

**ORDER BELOW EXH. 5. IN M.A.C.P. NO.64/2018
CNR No.MHPA100006542018**

Pallavi w/o Datta @ Dattatray Zambare+2 .. Claimants

Vs.

Dnyanoba s/o Tulshiram Vaidhya+1 .. Respondents

1. Perused the application and heard learned Advocate Shri. G.M.Bobde 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 Datta @ Dattatray s/o Nagorao Zambre caused in vehicular accident occurred on dated 17.09.2018.

3. It is the case of claimant that on 17.09.2018 at about 6.00 p.m., when deceased Datta @ Dattatray as rider and his brother Ganesh Zambre as pillion rider, were returning from village Petpimpalgaon on their motorcycle bearing registration No. MH-23-AV-8885, that time, on Palam to Gangakhed road in Gopa Shivar, one motorcycle bearing registration No.MH-22-AC-3271 (hereinafter referred as alleged offending vehicle) came in high speed from opposite direction and gave dash to the motorcycle of the deceased. Due to said dash deceased sustained grievous injuries and his brother sustained simple injury.

4. Immediately after accident, the deceased was shifted to Civil Hospital, Gangakhed. However, due to grievous injuries, concerned medical officer, without giving treatment to the claimant, referred him to facilitated hospital. Thereafter the deceased was shifted

to SRTR Government Medical College Ambejogai. From there deceased was shifted to Government Hospital Ghati, Aurnagabad for better treatment, however the deceased died on 24.09.2018 during treatment.

5. On receiving accident report on 02.11.2018, crime came to be registered with Gangakhed police station vide Crime No.340/2018 under Sections 279, 337, 304A 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 and spot panchanama dated 02.11.2018. Hence, it is submitted that respondents be directed to pay interim compensation.

7. Respondent Nos.1 and 2 appeared and filed their written statement/say, vide Exh.18 & 13 respectively, 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 45 days in lodging report without explanation. Accident occurred on 17.09.2018, while the deceased died on 24.09.2018, however, report of accident was lodged on 02.11.2018 with police station. Inquest panchanama dated 24.09.2018 and post-mortem report dated 24.09.2018 of the deceased shows that deceased sustained grievous injuries due to fall from motorcycle and died. Hence, respondent has prayed to reject the application.

8. Perused the record. From the inquest panchanama dated 24.09.2018 it reveals that due to rain water motorcycle of the deceased got skid and he sustained grievous injuries, so also, post-mortem report

dated 24.09.2018 of the deceased also reveals that the deceased sustained injuries due to fall from motorcycle. Moreover, accident occurred on 17.09.2018 while FIR came to be lodged on 02.11.2018 and spot panchanama came to be prepared on 02.11.2018. Thus, there is delay of 45 days, for which detail inquiry is necessary.

9. 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

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 : 04.08.2021.

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