

(Presided over by P. B. Naikwad)

(CNR No.: MHYA080000572019)

- V E R S U S -

(Passed on 04th October 2022)

1] Perused the application and the written statement filed by non-applicant No. 2 vide Exh. 27 and non-applicant No. 3 Insurance Company vide Exh.22. Non-applicant No. 1 though appeared but failed to file his written statement/say therefore, matter proceeded

without his say, as per order dated 23/01/2022. Heard learned counsel for applicants. Nobody appeared on behalf of non-applicants, though sufficient opportunity was given.

2] Applicants have filed the present application as per provisions of Section 140 of the Motor Vehicles Act, 1988, for interim compensation of Rs.50,000/-, on account of death of Subhash Devrao Satpute, in a vehicular accident.

3] Applicants have filed on record the certified copy of F.I.R., spot panchanama, inquest panchanama, postmortem report, driving license of N.A.No. 1, tax receipt, fitness certificate, transport permit, registration certificate, copy of insurance cover and Aadhaar Card etc. Non-applicant No. 3 Insurance Company has denied that, the vehicle i.e Truck bearing registration No.MH-29/BE-0907 was insured with it on the day of accident. However, Insurer contended that, accident did not take place due to rash or negligent driving of the Truck driver. But, due to negligence of deceased himself. Therefore Insurer is not liable to pay compensation.

4] Whereas, non-applicant No. 2 contended that, the vehicle was duly insured with non-applicant No. 3. Therefore, Insurer is liable to pay compensation. Hence, application be rejected.

5] Having regard to the submissions made and after going through the say so also the documents filed on record, I found that, from F.I.R., spot panchanama and postmortem report, it is crystal clear that, Subhash i.e. husband, father and son of applicants respectively died in a vehicular accident. From the cover note filed on record, it is clear that, the insurance was valid for the period

10/04/2018 to 09/04/2019. The accident in question took place on 21/12/2018. Therefore, it is prima-facie clear that, the vehicle i.e. Truck bearing registration No. MH-29/BE-0907 was duly insured with respondent No. 3 on the date of accident.

6] Therefore, considering the documents on record and the submissions made, applicants are entitled for interim compensation as per the provisions of Section 140 of the Motor Vehicles Act and the opponents No. 1 to 3 are jointly and severally liable to pay the same, to applicants. Hence, I pass the following order.

ORDER

- 1) Application is allowed.
- 2) Non-applicants No. 1 to 3 shall jointly and severally deposit the amount of Rs.50,000/- with Tribunal towards the claim of 'No Fault Liability', within two month from the date of this order.
- 3) If the non-applicants failed to deposit the said amount, within the stipulated period, then applicants are entitled to recover the same alongwith simple interest @ 9% per annum, from the date of order, till its realization.
- 4) Applicant No.1 Smt. Varsha is entitled to receive amount of Rs.20,000/-, whereas applicant No.2 and 3 Ku. Khushbu and Smt. Tolsabai are entitled to get Rs.15,000/- each from the said amount. Non-applicants No.1 to 3 shall deposit said amount with Tribunal by R.T.G.S. or shall issue separate cheques, in the name of applicants, as awarded.
- 5) Pre-award be drawn up accordingly, by giving details of Bank account of the Tribunal.

Date : 04/10/2022

(P. B. Naikwad)
Member, M.A.C.T.,
Kelapur, Dist. Yavatmal.