

ORDER BELOW EXH.12 IN M.A.C.P.NO. 534/2020

(Passed on this 17th day of October, 2022)

This is an application for compensation in respect of death of Mangala w/o Kailash Barve resulted from the motor vehicular accident and as per principle of “No Fault Liability” as it contemplate to Section 140 of the Motor Vehicles Act, 1988.

2. It is the contention of the petitioners that, they are legal heirs/dependents of the said Mangala w/o Kailash Barve who died on 23/06/2020 due to injuries he sustained in an accident dated 23/06/2020

3. According to petitioner, on 23/06/2020 the deceased was a pillion rider on a Scooty bearing No. MH-31/PK/2730 and was going from Kachurwahi to Ramte,. However, when they reach a spot which is near to Shri. Hospital on Ramtek Tumsar road, a Truck-Tipper bearing registration No. CG-04/JD-4471 owned by respondent no.1 and insured with respondent no.2 gave dash to the said Scooty. Because of this, she sustained injury and later on succumbed to it. Hence, they prayed for compensation from the respondent no.1 being the owner as well as respondent no.2 being the insurer of the vehicle.

4. Matter proceeded exparty against respondent no.1.

5. The respondent no.2 insurance company vide its reply Exh.13 admitted it to be insurer of the said Truck-Tipper but

ownership of the respondent no.1 over it. It further denied all other allegations and contentions. Hence, prayed for rejection of the application.

6. In order to decide the no fault claim, the Tribunal must, on the basis of material on record, prima-facie satisfied itself that (i) the accident arose out of a motor vehicle; (ii) which resulted in permanent disablement or death of a person; (iii) and the claim is made against the owner and the insurer of the motor vehicle involved in accident.

7. The applicant in order to establish their case filed on record copies of number of documents vide list Exh.4, which includes motor accident report of police in form 'AA', FIR, inquest panchanama, post mortem report etc.

8. On perusal of all these documents, it appears that the applicants are the legal heirs/dependents of deceased Mangala w/o Kailash Barve. Furthermore, from the police papers it is seen that, the death of deceased as resulted from accident arising out of use of motor vehicle. No doubt, the respondent denied happening of the incident in question and further opposed the application on number of technical grounds including that respondent no.1 was not owner of said Truck-Tipper. But, it is pertinent to note here that from the police papers it is seen that the incident in question occurred and there is nothing on record to disbelieve such police papers at this stage. No doubt the insurance company denied ownership of respondent no.1 but the copy

of policy shows that respondent no.1 was owner. It is also mention so in form "AA". Thus, petitioners made out prima-facie case. Further, considering the scope of Section 140 the objection of the respondent cannot be considered at this stage. Therefore, it clearly seen that respondent is liable to pay compensation under 'No Fault Liability'.

9. Thus, petitioners made out prima-facie case. Therefore, it clearly seen that both the respondents are liable to pay compensation under 'No Fault Liability'.

10. Thus, in short the applicants are entitled to get compensation of Rs. 50,000/- as per provisions of Section 140 of the Motor Vehicles Act and both the respondents are liable to pay such compensation. Accordingly, I proceed to pass the following order.

ORDER

1. Application is allowed.
2. The applicants are entitled for compensation of Rs.50,000/- (Rs. Fifty thousand only) under 'No Fault Liability'.
3. The respondent nos.1 and 2 jointly or severally to deposit a sum of Rs.50,000/- (Rs. Fifty thousand only) towards 'No Fault Liability' with Tribunal within one month from the date of this order, failing which interest at the rate of Rs.6.5% p.a. will be applied on said amount.
4. Out of aforesaid compensation amount, an amount of Rs.35,000/- be aid to petitioner No.1 and an amount of Rs.5,000/- be paid to each of the petitioner Nos.2 and 4.

5. Respondent nos.1 and 2 are directed to deposit the amount of compensation payable to the petitioners in the saving account of Member, Motor Accident Claims Tribunal, Nagpur i.e. Account No.40799142551, IFSC Code-SBIN0051191 of State Bank of India, Branch Akashwani Chowk, Civil Lines, Nagpur by NEFT/RTGS only.

Nagpur
Date : 17/10/2022

(D.K.Gudadhe)
Member,
MACT-3, Nagpur.

CERTIFICATE

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

Name of the Stenographer : S. M. Ingale