

**MHPA100000712022**



**ORDER BELOW EXH. 5. IN M.A.C.P. NO.3/2022  
CNR No.MHPA100000712022**

**Arushi d/o Motiram Divate + 2**

**.. Claimants.**

**Vs.**

**Motiram s/o Baburao Divate + 1**

**.. Respondents.**

1. Perused the application and heard learned Advocate Shri. G.M.Bobade for claimant and learned Advocate Shri A.G.Vyas for the respondent No.2.
2. This is an application filed by the claimant under section 140 of the Motor Vehicles Act for grant of interim compensation of Rs.50,000/- on the basis of No Fault Liability, in respect of death of deceased Bhagyashri w/o Motiram Divate caused in vehicular accident occurred on dated 16.08.2021.
3. It is the case of claimant that on 16.08.2021 at about 4.30 p.m. maternal uncle of informant, as rider, was proceeding on motorcycle of informant bearing registration No. MH-22-AC-5750 (hereinafter referred as alleged offending vehicle) along with deceased Bhagyashri and her children as pillion riders, on Palam – Gangakhed road, when they reached near Mardasgaon, that time one dog came across the said motorcycle, so he applied breaks, due to which the deceased and others fell down on the road and sustained multiple grievous injuries. However, the deceased sustained serious injuries, so she was shifted to Civil Hospital Ambajogai and from there to Ashwini

Hospital, Latur and again from there to Civil Hospital, Ambejogai. The deceased died on 03.09.2021 at about 6.30 a.m. in Civil Hospital Ambejogai during treatment.

4. On report of said accident by husband of the deceased on 11.09.2021, crime came to be registered with Gangakhed police station vide Crime No.119/2021 under Sections 304-A of IPC against motorcycle rider, who is maternal uncle of informant.

5. The respondent No.1 is owner while respondent No.2 is insurer of alleged offending vehicle. It is submitted on behalf of claimants that it is not necessary to go in detail about the accident while deciding application under section 140 of the Motor Vehicles Act. Prima facie, only involvement of vehicle is to be seen in the accident., which is proved by FIR and spot panchanama dated 11.09.2021. Hence, it is submitted that respondents be directed to pay interim compensation.

6. Respondent Nos.1 appeared but failed to file say & written statement, hence, matter proceeded without say and W.S.. Respondent No. 2 appeared and filed their written statement/say, vide Exh. 15, to the application with strong objection. Respondent No.2, specifically, pressed on the point of fake involvement of alleged offending vehicle in the accident, as there is delay of 26 days in lodging report without explanation. Accident occurred on 16.08.2021, while the deceased died on 03.09.2021, however, report of accident was lodged on 11.09.2021 with police station. Spot panchanama dated 11.09.2021, inquest panchanama dated 03.09.2021 and post-mortem report dated 03.09.2021 of the deceased shows that fake involvement of alleged offending vehicle. Hence, respondent No.2 has prayed to reject the application.

7. Perused the record. Inquest panchanama and post mortem report reveals that it is prepared on 03.09.2021, however, there is no mentioned about accident. Moreover, accident has occurred on 16.08.2021, while FIR came to be lodged on 11.09.2021 and spot panchanama came to be prepared on 11.09.2021, though rider was maternal uncle of informant, who was riding motorcycle of informant. Thus, there is delay of 26 days, for which detail inquiry is necessary.

8. It is true that while considering application under Section 140 of the Motor Vehicle Act, it is not necessary to conduct regular proceeding to establish all the alleged facts. Under such circumstances, before passing any order against the respondents, it is very essential to make the inquiry so far as involvement of the alleged offending motorcycle is concerned. Thus, in view of the reasons mentioned above, at this juncture, this Tribunal is of the opinion that inquiry is needed and the present application is required to be adjudicated along with main claim application. Hence, this Tribunal proceed to pass following order.

### **ORDER**

Application [Exh.5] filed under Section 140 of the Motor Vehicles Act will be taken into - consideration along with main claim petition.

Dated : 18.01.2023.

( **S.G. Inamdar** )  
Member, M.A.C.Tribunal,  
Gangakhed, Dist.Parbhani.