

MHNG010029532019



BEFORE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL-1, NAGPUR
(Presided over by P. B. Naikwad)

M.A.C.P. No.425/2019

APPLICANTS : 1] Nikita D/o Ganesh Gaykawad
2] Harsh S/o Ganesh Gaykawad,
Both R/o Plot No.17, Pardi Punapur,
Nagpur.

- VERSUS -

NON APPLICANTS : 1] Mr. Shriram S/o Chhotelal Baghel,
R/o : GE Road, Tatibandha, Raipur
2] Reliance General Ins. Co. Ltd.
Through Branch Manager, Bajaj Nagar,
Nagpur
3] Ganesh Namdeo Gaykawad,
R/o : Nagpur.

Order Below Exh.5

(Passed on 19nd January, 2024)

Perused the application and the written statement and say filed by respondent No.2 vide Exh.14. Heard, both learned counsels. Non applicants No.1 and 3 proceeded ex-parte.

2] Applicants have filed the present application, as per provisions of section 140 of the Motor Vehicles Act, 1988, for interim compensation of Rs.50,000/-, on account of death of Anita Ganesh Gaykawad, in a vehicular accident.

3] Applicants have filed on record copy of Form AA, F.I.R., spot panchanama, inquest panchnama, postmortem report, insurance certificate etc. Respondent No.2 denied the contentions of applicants and

averred that, the vehicle bearing registration No.MH-49-AT-7528 was not insured with it.

4] Having regard to the submissions made by both learned counsels and after going through the say, so also police papers and the documents filed on record, I found that, accident took place due to vehicle i.e. Truck bearing registration No.MH-49-AT-7528 and the same was involved in the said accident and in the said accident death of Anita, had taken place. However, from insurance policy filed on record, it is clear that, the same is in respect of vehicle bearing registration No.CG-04-JAB-153 and not of the offending vehicle. Though it is mentioned in Form AA that the offending vehicle was insured with reliance insurance, still the copy of insurance filed on record shows contrary. Therefore, in view of specific denial by respondent No.2 and the policy filed on record, at this juncture no liability can be fasten upon insurer, for want of valid policy.

5] However, it is clear from the documents that, Anita died in a vehicular accident and Truck No.MH-49-AT-7528 was involved in it. Therefore, in view of the same, applicants are entitled for interim compensation, as per the provisions of Section 140 of the Motor Vehicles Act, from respondent No.1 only. Respondent No.3 though is husband of deceased, still from documents filed on record it is clear that, he is missing and his whereabouts are not known. Therefore, no interim compensation can be awarded to him. Moreover, at this stage, it cannot be seen as to who is at fault. Therefore, application needs to be allowed partly. Hence, in sequel, I pass the following order.

ORDER

- 1) Application is partly allowed.
- 2) Respondent/non applicant No.1 shall deposit the amount of Rs.50,000/- with Tribunal towards the claim of 'No Fault Liability', within

one month, from the date of this order by RTGS or NEFT. If respondent failed to deposit the said amount within stipulated period then he is liable to pay interest on the said amount @ 7.5% per annum till its final realization.

3) Out of the said amount Rs.25,000/- each be paid to applicant No.1 Nikita and applicant No.2 Harsh by RTGS or NEFT.

4] Pre-award be drawn up accordingly by giving account details of the Tribunal.

Application against respondent No.2 stands rejected.

Date : 19.01.2024

(P. B. Naikwad)
Member, M.A.C.T-1, Nagpur.

CERTIFICATE

I affirm that the contents of this P. D. F. file of order are word to word, as per original order.

(**Sau. S.R. Chaple**)
Stenographer (Grade-I)