

IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL- 4, NAGPUR.

Claim Petition No. 725/2019
Yogita -VS- Jalauddin & 4

ORDER BELOW EXH.5.

1] An application is filed U/s. 140 of the Motor Vehicles Act by the applicants who are widow, children and mother of deceased Anup Vijay Tiwari for grant of compensation on account of his death in a Motor Vehicular Accident that has taken place on 12/12/2011 at about 2.30 hours near Hara Bagh (Maladi) on the Delhi Manali Road within the jurisdiction of P.S. Sunder Nagar Mandi.

2] It is the contention of applicants that on that day deceased was proceeding through Force Traveler bearing No. DL-1-VC-2620 (in short said Force Traveler) along with Tourist. The respondent No.1 is a driver of said Force Traveler and respondent No.2 is the owner. The respondent No.3 is the driver of Bus bearing No. DL-1-TC-4889 (in short said Bus) and respondent No.4 is owner of the said Bus. The respondent No.5 is the insurer of both the above vehicles involved in the accident. The accident occurred due to rash and negligent driving of the drivers of both aforesaid vehicles involved in the accident. As a result, in the accident deceased succumbed to the injuries on the spot. Accordingly, applicants have claimed compensation towards no fault liability from respondents.

3] The respondent No. 1 and 2 are duly served vide Exh.18 through paper publication though failed to appear in the proceeding. Hence, petition has proceeded ex parte against them as per order passed below Exh.1 on 10-01-2022. The respondent No.3 and 4 are duly

served vide Exh.13 and 14 though failed to appear in the proceeding. Hence, petition has proceeded ex parte against them as per order passed below Exh.1 on 03-09-2021.

4] The respondent No. 5 insurance company has filed its reply at Exh. 14. The age, occupation and income of the deceased is denied. The policy issuing office is situated at Sonapat, Hariyana and policy numbers given by the petitioners as per the crime detail form filed by the applicant is fake and manipulated. As per the certified copy of policy of said Force Traveler discloses policy number as 1120023117P104753873 valid from 24-06-2017 to 23-06-2018 which does not cover the death of accident. The policy filed on record by the applicants is fake and manipulated one. The insurance policy of said Bus bearing No. DL-1-PC-4889 is not specifically denied. The drivers of both the vehicle were not holding valid and effective driving license and both the vehicles have plied without having valid permit and fitness certificate at the time of the accident. Hence, prayed to reject the application.

5] Perused the whole record. Heard, Ld. Advocate of applicants and respondent No. 5 insurance company.

6] The F.I.R. shows that there is involvement of said Force Traveler and Bus. The Form AA and panchanama of spot of incident also support to the same. There is no specific denial of ownership and insurance of said Bus. In respect of said Force Traveler, it is submitted by Ld. Advocate for insurance company that said Force Traveler is not insured with their company and filed on record attested copy of insurance policy along with Exh.20 which shows it is valid from 24-06-

2017 to 23-06-2018 and policy of Bus shows it is valid from 15-12-2017 to 14-12-2018. It is the case of the applicants that the accident occurred due to negligence of the driver of both the Force Traveler and Bus. In view of the aforesaid documents it is prima facie came on record that said Force Traveler is not insured with respondent No.5 on the date of accident. Though, said Bus is insured with respondent No.5 and therefore, in that capacity respondent No.5 along with all other respondents are liable to pay compensation jointly and severally to the applicants. The contentions raised in reply by respondent No.5 insurance company will require to be decided on merit at the time of final hearing. Therefore, all respondents are liable to pay jointly and severally compensation amount towards N.F.L. to the applicants. Hence, I pass following order.

ORDER

- [i] Application (Exh.5) is allowed.
- [ii] All respondents 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 amongst the applicants are as under.
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|-----------------------|---|------------------|
| Applicant No.1 | - | Rs. 20000/- |
| Applicant Nos. 2 to 4 | - | Rs. 10000/- each |
- [v] The applicant No.1 guardian mother is authorised to receive the NFL amount of applicant No. 2 & 3 as they are minors for

their welfare.

[vi] The respondents are directed to deposit the amount of compensation payable to the applicant 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.

[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] Before release of amount in favour of applicants, they have to affix requisite court fees, if not paid.

[ix] Award be drawn up accordingly.

Nagpur :

Dt.- : 13/09/2022.

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

