

MHAH130008372018



MACP No. 65 / 2018
Siddharth Popat & Ors Vs. Palhare & Ors.

Order Below Exh.5 Interim Application :-

1] The present petition has been preferred by the claimants under section 166 of Motor Vehicle Act to award the compensation amount Rs.5,00,000/- in regard to Motor Vehicular Accidental death of the daughter of claimants deceased Shravni Siddharth Gaikwad (04 years old) occurred on 21.12.2016.

2] In this petition the claimants have also submitted the application (Exh.5) to award the interim compensation Rs.50,000/- under the head of NFL. The said application is supported by the affidavit of claimant no.1 Siddharth Popat Gaikwad.

3] Perused the petition, interim application, plea, grievance, contentions raised therein. Further perused the copy of FIR dated 21.12.2016 by which CR.No. I-171/ 2016 dated 21.12.2016 is registered in Lasalgaon Police Station for the offence punishable under section 304A, 279, 337, 338, 427 of the Indian Penal Code and under section 184, 134 (b) / 177 of Motor Vehicle Act, report lodged by the Balu Dada Ghoderao dated 21.12.2016, copy of spot panchanama dated 21.12.2016, inquest panchanama of the deceased Shravni Siddharth Gaikwad dated 22.12.2016, copy of post mortem examination of deceased Shravni Siddharth Gaikwad dated 22.12.2016, copy of provisional death certificate, copy of Form AA, copy of death certificate of Shravni Siddharth Gaikwad, copy of R.C. book of Trax Cruiser vehicle, driving license of Respondent no.2, driver of the offending Trax cruiser vehicle, copy of trax receipt of offending vehicle.

4] Heard Ld. R. D. Kiladkar for the claimants.

5] The respondent no.1 owner of offending Trax Cruiser vehicle is not appeared though notice served. Thereby against him the present petition proceeds ex-parte by order dated 25.07.2017.

6] The respondent no.2 driver of the offending Trax Cruiser vehicle submitted written say and statement (Exh.15), thereby he categorically denied the entire plea, grievance, contentions, allegations raised by the claimants against him. He denied his sole negligence in alleged motor vehicular accident. He principally submitted that in said accident he also seriously injured and sustained serious physical infirmity. He unable to do any work. Therefore he is unable to given any compensation as sought by the claimant. He also submitted that respondent no.1 owner of the offending Trax vehicle is responsible for the compensation. Lastly requested to rejected the petition and interim application. The respondent no.2 has only submitted his written statement but not produced any document in support to his defence raised in his written statement.

7] Upon taking into consideration the rival submissions coupled with documents placed reliance by the claimants and availed material thereby prima-facie it is inclined that on 21.12.2016 the claimants alongwith their relatives and daughter deceased Shravni Siddharth Gaikwad were travelling by the Trax Cruiser vehicle bearing no. MH-17-AJ-8622. When the said Trax Cruiser vehicle came near the Sherwade square that time the motorcycle bearing no. MH-17-AY-8791 had came from opposite side of the said Cruiser vehicle. Both the vehicles collided with each other and the cruiser vehicle turtled and thereby alleged accident took place. In it the the daughter of claimants Shravni Siddharth Gaikwad as well as another girl namely Kalyani and motor cycle rider Vilas Yadav Pagare died on the spot. The other passengers also injured in said accident. At the time of said accident the respondent no.2 driver of cruiser vehicle was riding his vehicle rash and negligent high and excessive speed without following traffic rules due to that the alleged accident took place, it revealed the claimants in regard to said accident immediately the report lodged in Lasalgaon Police Station thereby the crime vide CR.No.I-171 / 2016 dated 21.12.2016 has been registered against the respondent no.2 driver of the offending cruiser vehicle for the offence punishable under section 304A, 279, 337, 338, 427 of the Indian Penal Code and under

section 184, 134 (b) / 177 of Motor Vehicle Act. After said accident the daughter of the claimants immediately had taken in Primary Health Centre of Lasalgaon. The concerned Doctor has declared her as dead. Thereafter autopsy was performed on deceased Shravni Siddharth Gaikwad in Civil Hospital, Niphad. The inquest panchanama was also recorded. It is also alleged the accident took place due to sole and severe negligence of respondent no.2. Therein the daughter of claimants namely Shravni died on the spot. In support to these facts, circumstances, plea, grievance the claimants have placed reliance on various police papers, autopsy report, provisional cause of death certificate, vehicle papers of offending Cruiser vehicle. In the above circumstance, upon considering the relevant facts, circumstances, pleaded in petition and interim application coupled with documents placed reliance by the claimants, it inclined that on 21.12.2016 the alleged accident took place at the spot of Sherwade Phata. The said accident took place due to collision of the Trax Cruiser vehicle and Motorcycle. In it the daughter of claimants Shravni Siddharth Gaikwad as well as another girl namely Kalyani and rider of the motorcycle Vilas Yadav Pagare are died on the spot and other travellers were injured. In regard to said accident immediately the crime of accident registered as per report of the claimant no.1 against the respondent no.2.

8] Against the respondent no.2 driver of the offending Trax vehicle, the crime of accident has been registered. Further copy of R.C book of offending Trax Cruiser vehicle as well as tax receipt of RTO office Nashik are indicating that the respondent no. 1 was owner. Furthermore though the notice served, respondent no.1 has not appeared thereby the plea, grievance allegations raised against him are undisputed, unchallenged and uncontested. At the same time the respondent no.2 in his written statement admitted the factum of occurrence of accident and death occurred of 03 persons and injured some travellers as well as in regard to said accident the crime registered against him. In the circumstances considering the available material coupled with intention of Legislature to provide the immediate financial aid by providing interim compensation to the claimants under the head of NFL. Thereby the claimants are entitled for getting Rs.50,000/- towards interim compensation under the head of NFL. Hence the present application deserves to be allowed. With this I proceed to pass the following order:-

ORDER

- 1] The present interim application below Exh.5 is hereby allowed.
- 2] The claimants are entitled for interim compensation amount Rs. 50,000/- (Rs. Fifty Thousand only) under the head of NFL from respondent No. 1 & 2 Jointly or severally.
- 3] The respondent No. 1 & 2 are hereby directed to pay interim compensation amount Rs. 50,000/- (Rs. Fifty Thousand only) under the head of NFL to claimants Jointly or severally within one month from the date of this order. In failure to pay the interim compensation amount within stipulated period. The respondents shall pay the interest at the rate of 7% P.A. on interim compensation amount, from the date of filing present petition until actual realization of entire interim compensation amount.
- 4] Upon depositing the above interim compensation amount with this tribunal, it be disburse to the claimant No. 1 & 2 equally by account payee cheques on their identification.
- 5] Interim award be drawn accordingly.
- 6] Dictated and pronounced in open court.

Date : 12.11.2019

(S. M. Tapkire)
Member, M.A.C.T.
Newasa-Ahmednagar