MHGA010003142022

M.A.C.P. No. 38/2022

Madhukar Narayan Mesharm + 1
Vs.
Dewaki Pradip Nandeshwar + 1

ORDER BELOW EXHIBIT 05

1. This is the Claim under Section 166 of the Motor Vehicles Act, wherein the claimants-legal heirs of the deceased Bhushan Madhukar Meshram have claimed compensation for accidental death of her son arising out of Honda Activa Scooter bearing No. MH-33/Y-6555 (offending vehicle) which was at the material time owned and drove by respondent No.1, Dwaki, and insured with respondent No. 2 Iffco Tokio General Insurance Company.

2. It is the case of the claimants that, on 10/04/2022 at about 6:00 p.m., Bhushan(the deceased) was going to village Arttondi from Kurkheda by Scooter bearing registration No. MH-33-Z-0464. At the relevant time, the deceased was driving the motorcycle in moderate speed. However, Honda Scooty bearing No. MH-33YC-5666(offending vehicle)which was being driven by Respondent No. 1 in the rash and negligent manner, gave forceful dash to the scooter driven by the deceased, resulting grievous injuries to his vital organs and hence,The deceased was shifted to Sub-District hospital, Kurkheda. The Doctor declared that the deceased was already died.

3. Offence bearing C.R.No. 49/2022 was registered against Resondent No. 1 (driver of offending vehicle) with Kurkheda Police Station, Tah. Kurkheda Dist. Gadchiroli. Hence, the Claim as well as application for interim compensation.

4. Respondent Nos. 1 Owner and Driver of offending vehicle filed their say/written statement at Exhibit 20 respectively, denying entire contentions, including the very involvement and manner of occurrence of accident etc. and consequential liability to pay compensation. On the contrary, it is contended by respondent Nos. 1 that the accident is the outcome of rash and negligent driving of the deceased himself. There is no negligence on the part of driver of Honda Activa Scooter (Respondent No. 1). The owner and the insurance company of the motor cycle driven by the deceased have not been made party and as such, the application is liable for rejection.

5. Further respondent no. 1 have contended that the Honda Activa Scooter is duly insured with respondent No. 2 Iffco Tokio General Insurance Co. at the time of accident hence it is liable to pay the compensation. Accordingly, prayed to reject the application.

6. The Insurance Company filed its say/written statement at Exh. 23 denying entire contentions, including the very involvement and manner of occurrence of accident etc. and consequential liability to pay compensation. It also sought exoneration as the driver of offending vehicle did not possess valid and effective driving license, which was statutory and fundamental breach. Hence, Insurance Company sought for rejection of application.

5. I heard learned Advocates for both sides and perused the record.

6. First Information Report, Crime Details Form/Spot Panchnama and other documents discloses involvement of the offending vehicle Scooter. The Inquest Panchnama and Post-mortem Report shows

that deceased died on account of injuries sustained in a vehicular accident. The fate of the objections raised by learned Advocate for the Respondents is to be decided at the time of trial.

7. Admittedly, the respondent No.1 is a registered owner and driver of the offending vehicle at the time of fateful accident. Prima facie respondent no. 1 is the registered owner as defined under Motor Vehicles Act who is responsible to pay compensation. Therefore, I hold that as the claimants have satisfied the twin conditions enumerated under Section 140 of the Motor Vehicles Act, the respondent Nos.1 and 2 are jointly and severally liable to pay no fault compensation of Rs.50,000/- to the claimants.

8. Hence, taking into consideration above facts and circumstances, I pass the following order.

:: ORDER ::

1. The application of Exh.5 in Motor Accident Claim Petition No.38/2022 is allowed, as under.

2. The respondent Nos. 1 and 2 shall jointly and severally pay the no fault liability compensation of Rs. 50,000/- (Rs. Fifty thousand only) to the claimants within 30 days from today, failing to which it shall carry interest at the rate of 7.5 % p.a. from the date of order till the amount is deposited in this Tribunal.

4. Compensation amount, along-with interest, if any, be disbursed among the claimants equally.

5. Interim award be drawn up accordingly.

PRASHANT RAMRAO SITRE

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Date: 2024.11.30 13:45:42 +0530

(Prashant R. Sitre)

Dt : 29.11.2024

District Judge-1 & Member,
Motor Accident Claims Tribunal,
Gadchiroli