

MHNG010103702022



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

M.A.C.P. No.938/2022

PETITIONER : Deepak Dyandev Kamble,
R/o : Flat No.581, Uday Nagar, Nagpur

- VERSUS -

RESPONDENTS : 1. Parag S/o Pralhad Potdar,
R/o : Plot No.28, Flat No.202, Sholwak
Residency, Pratap Nagar, Nagpur.
2. Mr. Eugene Alic Michael,
R/o : Zole Compound, behind Saraf Chamber,
Sadar, Nagpur.

Order Below Exh.5

(Passed on 3rd January, 2024)

Perused the application and the written statement and say filed by respondent No.1 vide Exh.17. Respondent No.2 proceeded ex-parte. Heard, both learned counsels.

2] Applicant has filed the present application, as per provisions of section 140 of the Motor Vehicles Act, 1988, for interim compensation on account of the injuries sustained by him in vehicular accident.

3] Applicant has filed on record the copy of Form AA, F.I.R., spot panchanama, copy of chargesheet, copy of accident report, Medico Legal Certificate, discharge card, insurance, disability certificate and other documents. Respondent No.1/driver by his say and w.s. Exh.17, has opposed the said application. Learned counsel submitted that, application is not tenable as came to be filed after amendment of M.V.

Act and the same is barred by limitation. No prayer for interim compensation is made. Hence, application be rejected.

4] Whereas, learned counsel for petitioner submitted that, accident took place on 01.03.2022 i.e. prior to commencement of the amended provisions of M.V. Act, therefore application is tenable and claim is not barred by limitation. As petitioner sustained permanent disablement in a vehicular accident, therefore in view of disability certificate filed on record, application be allowed.

5] Having regard to the submissions made and considering the documents on record, it is clear that, applicant Deepak Dyandev Kamble met with an accident and sustained permanent disablement. The disability certificate filed on record prima facie disclosed that, in the said vehicular accident, applicant sustained permanent disablement to the extent of 25%.

6] It is also clear from record that, accident took place prior to commencement of new provisions of M.V. Act. Therefore, present application is governed by the old provision and therefore is tenable. Therefore, considering the documents on record and the submissions made, applicant is entitled for interim compensation, as per the provisions of Section 140 of the Motor Vehicles Act and at this stage, it cannot be seen as to who is at fault. It is also clear that, the offending vehicle was involved in the said accident, and the same was not insured. Therefore, respondents being driver and owner of the offending vehicle, are jointly and severally liable to pay interim compensation to applicant. Hence, I pass the following order.

ORDER

1) Application is allowed.

- 2) Respondents shall jointly and severally deposit the amount of Rs.25,000/- with Tribunal towards the claim of 'No Fault Liability', within one month from the date of this order.
- 3) If respondents failed to deposit the said amount, within stipulated period, then applicant is entitled to recover the same along with simple interest @ 6% per annum, from the date of order, till its realization.
- 4) Applicant is entitled to withdraw Rs.25,000/- deposited by respondents with Tribunal.
- 5) Respondents shall deposit the said amount with Tribunal by RTGS or NEFT.
- 6] Pre-award be drawn up accordingly by giving account details of the Tribunal.

Date : 03.01.2024

(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)