

C.P.No.493/2017

Rajendra Gupta
Vs
Abhay Reddy + 1

Order below Exh.5
(Passed on 17.03.2018)

The injured petitioner has sought NFL compensation Rs. 25,000/- in this application u/s 140 of M.V.Act.

2. It is the case that, on 22.4.2017 at 12.30 hrs. accident took place at Wardha road near Nexa Showroom Nagpur. The petitioner was riding splendor no.MH-31-BH-8511 from Nagpur towards Butibori in correct side of the road. At that time offending JCB no.MH-40-P-3381 (New number) and old no. NL-02/Q-0650 came in high speed with rash and negligent manner. The driver lost his control and gave forcible dash to the Splendor motorcycle from behind. The petitioner sustained fracture to the right shaft. He was admitted in Arogya Hospital and thereafter shifted to the Lata Mangeshkar hospital.

3. The respondent no.1 owner of the vehicle filed the written statement Exh-17. The petitioner is a drunker. He was under the influence of liquor. He lost his control and fell on the

ground. The relatives of the petitioner is in police department. The petitioner misused the powers and registered false offence against the innocent/respondent.

4. The respondent no. 2 contested the application and petition vide composite written statement Exh-13. It is submitted that, there is a breach of policy as the driver was not holding valid effective driving license and vehicle was not having valid permit and fitness certificate.

5. Heard Ld.Adv. Mr. Mirache for the petitioner and Ld.Adv. Mr.Pande for the respondent.

6. On perusal of the documents of investigation in Crime no.113/2017, it reveals that on the same day of the accident the report was lodged. The report was lodged by the Pillion rider Ms.Pragati Rajendra Gupta. The involvement of JCB, giving dash by JCB to the Hero Honda Splendor, are stated in the FIR. On the same date the spot panchanama was prepared.

7. Ld.Adv. Mr. Pande objected the application on the ground that, the petitioner was admitted on 24.4.17 and there

is no nexus about the accident and involvement for two days. As FIR was registered on the same day of the accident, there is no doubt about the involvement of the vehicle. In discharge card also history of RTA on Saturday is narrated. The petitioner sustained fracture to the right shaft humerus. Permanent disability certificate assessing 12% permanent disability is issued by Dr. Vinay Naidu. The legality of that certificate is out of consideration at this stage. The vehicle was insured with respondent no. 2 covering the date of accident. Hence, respondent no. 1 and 2 are liable to pay the compensation. So the order.

ORDER

1. Application (EXH.5) is allowed.
2. Respondents no.1 and 2 shall pay NFL compensation Rs. 25,000/- to the petitioner within 45 days otherwise they shall further pay the interest @ 7.5 from the date of order till realization of the amount.

(M.K. Mahajan)

Dated: 17.03.2018

Member, M.A.C.T.-1, Nagpur.

CERTIFICATE.

I affirm that the contents of this PDF file of order are word to word, as per original order.

Name of Stenographer : H.S.Katekar

