

C.P NO.1033/2019
Nikhil ..Vs.. ACKO General Ins.

ORDER BELOW EXH.5.

(Passed on this 19th day of November, 2024)

This is an application for compensation in respect of injury sustained to petitioner resulted from the motor vehicular accident and, as per principle of “No Fault Liability” as it contemplate to Section 140 of the Motor Vehicles Act, 1988.

2. Perused written statement filed by respondent No.1 on record vide Exh.15. Insurance company denied the involvement of vehicle, income of petitioner and injuries sustained to him.

3. Petitioner in order to show prima facie case for entitlement of such compensation filed on record copies of some documents alongwith list Exh.4. On perusal of these documents and particularly copy of FIR, crime detail form, insurance policy and permit, it testifies that the petitioner sustained injury in an accident with Car registration No. MH-14-HG-4955 of respondent No.2.

4. For deciding the matter, the Tribunal must, on the basis of material on record *prima facie* satisfy itself for;- (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.

5. On perusal of the documents which came to be filed vide list Exh.4 by the petitioner it is prima facie seen that the said accident was caused due to fault of the driver of the offending vehicle. Accordingly Crime No. 0605/2019 u/Sec.279 and 337 of I.P.C. as well

as under section 184 of Motor Vehicles Act was registered at Police Station Saoner against driver of offending vehicle. Considering the police papers no doubt in respect of involvement of offending vehicle. There is no doubt that the petitioner has sustained injury. It is also prima facie seen that the respondent No.1 was the insurer of the vehicle of the respondent No.2. In addition to this, there is permanent disability certificate in prescribed form as required by the Act and came to be filed vide list Exh.22. At the outset of this certificate, it prima facie appears that Medical Authority, Nagpur issued permanent disability certificate and assessed 50% disability for Locomotor Disability to his left foot equinus deformity. In view of this and considering the scope of Section 140 of the Motor Vehicles Act, it prima facie appears that the petitioner is entitled for compensation under 'No Fault Liability'.

6. However, at this juncture, filed police papers clearly indicate about involvement of offending vehicle. In these circumstances, I do not find any substance in the objection raised by Insurance Company about offending vehicle was not involved in said accident.

7. Thus, the resultant effect of the discussion in para *supra*, the petitioner has prima facie shown that he sustained grievous injury which resulted in disability because of motor vehicular accident. Therefore, in my opinion, he is entitled to receive compensation from both the respondents under 'No Fault Liability' to the extent of Rs.25,000/-. Thus, the application needs to be allowed. Accordingly, I proceed to pass the following order.

ORDER

1. Application is allowed.

2. The petitioner is entitled for compensation of Rs.25,000/- (Rs.Twenty Five thousand only) under 'No Fault Liability'.
3. Both the respondents to deposit jointly and severally a sum of Rs.25,000/- (Rs.Twenty Five Thousand only) towards 'No Fault Liability' with Tribunal within one month from the date of this order, failing which interest at the rate of Rs.7.5% p.a. will be applied on said amount.
4. The aforesaid compensation amount be paid to petitioner.

Nagpur
Date: 19.11.2024

(Sajid A. Syed)
Member,
MACT-3, Nagpur.

C E R T I F I C A T E

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

Name of the Stenographer : G.A. Joshi (Grade-I)