

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL- 4, NAGPUR.

Claim Petition No. 396/2021
Nikita Vs. Rita Industries

ORDER BELOW EXH.5

1] An application is filed U/s. 140 of the Motor Vehicles Act by the applicants who are daughters of the deceased Baburao Shrawan Bhure for grant of compensation on account of his death in a Motor Vehicular Accident that has taken place on 07/01/2021 at about 3.30 p.m. at Opp. Amarjit Dhaba, Amravati Road, Dhamna, Nagpur within the jurisdiction of P.S. Higna.

2] It is the contention of applicants that on that day deceased was proceeding through Hundai i10 Car bearing No. MH-31-DK-4426 (in short said Car) from Malkapur and going to Nagpur and at that time brother Shubham of applicants was driving the said Car and when reached at opposite of Amarjit Dhaba, Amravati Road, Dhamna, one Truck (in short offending Truck of which number is not mentioned in the petition) was illegally parked in the middle of the road without having parking lights etc. and therefore, accident has occurred in which father, mother and brother of the applicants have unfortunately died on the spot. Accordingly, applicants have claimed compensation jointly and severally towards no fault liability from respondents.

3] Petition proceeded ex parte against respondent No.1 on 28.10.2021 as per order passed below Exh. 1.

4] The Respondent No.2 has filed reply at Exh.15. The age, occupation and income of the deceased is denied. Ownership and insurance of offending Truck bearing No. DD-03-M-9184 is not denied.

The driver of said Car Shubham was not holding valid licence and driver Shivkaran Yadav of offending Truck was not holding valid and effective driving licence and permit and fitness certificate on the date of accident. The petition is bad for non-joinder of necessary parties. The offence has registered against both drivers of the vehicles involve in the accident. Hence, prayed to reject the application.

5] The Respondent No.3 has filed reply at Exh.10. The age, occupation and income of the deceased is denied. Ownership and insurance of offending Car is not specifically denied. Both the drivers of vehicles involved in the accident were not holding valid and effective driving licence. The manner of the accident is denied. The driver of Car is sole responsible to the accident. Hence, prayed to reject the application.

6] Perused the whole record. Heard, Ld. Advocate for parties.

7] The Form AA and FIR shows that there is involvement of offending Truck and Car. The applicants have also filed on record inquest panchanama & P.M. Report on record. There is no denial of ownership and insurance of Car and offending Truck. The contentions raised in the written statement by insurance companies will be decided at the time of final hearing on merit. Here it is pertinent to mention that owner of the said Car i.e. Shubham who was driving it also died in the said accident. His legal representatives have not impleaded to the petition and without the same respondent No.3 insurer of said Car is not liable to pay the amount of compensation. Therefore, respondent No.1 & 2 being owner and insurer of offending Truck are only liable to pay compensation jointly and severally towards NFL to applicants. Hence, I pass following order.

ORDER

- [i] Application (Exh.5) is allowed.
- [ii] The respondent No. 1 & 2 only do pay jointly and severally compensation of Rs. 50,000/- (Rs. Fifty Thousand only) towards No Fault Liability U/s.140 of Motor Vehicles Act to the applicants within 45 days from the date of order.
- [iii] On failure, they have to pay interest @ 6.5% from date of order till realization of said amount.
- [iv] The compensation amount be apportioned equally between the applicants.
- [v] The respondent No. 1 & 2 are directed to deposit the amount of compensation payable to the petitioner in the Saving account bearing No. 40799142551, IFSC Code No. SBIN0051191 of State Bank of India, Branch Akashwani Chowk, Poonam Plaza, Civil Lines, Nagpur in the name of Member, Motor Accident Claims Tribunal, Nagpur by NEFT/RTGS.
- [vi] All the applicants are directed to supply their separate Saving account details with Branch name and IFSC code to transfer the amount of compensation in their account within a month.
- [vii] Before release of amount in favour of applicants, they have to affix requisite court fees, if not paid.
- [viii] Award be drawn up accordingly.

Nagpur :
Dt.- : 19/04/2022.

(S.R.Padwal)
Member,
M.A.C.T.-4,Nagpur

