MHGA010003332018

IN THE COURT OF
Principal District And Sessions Judge Gadchiroli. AT ,Gadchiroli
Presided Over by Sanjay G. Mehare

M.A.C.P.23/2018

Exhibit No.5

Claimant:

Jijabai Dewaji Shende
Age: 54, Occupation :
R/o. Shivaji Nagar Ward No. 10, Gadchiroli

..VERSUS..

Respondent:

1 : Govinda Rajendra Naraspure
Age: 33, R/o. Bembal, Tah. Mul, Distt. Chandrapur

2 : Chandrakant Kisanrao Bommawar
R/o. Bembal, Tah. Mul
Distt. Chandrapur

3 : Reliance General Insurance Co.Ltd
R/o. Ayodhya Building, First Floor
119 Near Balaji Nagar Square Bajaj Nagar
Nagpur

4 : Sumedh Dewaji Shende
Age: 35, R/o. Shivaji Nagar Ward No.10
Gadchiroli

5 : HDFC ERGO General Insurance Co.Ltd
R/o. Shriram Tower, 5 th Floor B-Wing
Beside NIT Tower Nagpur

O R D E R (Below Exh.5)
(Passed on 14th day of September 2018)

1] The mother of the deceased Akshay against whom the FIR is registered, is claiming the compensation under Section 140 of the Motor Vehicles Act.

2] The happening of the incident is not denied by either of the party to proceedings. The applicant's Counsel argued that a grievance against registering the crime against the deceased is already lodged before the Superintendent of Police.

3] Per contra, learned Counsel Shri.Hastak for non-applicants no.1 and 2 would submit that prima facie negligence appears from the FIR is against the deceased. In such circumstances, the responsibility shall not be saddled on the owner and driver of Bolero Pick-up who are apparently not at fault.

4] Learned Advocate Shri.Ingale for the insurer of Bolero Pick-up remain absent.

5] Learned Advocate Shri.Borawar for non-applicant no.5, the insurer of Ford car would submit that the policy was not purchased covering the passengers or the driver of the vehicle involved in the accident.

6] Having regard to the arguments advanced by the respective learned Counsels, it seems that everyone is throwing the responsibility. Even if the offence is registered against the deceased, there is scope to consider the factum of contributory negligence. Barely registering crime against the deceased is not sufficient to throw the case while considering the application under Section 140 of the Motor Vehicles Act. The vehicles involved in the accident were insured with non-applicants no.3 and 5, owned and driven by deceased, non-applicant no.1 as well as non-applicants no.2 and 4. There is a large scope to believe the case of the applicant at this juncture to award the compensation under no fault liability, since theory of contributory negligence may subsist. All the non-applicants shall be held jointly and severally liable to pay the compensation. The insurer non-applicants no.3 and 5 shall indemnify the owners of the offending vehicle. Hence, the following order.

O R D E R

1] The application is allowed.

2] The applicant is entitled to the compensation of Rs.50,000/- (Rupees Fifty Thousand) under Section 140 of the Motor Vehicles Act.

3] All the non-applicants are jointly and severally liable to pay the compensation.

4] Both the vehicles involved in the accident were insured with non-applicants no.3 and 5, hence, they are liable to indemnify the owners of the offending vehicle equally, therefore, the non-applicants no.3 and 5 are directed to pay amount of Rs.25,000/- each to the applicants within one month from today, failing which it shall carry the interest at the rate of 8% per annum from the date of order till realization.

5] Award be drawn-up accordingly.

6] Dictated and delivered in open Court.

sd/-

Place : Gadchiroli
Date : 14.09.2018

(S.G. Mehare)
Chairman,
Motor Accident Claims Tribunal,
Gadchiroli.