. There is involvement of

offending truck in the said accident.

8- Considering the scope of section 140 of M.V.Act, at this stage, it is only to be considered that, the driver of offending truck bearing No. CG-04/JA-5866 drove his truck in rash and negligent manner and due to it, accident occurred and petitioner sustained injuries. Respondent No.1 being owner of the truck and respondent No.2 is Insurance Company with which the said truck was insured at the time of accident. Hence, both respondents are jointly and severally liable to pay compensation to the petitioner. Considering the contentions in the application and scope of section 140 of M.V.Act, it is proper to pass the following order.

ORDER

- 1- Application is allowed.
- 2- Respondent Nos. 1 and 2 jointly and severally do pay an amount of Rs. 25,000/- (Rupees Twenty Five Thousand) only by account payee cheque as compensation under section 140 of the Motor Vehicles Act to the petitioner within two months from the date of this order.
- 3- In the event, if respondent Nos. 1 and 2 failed to pay compensation, the petitioner is entitled to recover the same amount alongwith interest @ 9% p.a.

Date :- 17/02/2022

**(U.V.Indapure)
Ad-hoc District Judge-2 &
Ex-Officio Member of M.A.C.T.,
Nanded.**

CERTIFICATE

I affirm that the contents of this PDF order are same word to word as per the original order.

Name of the Stenographer	:- Sau. J.D.Kapre, Steno (Grade-I)
Court Name	:-Ad-hoc District Judge-2 & EOM of M.A.C.T., Nanded
Date of order	:- 17/2/2022
Order signed by the Presiding Officer On	:- 17/2/2022
Order uploaded on	:- 18/2/2022