

**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIM
TRIBUNAL, YAVATMAL.**

M.A.C.P. No. 139/2019
Arushi + 1 ..vs.. Sk. Moosa + 4.
CNR NO.MHYA010018632019.

Order passed below Exh. 02
(Passed on 29th September 2022)

This is an application for seeking compensation on the principle of no fault liability under section 140 of the Motor Vehicle Act (hereinafter referred to as “The Act” for the sake of brevity).

2. The compendious contention of the minor applicants, who are represented by their maternal grandfather is that they are the legal representatives of the deceased Gajanan Kondbaji Navghare, who was their father. They have come with the case that on 8.12.2018 the deceased was traveling with his wife in Tata Magic bearing No. MH-29/T-8582 from Koparna to Chandrapur. At around 9.15 to 9.30 p.m. the Tata Magic was dashed by truck bearing No. MH-29/T-1683 because of which the Tata Magic got crushed and commuters therein got injured. The deceased is said to have succumbed to those injuries. Subsequently, claim petition was filed. Pending its decision this application is filed for relief laid *supra*.

3. Non-applicant Nos.1 and 2 have resisted the application vide reply Exh.19. All contentions are denied. It is submitted that in regard to the incident two claims have been

filed, which is not permissible since they arise on same cause of action. In alternative it is submitted that if any claim does arise it needs to be indemnified by N.A. No.3 – Insurance company.

4. N.A. No. 3 – Insurance company has resisted the application vide reply Exh.24. All allegations adverse to their interest are denied. Plea of driver of Tata Magic being negligent is taken. It is contended that for breach of condition of Insurance policy it cannot be mulcted with liability.

5. The matter has proceeded exparte against N.A. Nos.4 and 5, who inspite of being served by notice Exhs.15 and 16, choose not to appear.

6. Heard counsels of both sides. N.A. No.3 counsel argued that since two claim petitions have been filed for same incident the instant one is not tenable. The applicant counsel submitted fairly that as there exists dispute regarding guardianship of minors the interim application needs to be decided with the main petition.

7. It is pertinent to note that in the accident under consideration as per facts of the matter their demised Gajanan Kondbaji Navghare and his wife Alka @ Vanita Gajanan Navghare. In regard to compensation towards accidental death of Gajanan Kondbaji Navghare MACP No. 142/2019 is filed applicants of which include his parents and two minor children represented by their paternal grandmother. In regard to compensation towards accidental death of Alka @ Vanita Gajanan Navghare MACP No. 140/2019 is filed applicants of

which include her parents and two minor children represented by their maternal grandfather. MACP No. 143/2019 is filed by both minor children represented by their paternal grandmother for compensation towards accidental death of their mother Alka @ Vanita Gajanan Navghare. MACP No. 139/2019 is filed by both minor children represented by their maternal grandfather for compensation towards accidental death of their father Gajanan Kondbaji Navghare. In addition to above there is even filed MACP No. 141/2019 for seeking compensation towards permanent disablement caused to one of the minor i.e. Aditya Gajanan Navghare, who in that matter is represented by maternal grandfather.

8. All of the above matters are pending on the balance sheet of this Court and are being dealt with by undersigned whereby judicial notice of them can be taken. Going through the records it is perspicuous prima facie that there exists between the parties involved dispute regarding guardianship of minors. Or in any case they are not seen to be on the same page at least. Since the claimants involved in the matters include minors, benefit of compensation for whom is required to be managed by guardians (which is the disputed matrix here) there are overt chances that any amount disbursed at this stage in their favour might get involved in hassles of formal nature which might procrastinate their receiving benefit thereof. Hence, in view of the matrix laid above in opinion of this Court it will be in interest of minors that the interim relief is considered alongwith the main application after all rival

contentions of fact and law have been dealt with during trial. No prejudice will be caused to any since they will get a chance to contest the point during trial and also NFL is as per law included in the final compensation in any case. Hence, I ordain as follows.

ORDER

1. The application Exh.2 seeking interim compensation is rejected at this tier.
2. It is to be considered alongwith the main application after trial.

Place:Yavatmal
Date: 29.09.2022

(S.R.Sharma)
Member, M.A.C.T.
Yavatmal.