



MACP NO.354/2019
Sangita & Another .Vs. Mahendra & others
ORDER PASSED BELOW EXH. 5

1] This is an application under Section 140 of the Motor Vehicles Act for grant of interim compensation to the tune of Rs. 50,000/- towards No fault liability on account of accidental death of deceased Sambhaji S/o. Govind Karad on 10-04-2019.

2] According to the petitioners, on 28-03-2019 at about 9.30 pm deceased Sambhaji was traveling as a pillion rider alongwith his friends on a motorcycle from Malegaon to Ahemadpur Road. When the said motorcycle reached in front of Sawaraj Dhaba, one Travel Bus No. MH 24/AU-9900 came from Nanded side i.e. in the wrong side at high speed in a rash and negligent manner and furiously dashed to the motorcycle, due to which deceased and others were severely injured in the said accident. Deceased sustained grievous head injury. During his medical treatment he succumbed to the injuries on 10/04/2019. After the accident Mohan Shankar Wadje gave information of accident and accordingly the driver of the travel bus was arrested and FIR was registered.

3] The death having been caused on account of vehicular accident, the respondent No.1 being owner of the offending vehicle and respondent No.2 and 3 being insurer are liable to pay interim compensation to the tune of Rs.50,000/- under No Fault Liability. Hence, this application.

4] In spite of service of summons respondent No.1 failed to file reply before the Court. Hence, the application was ordered to be heard without reply of respondent No.1.

5] The respondent No.2 & 3 have resisted No Fault Liability claim by filing written statement at Exh. 16. It is contended that the deceased alongwith Kalian Shankar Kavalgave and Sambhaji Govind Karad riding triple seat on the motorcycle No. MH 26 VK 0506 in contravention of RTO rules. Therefore, respondents No. 2 and 3 are not liable to pay compensation. It is further contended by the respondents that the said accident occurred due to head on collusion between two vehicles and the petitioners could not make party the the owner of above motorcycle. On these grounds opponent No.2 & 3 oppose the application.

6] Perusal of the police paper it revealed that the registration number of the offending vehicle travel bus No. MH 24/AU-9900 is disclosed in the report lodged with the police station Ahemadpur. The postmortem report is consistent with the case of accidental death. The FIR, and panchnama make out an involvement of vehicle insured by the respondent No.1 in the accident leading to accidental death. The contention of the respondent No.2 and 3 that the driver of travel bus has committed breach of terms and conditions of the policy can not be considered at this stage as the involvement of the vehicle insured with the respondent No.2 and 3 is very well established prima facie case and therefore, claimants deserve NFL compensation to the tune of Rs.50,000/-.

7] In result, I pass following order:

ORDER

- 1 Application Exh.05 is allowed.
- 2 Respondents do pay interim compensation amount of Rs. 50,000/- (Rs. Fifty Thousand only) to the petitioners towards No Fault Liability within a period of one month from the date of order, failing which, he shall be liable to pay interest at the rate of 7.5% per annum on the amount of compensation ordered herein above till its realization.

Date : 28-02-2020

(S. N. Salve)
Ad-hoc District Judge-3 &
Ex-Officio Member of MACT,
Nanded.

Certificate

I affirm that the contents of this P.D.F. file order are same word to word, as per the original order.

Name of the Stenographer	:-	P. V. Jadhav
Court Name	:-	District Judge-3 & Ex-Officio Member of M.A.C.T., Nanded.
Date	:-	28.02.2020.
Order signed by the Presiding Officer on	:-	28.02.2020
Order uploaded on	:-	28.02.2020