

Before, Chairman Motor Accident Claims Tribunal, Nandurbar**M.A.C.P.No.01/2018**
(CNR No.MHNB01-000024-2017)

- 1] Vasant Shantya Gavit.
- 2] Rusita Vasant Gavit.
- 3] Sunil Vasant Gavit.
- 4] Sonali Vasant Gavit.

Petitioner No.1 for himself
and for minor petitioner No.2
as his legal guardian father.

Petitioner No.3 for herself
and for minor petitioner No.4
as her legal guardian mother.

All are R/o.Balhat
Tal.Navapur Dist.Nandurbar.Petitioners.

-Versus-

- 1] Mansukh Morada Kaya Morada.
- 2] Nathabhai Palabhai Bhangara.
- 3] The New India Assurance Co.
Ltd.

....Respondents.

Order below Exh.5
(Passed on 03rd July, 2019)

1] This application is filed by the petitioners for grant of compensation Rs.50,000/- towards no fault liability.

2] The petitioner No.1 and 2 are parents and petitioners No.3 and 4 are sisters of deceased Dipak Vasant Gavit aged about 10 years, who died in motor vehicle accident dated 31-12-2017.

3] It is the case of petitioners that on 31-12-2017 at about 04-30 p.m., on National highway No.6 Dhule-Surat road, near Visarwadi village, near bridge of Sarpani river, deceased was walking by the side of road. At that time, respondent No.1 proceeding towards Navapur from Dhule side by driving the truck No.GJ-10-TV-6269 in high speed, negligently, without observing traffic rules and gave dash to the deceased from backside. In the said accident, deceased Dipak Vasant Gavit was seriously injured and ultimately succumbed to his injuries.

4] It is further stated that at the time of accident the offending truck vehicle was being driven by the respondent No.1 and it was owned by the respondent No.2, and insured with respondent No.3. It is accordingly stated that all the respondents are liable to pay the compensation under no-fault liability to the petitioners.

5] The petitioners relied on copies of complaint, spot panchnama, postmortem report to show that deceased met with accident and died due to injuries sustained to him. The petitioners also relied on copy of insurance to show that at the relevant time offending vehicle was duly insured with respondent No.3.

6] The respondent No.1 and 2 failed to appear in spite of service of notice and therefore, the petition is ordered to proceed ex-parte against them.

7] The respondent No.3 resisted the claim petition by filing written statement at Exh.13. It has denied rash and negligent driving by the Truck driver i.e. respondent No.1. It has contended that deceased himself was responsible for the accident and therefore respondent No.3 denied the liability to pay compensation. The respondent No.3 has not

disputed the insurance of offending vehicle with it. The fact that the deceased died of accidental injuries is also not disputed. Even otherwise involvement of the offending vehicle in the accident in question is apparent from the police papers. At this stage, it is not necessary to look into the aspect of fault of either side. The requirement for getting compensation under Section 140 of Motor Vehicles Act are, therefore, brought on record by the petitioners. Therefore, I do not see any impediment in allowing the present application. In the result following order is passed.

ORDER

- 1] Application Exh.5 is allowed in following terms.
- 2] The respondent No.1 to 3 are directed to pay jointly and severally an amount of Rs.50,000/- (Rs.Fifty thousand only) to the petitioners under Section 140 of Motor Vehicles Act, within a period of two months from today.
- 3] If respondents failed to deposit said amount within two months in the Court, then they shall pay interest at the rate of 7% per annum on compensation amount from the date of petition till its recovery.
- 4] Awarded amount and interest on it if any be distributed equally between petitioner No.1 to 4.
- 5] Petitioner No.1 Vasant Shantya Gavit, and petitioner No.2 Rusita Vasant Gavit are entitled to receive the awarded amount, and interest on it if any on behalf of minor petitioner No.3 and 4 respectively.
- 6] Application is disposed of.

Nandurbar.
Date : 03-07-2019.

(Pramod S. Tarare)
Chairman, M.A.C.T., Nandurbar.
Dist.Nandurbar.

C E R T I F I C A T E

I hereby certify that the contents of this PDF file are word to word as per the original order.

Name of P.A.	:	A.S.Sanke.
Name of Court	:	Sessions Court, Nandurbar.
Date of pronouncement of order	:	03-07-2019.
Order signed by the P.O. on	:	03-07-2019.
Date of uploading PDF on	:	03-07-2019.