

M.A.C.P No. 6/2018  
CNR MHBU01-000031-2018  
Savita Navghare +4  
-Vrs-  
Shantaram Kusalkar +1

**Order below Exh.5**  
(Passed on 23.10.2018)

1] This is an application for seeking NFL compensation Rs.50,000/- under section 140 of the Motor Vehicles Act, for the death of Prakash Dagduba Navghare.

2] The fatal accident took place on 19.9.2017 around 15.45 to 16.00 hours on Chikhli- Mehkar bifurcation road, Chikhli, near Mahindra Show Room. The deceased was proceeding on his motorcycle MH-21-AZ-9896 along with Mohan B Sarode. At that time, accident took place due to rash and negligent driving of motorcycle MH-28-AQ-2041 by opponent no.1. That vehicle dashed to the vehicle of deceased. All the riders sustained injuries. Deceased Prakash succumbed to the injuries.

3] Opponents no.1 and 2 filed written statement Exh.19. It is the contention that opponent no.1 is the driver and opponent no.2 is the owner of motorcycle MH-28-AQ-2041. In this case, a criminal case on the basis of FIR no.516/2017, was registered against both the vehicles. There is no any rash and negligent driving on the part of opponent no.1. The accident was caused due to rash and negligence of the motorcycle no. MH-21-AZ-9896.

4] Heard learned advocate Mr. D.P. Gothi for applicants/ claimants and learned advocate Mr. A.J. Chopade for opponents no.1 & 2.

5] The application is objected mainly on the ground that

necessary parties i.e. owner and insurer of motorcycle of deceased are not made party to the petition. There is no any judgment of Court holding the rash and negligent driving of opponent no.1.

6] The offence i.e. Crime no.516/2017 was registered against both the vehicles. One was driven by the deceased and the other was driven by opponent no.1. In the motor accident claim petitions while deciding the application under section 140, the rash and negligent driving of which vehicle caused accident has no role to play. The deceased died in vehicular accident. Once, the involvement of vehicle is revealed, applicants/claimants are entitled for NFL compensation. Prima-facie in this case, both the riders were negligent and therefore, offence was registered against both of them. The deceased is one of the riders and therefore, he is equally responsible for the accident. So the legal heirs of deceased are entitled to 50% compensation. The opponents no.1 and 2, being the driver and owner of motorcycle no MH-28-AQ-2041, are jointly and severally liable to pay 50% compensation to the legal representatives of deceased Prakash Navghare. Hence, the order.

### **Order**

1. Application is partly allowed.
2. Applicants are entitled to NFL compensation Rs.25,000/- (Rs. Twenty five thousand only), from opponents No.1 and 2 jointly and severally.
3. Opponents no. 1 and 2 shall jointly and severally pay NFL compensation Rs.25,000/- (Rs. Twenty five thousand only) to the

applicants within 45 days of order, otherwise, they shall pay interest @ 7.5% p.a. from the date of order till realization of amount.

Buldana  
Dated :23.10.2018.

Sd/-  
**(Mahendra K. Mahajan )**  
Member, M.A.C.T., Buldana.

Certificate

I affirm that the contents of this PDF file judgment are same word to word as per original judgment

Name of Steno : V.D.Deulgaonkar.

Name of Court : Member, M.A.C.T., Buldana