

M.A.C.P. NO. 80 of 2021
CNR No.MHST-010007972021

Ramkumar Madhumangal
Vs.
Suhas Dhondu Ghume & 1 other.

ORDER BELOW EXH.6 IN M.A.C.P. NO. 80 OF 2021
(Passed on : 01/04/2024)

This is an application by the legal representative of deceased Sau.Seema Ramkumar Kahar, under Section 140 of the Motor Vehicles Act, 1988 claiming compensation on the principle of 'no fault liability' on account of her accidental death dated 08/03/2020 arising out of use of TATA Nexon Car bearing registration No. MH-04-KD-8809.

2] Applicant No.1 is the husband of the deceased Sau.Seema Ramkumar.

3] Few relevant facts of the petition are that, on 08/03/2020 at about 12.00 p.m., the deceased was proceeding by walk to market in Medha on Kudal to Medha road by left side of the road. At that time, one TATA Nexon Car bearing No. MH-04-KD-8809 came from Kudal side with high speed and in a rash and negligent manner and gave forceful dash to the deceased Sau.Seema. Due to said dash, the deceased thrown on the road and sustained multiple injuries and succumbed to the injuries on the spot. Said car is owned by opponent no.1. Police registered FIR against driver of the car- Pankaj Ganesh Wadkar. The offending car is insured with opponent no.2

4] Opponent no.2 filed say and resisted the claim of the petitioner. It is contended that the at the relevant time driver of offending vehicle was driving his vehicle slowly, cautiously and by following all the

traffic rules and regulations, but the deceased himself while crossing the road rashly, negligently and suddenly came before the vehicle and dashed to vehicle. Therefore, the accident took place due to negligence on the part of the deceased. The claim under various heads are denied by the opponents.

5] Perused the FIR, printed FIR, spot panchanama, Inquest panchanama, Postmortem Report, detailed Accident Report. I have also perused the relevant papers of the offending vehicle.

6] Heard Learned Advocate for applicant.

7] It may be true that the FIR registered against the driver of the offending car. However, this can not be ground to refuse the claim, particularly the claim under Sec. 140 of Motor Vehicles Act. The criminal case and the inquiry into Motor Vehicles Act has to be decided on different yardstick.

8] Section 140 of the Motor Vehicles Act (in short “the Act”) lies in a very limited sphere. While deciding application U/s. 140 of the Act one has to ascertain;

- i) Whether accident has arisen out of the use of the motor vehicle;
- ii) Whether the said accident has resulted in permanent disablement of a person, who is making the claim, or death of person whose legal representatives are making the claim, and
- iii) Whether the claim is made against the owner and Insurer of the motor vehicle involved in the accident.

Once these factors are established, prima facie the claimant is entitled to succeed in application U/s. 140 of the Act.

9] In the present case, the documents available on record prima facie established the involvement of offending vehicle in the accident.

10] Bearing in mind, the aforesaid principles and the documents available on record, I find no difficulty to hold that the claimant is entitled for the compensation of Rs.50,000/- on 'No Fault' Liability' for the death of deceased Sau.Seema caused in the accident. Opponent No.1 being the owner of the offending car and Opponent No.2 being insurer of the offending car, they are liable to pay the aforesaid compensation to the applicant. Accordingly, I pass the following order.

ORDER

1)	Application (Exh.6) is allowed.
2)	Opponent Nos.1 and 2 shall jointly and severally pay a sum of Rs.50,000/- (Rs.Fifty Thousand Only) to the applicant on account of 'No Fault Liability', within one month from the date of the order, failing which, they shall pay interest on the said amount at the rate of 7% per annum from the date of order, till its realization.
3)	NFL amount be paid to the applicant by account payee cheque.
4)	The opponent Nos.1 and 2 are directed to deposit the amount of NFL in the Account of Chairman, Motor Accident Claim Tribunal, bearing Account No.40827526333 of State Bank of India having IFSC Code SBIN-0010713 maintained by this Tribunal in the State Bank of India Br. Collectorate, Satara.
5)	The applicant shall pay the requisite Court Fee, if any.
6)	Interim Award be drawn accordingly.

Satara
Dt. 01/04/2024

(D.L.Nikam)
Member,
Motor Accident Claims Tribunal,
Satara.