

**M.A.C.P. No. 38/2016,**

Smt. Nalini & Oth. Vs. Deepak & Ors.

**Order below Exh.5.**

(Dated : 11-01-2017)

Applicants, who are legal heirs of deceased Bhaskar Nilkanth Patil, have claimed no fault liability amount.

2. According to applicants, on 26-11-2014 the deceased was proceeding towards Arvi from Malkapur by Cruiser Jeep bearing registration No. MH-28-V-8489. When the said Jeep reached near Ramana shiwar on National Highway No.6, a Truck bearing registration No. MH-04-EL-7400 came from opposite direction. As both the drivers i.e. of Cruiser Jeep and Truck were driving their respective vehicle rashly and negligently dashed each other, as a result of which accident took place in which the deceased sustained grievous injuries and succumbed.

3. According to applicants, opponent No.1 is owner of Cruiser Jeep and it was duly insured with opponent No.2, whereas opponent No.3 is owner of Truck and it was insured with opponent No.4.

4. Opponent No.1 resisted the claim by filing his written statement (Exh.11) and denied all the averments of claimants.

5. Opponent No.2 though appeared failed to file its written statement. Hence the claim is proceeded without its written statement.

6. Opponent No.3 though duly served failed to appear and, therefore, proceeded ex-parte.

7. Opponent No.4 also resisted the claim by filing its written statement (Exh.24) and denied all the averments of claimants.

8. Applicants have filed on record copy of Form Comp A.A., Crime Details Form along with spot panchanama, inquest panchanama, post-mortem report, vehicle information, driving licence of Shankar Tap, certificate of registration of Truck, motor insurance certificate cum policy schedule, etc. along with List (Exh.4).

9. Heard Mr. J.K. Deshmukh, learned counsel for applicants, Mr. C.S. Kharat, learned counsel for opponent No.2 and Mr. B.B. Pande, learned counsel for opponent No.4.

10. According to Mr. C.S. Kharat, learned counsel for opponent No.2, since the deceased was a fare paying passenger and not covered under the terms and conditions of insurance policy, it is not liable to pay N.F.L. amount. Similarly, Mr. B.B. Pande, learned counsel for opponent No.4, contended that having regard to the contents of F.I.R., the Truck bearing registration No. MH-04-EL-7400, belonging to opponent No.3 and insured with opponent No.4, was not in any manner contributed towards happening of accident and, therefore, opponent No.4 is not liable to contribute towards N.F.L. amount.

11. So far as the argument of Mr. Kharat is concerned that the deceased was a fare paying passenger is not germane at this stage and can only be looked into after recording of evidence. Because, this fact will have to be substantiated by opponent No.2 by leading evidence.

12. Regarding the involvement of Truck bearing registration No. MH-04-EL-7400, admittedly the contents of F.I.R. would reveal that it was the offending vehicle belonging to opponent No.1 which was driven rashly and negligently as a result of which the accident in question took place. Therefore, prima-facie at this stage I found substance in the submission of learned counsel for opponent No.4 for not saddling the N.F.L. amount on opponent No.4. It also appears from the post-mortem report that the deceased died due to neurogenic shock due to grievous head injury. Since the accident in question was due to the impact given by the offending Cruiser leading to the death of deceased, there is no reason to deny interim compensation to the legal heirs of the deceased. Therefore, no fault liability amount needs to be granted in favour of applicants. Hence the following order :

**Order**

Application stands partly allowed.

Opponent Nos.1 and 2 jointly and severally do pay 'No Fault Liability' amount of Rs.50,000/- (Rs. Fifty thousands only) within one month from the date of this order, failing which, the amount will carry interest @ Rs.8 % per annum from the date of default till full realization of the amount.

On deposit of amount, Tribunal shall disburse the entire amount to applicant No.1 Smt. Nalini Bhaskar Patil by issuing separate account payee cheque in her name.

Sd/-

**(Virendra G. Bisht )**

Member,

M.A.C.T., Buldana.

Dated : 11-01-2017.

**Certificate**

“I affirm that, the contents of this PDF file order are same word for word as per original order.”

Name of Steno :- D.V. Gaiki,

Name of Court :- Member, Motor Accident Claims Tribunal, Buldana.

Date of order :- 11-01-2017.

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