

ORDER PASSED BELOW EXH.5 IN M.A.C.P.No.358/2021.

1. This is an application filed by applicants for seeking compensation to the tune of Rs.50,000/- under the principles of N.F.L. on account of accidental death of Sandip Punjaram Patil due to incident of accident involving car bearing No.MH-39/D-2189 **(here-in-after referred as offending car)** driven, owned and insured by respondent No.1 to 3 respectively.

2. **Averments in the application are as under :**

It is contention of applicants that, deceased Sandip was son of applicant No.1 and 2, husband of applicant No.3 and father of the applicant No.4 to 6. On 08.12.2020 at about 05.00 p.m., deceased Sandip and one Kantilal were on separate motorcycle in unrunning condition towards the side of road near to Dhamangaon Fata. At the same time, offending car came from Shirud square in rash and negligent manner and by overtaking dashed to the motorcycle of deceased. Due to dash, deceased sustained grievous injuries over his person. He was under treatment at Hire Medical College. Thereafter, shifted at Seva Hospital. Surgery was performed over him. Thereafter, he was shifted at J.J.Hospital, Mumbai, where he reported expired on 19.01.2021 during the treatment. About the accident in question, C.R.No.424/2020 registered at Dhule Taluka police station. Offending car driven, owned and insured by respondent no.1 to 3 respectively, due to same all respondents are jointly and severally liable to pay compensation as prayed. By contending so, they requested for allowing application in question.

3. Respondent No.1 resisted vide Exh.19. He has denied almost all contentions raised in the application in toto. It is contention of him that at the relevant time of accident offending car

was in moderate speed, deceased loses control over his motorcycle and dashed to the motorcycle bearing No.MH-18/BN-1294 from backside. There was no negligence on the part of him. Rider of both motorcycles are responsible for accident. He was possessing effective driving licence at the relevant time. Offending car was owned and insured by respondent No.2 and 3. According to him, liability of paying compensation is fastenable on the shoulder of respondent No.3. By contending so, he requested for its dismissal to the extent of him.

4. Respondent No.2 resisted vide Exh.20. He has also denied almost all contentions raised in application in toto. It is the contention of him that at the relevant time of accident offending car was in the moderate speed, deceased loses control over his motorcycle and dashed to motorcycle bearing No.MH-18/BN-1294 from backside. There was no negligence on the part of him. Rider of both motorcycles are responsible for accident. Respondent No.1 was possessing effective driving licence at the relevant time. Offending car was insured by respondent No.3. According to him, liability of paying compensation is fastenable on the shoulder of respondent No.3. By contending so, he requested for its dismissal to the extent of him.

5. As per record, it reveals that vide bailiff report Exh.13, notice was duly served on the respondent No.3 on 09.08.2021. Thereafter, appearance of respondent No.3 came on record vide V.P. Exh.21 dated 08.03.2022. In spite of appearance, respondent No.3 failed to file its say and W.S. in stipulated period. Hence, in view of order passed below Exh.1 dated 08.04.2022, petition is directed to proceed without say and W.S. of respondent No.3.

6. Read application and say. Perused the documents attached

with the proceeding. Heard learned advocate Shri.B.D.Patil for applicants. Respondent No.1 to 3 and their advocate absent when called repeatedly. Application is pending since June – 2021. Considering the nature of application under consideration, I have no alternate except to proceed further on the basis of material placed on record.

7. According to applicants, incident of accident occurred with deceased involving offending car and rash and negligent driving of respondent No.1 resulted for accidental death of deceased. On perusal of certified copies of police papers concern with C.R.No.424/2020, it reveals that in report, the name of deceased is specifically contended coupled with registration number of offending car as involved. Crime in question seems to be registered against the driver of offending car. Copy of inquest panchanama and P.M.Report placed on record, both are related with dead body of deceased. As per registration certificate, offending car standing on the name of respondent No.2 as a second owner of it w.e.f. 23.05.2022. Copy of insurance certificate of offending car is placed on record, that is also standing on the name of respondent No.2, in which validity is reported upto 24.01.2021 from 25.01.2020. Copy of driving licence standing on the name of respondent No.1 is placed on record, in which the validity is reported upto 20.10.2035 from 21.10.2015. Accident in question dated 08.12.2020. There appears no question of breach of policy. On the basis of abovesaid material placed on record, it is prima facie reveals that incident of accident occurred with deceased involving offending car, driven, owned and insured by respondent No.1 to 3 respectively. Consequently, applicants being a legal representatives of deceased entitled to get an amount of Rs.50,000/- towards compensation under the principle of N.F.L.. With this, I proceed to pass the following order :

: ORDER :

1. Application Exh.5 is hereby allowed.
2. Applicants are entitled to recover an amount of Rs.50,000/- from respondent No.1 to 3 respectively jointly and severally towards compensation under the principles of N.F.L..
3. Respondent No.1 to 3 are hereby directed to deposit abovesaid amount in following savings account of Tribunal within 30 days from today. If failed to do so, amount shall carry interest @ 9 % P.A. from 09.05.2022 till its actual realization. Bank details of Tribunal are as under :
 - (1) Name of Account : The Member, Motor Accident Claim Tribunal, Dhule.
 - (2) Bank Name : State Bank of India, Treasury Branch, Dhule.
 - (3) Type of Account : Savings Account.
 - (4) Account Number : 40709171826.
 - (5) I.F.S.C.Code : SBIN0008254.
 - (6) M.I.C.R.Code : 424002955.
4. On depositing aforesaid amount by respondents in Tribunal, amount of Rs.5,000/- each, be disbursed in favour of applicant No.1 and 2, amount of Rs.10,000/- each be disbursed in favour of applicant No.3 to 6, by prescribed mode subject to compliance of direction issued by Hon'ble Madras High Court in Civil Miscellaneous Application No.428/2016 at the hands of applicants.
5. Applicant No.5 and 6 are minor, amount

awarded in their favour be invested in F.D.R. in any Nationalized Bank as per the choice of applicant No.3 till attaining the age of majority by them.

6. Accordingly, application Exh.5 is disposed of.

Dated : 08.04.2022.

(M.G.Chavan)
Member, M.A.C.T., Dhule.

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CERTIFICATE

I certify that the contents of this P.D.F. File are word to word as per Original Judgment/Order.

Name of the Stenographer : J.S.Jain.
Name of the Court : Member, M.A.C.T., Dhule.
P.D.F. Uploading Date : 08.04.2022.

Sd/- xxx
Stenographer (Grade-I)