

Before the Member, Motor Accident Claims Tribunal, Dhule.
(Presided over by Mr.D.M.Aher)

Application Exh.5

In

Motor Accident Claim Petition No.498/2022

(CNR No.MHDH010030082022)

(Sunil Malche V/s. Pramodsing Yadav and Ors.)

ORDER

The applicants have prayed for compensation of Rs.50,000/- under the head 'no fault liability' on account of death of Shaila Sunil Malche in a motor vehicular accident.

2. It is the case of the applicants that deceased Shaila was the wife of applicant No.1, mother of applicant Nos.2 to 6 and daughter in law of applicant Nos.7 and 8. On 21.07.2022, at 10.00 p.m. applicant No.1 and deceased Shaila were travelling on the motorcycle from Sakri to Perejpur. On a way, offending truck No.KA-28/C-4957 driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3 gave dash to their motorcycle and caused death of Shaila. Hence, respondent Nos. 1 to 3 are liable to pay the compensation under NFL. Hence, this application.

3. The respondent Nos.1 and 2 served with the notices, but do not appeared. Hence, the application proceeded ex-parte against them. Respondent No.3 opposed the application vide say-cum-written statement Exh.16 on the ground of breach of terms and conditions of the policy. Hence, respondent No.3 prayed to reject the application.

4. Heard the learned advocate for the parties. I have perused the papers. The papers do show that the offending truck is involved in the accident and Shaila died in a motor vehicular accident. However, the question is about the tenability of the application?

5. It is clear from the papers that the accident is occurred on 21.07.2022. The Motor Vehicle Act has been amended by the Amendment Act of 2019. The effect to the amended provisions have been given w.e.f. 01.04.2022. Thus, the present petition and application is governed by the Amended provisions of the Motor Vehicles Act. As per the amended provisions, old Section - 140 of the Motor Vehicles Act came to be deleted. There is no provision in the amended Act for compensation under 'No Fault Liability'. As mentioned above, the accident is occurred on 01.07.2022 i.e. after coming into force of the Motor Vehicles Amended Act, 2019. As such, in my considered view, the application Exh.5 filed for compensation under 'No Fault Liability' is not maintainable. The Tribunal can not go beyond the provisions of the statute. Therefore, the application is liable to be rejected. Hence, the following order.

6. In view of above, the application Exh.5 stands rejected as not maintainable. No costs.

(D.M.Aher)

Member,

Motor Accident Claims Tribunal,
Dhule.

Date : 28.08.2024.

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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 : Court of District Judge-5, Dhule
Judgment directly typed on : 28.08.2024.
dias computer.
Order checked and signed by : 28.08.2024.
Presiding Officer
P.D.F. Uploading Date : 28.08.2024.

Sd/- xxx
Stenographer(Grade-I)