

M.A.C.P No. 209/2017
CNR MHBU01-001940-2017
Kantabai Dhonduba Khente
-Vrs-
Prabhakar Rambhau Patole +1

Order below Exh.5
(Passed on 24.10.2018)

1] This is an application filed by injured petitioner for seeking NFL compensation of Rs.25,000/- on account of sustaining permanent disability due to vehicular accident.

2] The accident took place on 24.6.2017 at about 17.30 hours on Chikhli-Amdapur road, near Divthana bifurcation. The petitioner was going towards Amdapur from Chikhli in Ape no. MH-28-H-5545 along with others. At the place of accident, 'Swift' car no. MH-28-AN-104 was coming from opposite direction rashly and negligently, not following the rules and regulations of the road in uncontrollable speed. That vehicle dashed to the Ape vehicle in which petitioner/injured was travelling. The petitioner sustained hip dislocation and other bodily injuries.

3] The offence, vide crime no. 347/2017 for the offences punishable under sections 279, 337 of the Indian Penal Code was registered against the driver of offending 'Swift' car no. MH-28-AN-104, in police station Chikhli, Dist.- Buldana.

4] Respondent no.1 – owner of 'Swift' car filed reply cum written statement Exh.24. According to him, at the time of accident, one Trax driver while overtaking Ape vehicle could not control Trax vehicle and due to his negligence and the negligence of Ape driver, accident occurred. He was not at all responsible for the accident. Alternatively, he prayed that his vehicle being duly insured, liability if any be saddled upon respondent no.2

5] Respondent no.2- insurer of offending 'Swift' car, filed reply Exh.22. It has shown inability to admit insurance for want of further and better particulars. The adverse allegations were denied. The driver of 'Swift' car was not having valid and effective driving licence. Accident occurred due to negligence of Trax and Ape drivers. Alternatively it has prayed to hold the contributory negligence of Trax and Ape drivers.

6] Heard learned advocate Mr. S.J. Deshmukh for the petitioner, Mr. Arif Sayyad learned advocate for respondent no.1 and learned advocate Mr. B.B. Pandey, for respondent no.2.

7] The FIR was registered against the offending 'Swift' car. Spot panchnama reveals that the offending car and Ape vehicle were stationed at the spot of incident when the spot panchnama was prepared. Both the vehicles were in damaged condition. Crime no. 347/2017 for the offences punishable under sections 279 and 337 of IPC was registered against the driver of 'Swift' car. Discharge Card of Jawanjil Hospital, Chikhli shows petitioner was indoor patient from 24.6.2017 to 26.6.2017. She had sustained hip dislocation. Form Comp.'B' issued by Medical Officer Incharge shows 16% permanent disability because of Rt. Hip dislocation. The permanent disability was sustained in motor vehicle accident. Certificate cum policy schedule shows the offending car was insured in the name of respondent no.1 from 25.6.2016 to 24.6.2017 covering the date of accident 24.6.2017. So, petitioner is entitled for NFL compensation. Hence, order.

Order

1. Application is allowed.
2. Petitioner is entitled to NFL compensation Rs.25,000/- (Rs. Twenty five

thousand) from respondents no.1 and 2 jointly and severally.

3. Respondents no. 1 and 2 shall jointly and severally pay NFL compensation Rs.25,000/- (Rs. Twenty five thousand) to the petitioner within 45 days of order, otherwise, they shall pay interest @ 7.5% p.a. from the date of order till realization of amount.

4. On deposit of NFL compensation amount, it be paid to petitioner by cheque.

Buldana
Dated : 24.10.2018.

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