

MHAH010027
372020



Order Below Exh.5 in M.A.C.P. No.179/2020.

(Kalpana Wabale & ors. Vs. Arun Kulkarni & ors.)

1. This is an application under section 140 of the Motor Vehicles Act, 1988 (Hereinafter “the M.V.Act” for short) for seeking compensation amount for “No fault liability” in respect of accidental death of late Machhindra Kondiba Wabale.
2. Heard Ld. Advocate Y.B.Patil for the applicant and Ld. Adv. S.S.Katariya for opponent no.3/insurer of jeep No.MH-16-AE-4247 and Ld. Advocate A.K.Bang for opponent no.6/insurer of Truck No.MH-16-BE-4095.
3. It is the submission on behalf of the applicants that the accident in question was happened on 22.06.2020 at about 04:00 p.m. near Supa MIDC Chowk in front of HP petrol pump. At the relevant time, the deceased Machhindra, the husband of applicant no.1 Kalpana was riding the motorcycle and applicant no.1 was pillion rider and they were proceeding towards Supa. However, above jeep came from Ahmednagar side and take a immediate turn towards Supa MIDC and gave a forceful dash to the motorcycle of deceased Machhindra. In said accident, applicant no.1 and deceased fell down. All of a sudden, above truck came in a high speed and tyre of it passed on the body of Machhindra. In the above accident,

applicant no.1 sustained permanent injuries while her husband Machhindra died on the spot. Therefore, legal heirs of deceased Machhindra have filed the main petition for compensation wherein this application has been moved for NFL.

3. Perused application, say filed by opponent nos.1 & 2, insurer/opponent nos.3 & 6 as well as police papers. In this case, *prima facie*, there is material which shows an involvement of the above jeep and truck. Moreover, the documents further shows that late Machhindra died in the above accident. At the relevant time, the jeep duly insured with opponent no.3 as well as said truck duly insured with opponent no.6. This is not a stage to decide who was at fault. It is, therefore, just and proper to decide it at the time of judgment. Since two vehicles, i.e., jeep and truck involved in the accident in question and owners, drivers and insurers of those vehicles made parties, it will be better to direct drivers, owners and insurers of both the vehicles to pay jointly and severally the NFL amount, 50% each, i.e., Rs.25,000/- by opponent nos.1 to 3 (for jeep) and Rs.25,000/- by opponent nos.4 to 6 (for truck). Applicants are legal heirs of the deceased. Therefore, considering the provision under section 140 of M.V.Act, the claimant is entitled to NFL compensation. Accordingly, the order :-

O R D E R

1. Application exh.5 is hereby allowed.

2. Opponent nos.1 to 3 do pay jointly and severally an amount of Rs.25,000/- and opponent nos.4 to 6 do pay jointly and severally an amount of Rs.25,000/- as "No Fault Liability" to the applicants, within one month from the date of this order.
3. In case of failure to pay an amount as stated above, the amount shall carry interest at the rate of 7% p.a., till its realization.
4. After receipt of said amount, the applicants/petitioners should deposit deficit court fee, if any.

Date : 20.01.2022.
Ahmednagar.

(Milind V. Kurtadikar)
Member, M.A.C. Tribunal
Ahmednagar.