

ORDER BELOW EXH. 5. IN M.A.C.P. NO.29/2018
CNR No.MHPA100002572018

Krushna Ram Rathod,

.. Claimant

Vs.

Sunita Ambaji Phad

.. Respondent

1. Perused the application and heard learned Advocate Shri. G.S. Niras for claimant and learned Advocate Shri B.S. Mundhe for respondent.

2. 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 injuries resulting in permanent disability to claimant caused in vehicular accident occurred on dated 29.04.2017.

3. It is the case of claimant that on 29.04.2017 at about 09.30 p.m., claimant as rider and his friend Sunil Jadhav as pillion rider, were proceeding from his hotel Tulja Bhavani towards Gangakhed via Palam-Gangakhed road on their motor cycle. When they reached near Datta Mandir, that time Tata Sumo bearing registration NO.MH.24-V-5397 (hereinafter referred as alleged offending vehicle) came from front side with high speed, in rash and negligent manner and gave dash to the their motor cycle, due to which claimant sustained fracture injuries to right great toe, right thigh, back and injuries to other parts of body while his

friend sustained multiple grievous and fracture injuries.

4. Immediately after accident, the claimant and his friend were shifted to Sub District Hospital, Gangakhed. However, on 30.04.2017 claimant was shifted to Shriniwas Orthopedic Nursing Home at Nanded. Accordingly, he underwent operation and treatment there for which he has to incur expenses of Rs.50,000/-.

5. When claimant's friend Sunil Shinde was under treatment with Shriniwas Orthopedic Nursing Home, Nanded, that time, police recorded his statement and accordingly, Crime came to be registered with Gangakhed police station vide C.R.No.206/2017 under Sections 279, 337 and 338 of the IPC. After due investigation, charge-sheet came to be filed against the driver of alleged offending vehicle.

6. The respondent is owner of the alleged offending vehicle at the relevant time of accident. It is submitted on behalf of claimant 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. Hence, it is submitted that respondent be directed to pay interim compensation.

7. Respondent appeared and filed her written statement/say vide Exh.10 to the claim petition with strong objection. Respondent denied all contentions of claim petition in toto with specific denial about involvement of said offending vehicle in the alleged accident. Hence, it is prayed to reject the interim application.

8. Perused the record and documents. It reveals from the record that the accident occurred on 29.04.2017 at about 09.30 p.m. and thereafter immediately claimant and his friend were taken to Sub District Hospital, Gangakhed and on 30.04.2017 they were shifted to Shrinivas Orthopedic Nursing Home, Nanded, where statement of his friend Sunil Jadhav came to be recorded by police on 05.05.2017. Accordingly, crime came to be registered vide C.R.No.206/2017 under sections 279, 337 and 338 of the I.P.C. with Gangakhed police station on 13.05.2017. However, Medico Legal Certificate issued by Sub District Hospital, Gangakhed where claimant was shifted immediately after accident do not reveal about Road Traffic Accident, so also it reveals that he was admitted in the said hospital by his relatives. It is pertinent to note that there is nothing on record to show that he was unconscious after the accident. So also, there is delay of seven days to lodge complaint about the accident.

9. It is true that while considering application under Section 140 of the M.V. Act, it is not necessary to conduct regular proceeding to

establish all the alleged facts. However, Medico Legal Certificate issued by Sub District Hospital, Gangakhed where claimant was shifted immediately after accident do not reveal about Road Traffic Accident, so also it reveals that he was admitted in the said hospital by his relatives. Moreover, complaint is lodged after delay of seven days though they were having opportunity to lodge complaint immediately after accident. Under such circumstances, before passing any order against the respondent, it is very essential to make the inquiry so far as involvement of the alleged offending vehicle is concerned. So also, permanent disability certificate Form Comp. "B " has not been filed by the claimant.

10. Thus, in view of above mentioned reasons, at this juncture, this Tribunal is of opinion that inquiry is needed and the present application is required to be adjudicated along with main claim petition. Hence, this Tribunal proceed to pass following order.

O R D E R

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

Dated :21.09.2019.

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

.. 5 .. Order below Exh.5 in M.A.C.P. No.29/2018
CNR No.MHPA10-0002572018