

M. A. C. P. No.79/2016,
Atul -Vs- Nilesh+2.

O R D E R Below Exh.2

(Passed on 13th September 2019)

1] The application is to grant interim compensation under section 140 of the Motor Vehicle Act, 1988.

2] On 07-09-2016 at about 04:00 p.m., the applicant was proceeding towards Chinchamadal from Wani by the motorcycle being pillion rider. On the way, near Hanuman Temple at Wanjari Shivar, the non-applicant No.1 drove auto-rickshaw bearing registration No.MH-29-T/7751 in a rash and negligent manner and gave a violent dash to the abovesaid motorcycle resulted into grievance injury and fracture to the applicant and, thereby, caused permanent disablement.

3] On the basis of F.I.R., crime was registered against non-applicant No.1 for the offence punishable under sections 279, 337, 304-A of I.P.C. and subjected to investigation. The vehicle i.e. auto-rickshaw involved in the accident is owned by non-applicant No.2, which was insured by non-applicant No.3 Insurance Company. As per the applicant, there was no fault on his part while proceeding the motorcycle being pillion rider. Therefore, considering the injury caused in the accident prayed to grant interim compensation to which the non-applicants are liable to pay. Hence, this application.

4] The non-applicants No.1 and 2 filed written reply at Exh.19 and non-applicant No.3 filed written reply Exh.22. They have denied each and every adverse allegations. In special pleading, it is contended that, there was no fault on the part of non-applicant No.1.

On the contrary, the motorcycle rider without taking care gave violent dash to the auto-rickshaw of the non-applicant owner, therefore, not entitled to get compensation. As per the non-applicant insurance company there was no valid license to the auto-rickshaw driver at the time of incident. Hence, claim for rejection of application.

5] Heard the learned advocate for the parties. Perused the case record. In support of contention the applicant has produced copy of F.I.R., spot panchanama, registration certificate of auto-rickshaw, renewal receipt regarding renewal of driving license of N.A.No.1 and P.D.C. certificate.

6] On perusal of document, it transpired that the accident was occurred on the particular date, time and place as alleged by the applicant in the petition. The scope of enquiry in the application under section 140 of the Motor Vehicle Act is an extremely limited. One has to only ascertain as to whether i) the accident has arisen out of the use of the motor vehicle, ii) the said accident has resulted in a permanent disablement of the person who is making the claim and iii) the claim is made against the owner and insurer of motor vehicle involved in the accident. Once these three factors are established, prima-facie, the claimant is entitled to succeed in an application under section 140 of the Motor Vehicle Act.

7] In the case in hand, admittedly, the applicant met with an accident when he was proceeding by the motorcycle alongwith friend deceased Dinesh Surpam. The medical certificate issued by Dr. Saudagar, well reflected permanent disablement to the extent of 20%. The vehicle i.e. auto-rickshaw involved in the accident is owned by

non-applicant No.2 and driven by non-applicant No.1, who was possessing valid driving license at the time of accident.

8] In an enquiry under section 140 of the Motor Vehicle Act, it is not necessary to prove the negligent act on the part of driver of the vehicle. In such circumstances, when the applicant sustained grievous injury and became permanent disabled, he is entitled to get interim compensation of Rs.25,000/- from the non-applicants as the offending vehicle was involved in the said accident. Thus, I proceed to pass following order.

ORDER

- 1] The application is allowed.
- 2] The non-applicant Nos.1 to 3 jointly and severally do pay an amount of Rs.25,000/- (Rs. Twenty Five Thousand only) to the applicant towards no fault liability under section 140 of the Motor Vehicle Act, within two months.
- 3] Failing which the applicant shall be entitled for interest @ 9% per annum on the same amount from the date of application till its realization.
- 4] The amount of N.F.L. of Rs.25,000/- awarded to the applicant be paid to him by account payee cheque, drawn on nationalized Bank.

Dated : 13-09-2019.

(S. N. Rajurkar)
Member,
M.A.C.T., Kelapur.