

**ORDER BELOW EXH. 5. IN M.A.C.P. NO.16/2019
CNR No.MHPA100002122019**

Narayan s/o Gyanoji Lande

.. Claimant

Vs.

Santosh s/o Vijay Varma+1

.. Respondents

1. Perused the application, written statement vide Exh.14 filed by the respondent No.2.
2. Heard learned respective Advocates for both the parties.
3. This is an application filed by the claimant under section 140 of the Motor Vehicles Act for grant of interim compensation of Rs.25,000/- on the basis of No Fault Liability, in respect of injury sustained to applicant in vehicular accident occurred on dated 28.03.2018.
4. It is the case of claimant that on 28.03.2018 at about 4.15 a.m. the claimant along with other person were travelling in tempo bearing registration No.MH-24-A-2344, for Darshan of Goddess Mahakali at Chandrapur, when they reached near Hindustan Dhaba, Mohada Dist. Yewatmal on Yewatmal to Chandrapur road that time, Truck bearing registration Mo.MH-34-AB-9949 (hereafter referred as offending vehicle) loaded with coal came from wrong side in rash and negligent manner, gave dash to the tempo bearing registration No.MH-24-A-2344, due to which claimant and other persons sustained grievous head injuries and to other parts of body.
5. On report of companion of claimant, crime came to be registered vide Crime No.248/2018 under sections 304(A), 279, 337, 338 of I.P.C. and section 135 of the Motor Vehicle Act against the driver of offending vehicle with Pandharkavada police station Dist.Yeovatmal,

on 28.03.2018.

6. The claimant has contended that he has sustained 25% permanent disability in the said accident. The alleged offending vehicle is belonging to respondent No.1 and offending vehicle is insured with respondent No.2. Thus, it is submitted that respondents be directed to pay interim compensation.

7. In spite of service of notice, respondent No.1 failed to appear before the Tribunal, therefore, application proceed ex-parte against him.

8. Respondent No.2 has resisted the claim petition by filing say vide Exh.14. According to it, there is delay to lodge FIR. The driver of the offending vehicle, was not having valid driving license at the time of accident and driven the vehicle in rash and negligent manner and is responsible for the accident. Thus, he committed breach of policy condition of insurance. The involvement of offending vehicle is strongly challenged. Thus, it is submitted that no such liability can be fastened upon the respondent No.2.

9. Perused the record. FIR shows that alleged accident occurred on 28.03.2018 at 3.00 hours, while report came to be lodged with Police Station Pandharkavada on 28.03.2018 at 12. 35 hours. Spot panchnama came to be prepared on 28.03.2018. Thus, it reveals that offending vehicle is involved 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. 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.25,000/- (Rs. Twenty Five Thousand only) to the claimant 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 deposit of said amount, office to disburse said amount to claimant by issuing account payee cheque in her name of any Nationalized Bank, after recovery of deficit court fees, if any.

Dated : 13.08.2021.

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