

MHPA100001692018



**ORDER BELOW EXH. 5. IN M.A.C.P. NO.17/2018
CNR No.MHPA100001692018**

Seema w/o Ganesh Chavan +4

.. Claimants.

Vs.

Bombay Gujrath Road Lines +1

.. Respondents.

1. Perused the application, written statement vide Exh.18 of respondent No.3 mother & respondent No.4 father of deceased, so also written statement vide Exh.19 filed by the respondent No.2.
2. Perused the application and heard learned Advocate Shri. G.M. Bobade for claimants, learned Advocate Shri R.R.Gaikwad for the respondent No.3 & 4 and learned Advocate Shri A.D.Girgaonkar for the respondent No.2.
3. This is an application filed by the claimants 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 Ganesh s/o Shivaji Chavan caused in vehicular accident occurred on dated 26.01.2018.
4. It is the case of claimants that on 26.01.2018 at about 7.45 a.m., when deceased Ganesh, who was driving truck bearing registration No.MWY6039 and proceeding towards Shirur Tajband from Ahmadpur. When said truck reached near Thorlewadi Phata on Ahmadpur to Shirur Tajband road, that time driver of the container

bearing registration No.MH-18-BG-0579 (hereinafter referred as alleged offending vehicle) gave dash to the said vehicle in high speed, in rash and negligent manner, without following traffic rules, due to which driver of said truck sustained grievous injury and died on the spot.

5. On report of accident, crime came to be registered with Ahamadpur police station Tq.Ahamadpur Dist.Latur vide Crime No.38/2018 under Sections 279, 337, 338, 304-A of the IPC.

6. 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, spot panchanama dated 27.01.2018, inquest panchanama and post mortem report. Hence, it is submitted that respondent Nos.1 & 2 be directed to pay interim compensation.

7. Respondent Nos.1 appeared but failed to file written statement. Respondent No.2 appeared and filed his written statement/say, vide Exh.19 with strong objection. Respondent No.2, specifically, pressed on the point of fake involvement of alleged offending vehicle in the accident. According to it, there is delay to lodge FIR. Driver of the offending vehicle was not holding valid and effective driving licence at the relevant time of accident, hence, there is breach at the hands of respondent No.1. The involvement of offending vehicle is strongly challenged. Thus, it is submitted that no such liability can be fastened on the respondent Nos.1 & 2.

8. Perused the record. FIR shows that alleged accident

occurred on 26.01.2018 while report is lodged on next day. Spot panchnama, inquest panchnama, postmortem report reveals involvement of offending vehicle in the accident. At this stage, only involvement is to be seen while granting interim compensation based on No Fault Liability. Record shows that offending vehicle is involved in the accident. There is no delay to lodge FIR after occurrence of accident. Under such circumstances, it can be safely said that offending vehicle is involved in the accident. Claimants being wife, daughters and sons of the deceased, while respondent No.3 & 4 are parents of deceased, hence, are entitled to claim compensation. Hence, in view of above discussion, this Tribunal proceed to pass following order :

O R D E R

1. Application is allowed.
2. Respondent Nos.1 and 2 are jointly and severally liable to pay amount of Rs.50,000/- (Rs. Fifty thousand only) to claimants within one month from the date of this order, failing which the amount shall carry interest @ 8% per annum from the date of this order till its realization.
3. On depositing said amount, office to disburse said amount of compensation as under :
 - a) Out of said compensation amount, amount of Rs.5,000/- (Rs.Five Thousand Only) each be deposited in names of minor claimants Nos.2 to 5 till they attain the age of majority under guardianship of their mother claimant No.1 in any Nationalized Bank in the beneficial scheme with liberty to claimant No.1 to receive quarterly interest there upon till its maturity period;

b) Amount of Rs.5,000/- each be paid to respondent Nos.(3) Jijabai w/o Shivaji Chavan & (4) Shivaji s/o Umaji Chavan by issuing account payee cheque in their name;

c) Remaining amount of compensation Rs.20,000/- (Rs.Twenty Thousand) only, along with interest, be paid to claimant No.1 Seema w/o Ganesh Chavan by issuing account payee cheque in her name, after recovery of deficit court fees, if any.

Dated : 07.12.2022.

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