

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL- 4, NAGPUR.

Claim Petition No. 546/2020
Keshav Vs. Nilesh

ORDER BELOW EXH.17

1] An application is filed U/s. 140 of the Motor Vehicles Act by the applicants who are parents of deceased Narendra Keshav Kolhe for grant of compensation on account of his death in a Motor Vehicular Accident that has taken place on 02/06/2020 at about 23.00 P.M. at Chhatrapur Shivar within the jurisdiction of P.S. Kelwad, Nagpur.

2] It is the contention of applicants that on that day Narendra Keshav Kolhe since deceased was sleeping in front of offending Truck bearing No. MH-40-7565. At the relevant time, driver of offending Truck drove the Truck in rash and negligent manner and the vehicle of offending Truck crushed the body of Narendra. As a result, deceased sustained grievous injury and succumbed to the injuries. Accordingly, applicants have claimed compensation jointly and severally towards no fault liability from respondents.

3] The petition proceeded without reply against respondent No.1 on 04/12/2021 as per order passed below Exh. 1.

4] The petition proceeded ex parte against respondent No. 2 on 07/09/2021 as per order passed below Exh. 1.

5] The Respondent No.3 has filed its reply at Exh. 15. The age, occupation and income of the deceased is denied. Ownership and insurance of offending Truck is not specifically denied. The driver of offending Truck was not holding valid licence at the time of accident. Further, deceased was sleeping in front of offending Truck and because of his negligence insurance company is not liable to pay the compensation. Hence, prayed to reject the application.

6] Perused the whole record. Heard, Ld. Advocate for applicants and Ld. Advocate for respondent No. 3.

7] The Form AA, FIR and panchanama of spot shows that there is involvement of Truck. The petitioners have also filed on record inquest panchanama & P.M. Report on record. There is no specific denial about the ownership and insurance of offending Truck. The contentions of driving licence of offending Truck and negligence of deceased will be considered at the time of final hearing on merit. The copy of FIR shows that respondent No.1 is the driver of offending Truck. Therefore, respondent No. 1, 2 & 3 being driver, owner and insurer respectively of offending Truck are 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 to 3 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 between the applicants equally.

[v] The respondents are directed to deposit the NFL amount payable to the applicants 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] Before release of amount in favour of applicants, they have to affix requisite court fees, if not paid.

[vii] The applicants to submit their separate saving account details of Nationalised Bank along with Branch Name, IFSC Code to transfer the amount in their account.

[viii] Award be drawn up accordingly.

Nagpur :

Dt.- : 08/03/2022.

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