

MHNG010097912020



C.P. No. 793/2020

Ashutosh Gajanan Mate

V/s.

Rakesh Pal and another

**ORDER BELOW EXH.5**

(Passed on 31<sup>st</sup> March, 2022)

Read application. Perused written statement filed by non-applicant/respondent No.2 insurance company on record below Exh.11. Present petition is proceeded ex-parte against non-applicant/respondent No.1 as per the order passed below Exh.1 dated 27-01-2022.

2] Heard hearing advanced by both sides. I have carefully gone through the documents produced by applicant/petitioner on record as per list below Exh.4 and Exh.13, which includes copy of FORM AA, copy of FIR, copy of crime details form, copy of insurance policy, copy of disability certificate and other relevant documents.

3] While denying para-wise contentions made by applicant/petitioner by way of his petition in toto, non-applicant/respondent No.2 insurance company has denied that at the relevant time of accident the offending Tipper vehicle having registration No. MH-40/BG-4640 was insured with respondent No.2 insurance company. Non-applicant/respondent No.2 insurance company further submitted that the copy of insurance policy filed by the applicant/petitioner is fake/fabricated/manipulated document. Non-applicant/respondent No.2 insurance company has also

submitted that the number of alleged offending vehicle is not the registered number of offending vehicle, but same was the number of two wheeler motorcycle recorded in the name of non-applicant/respondent No.1 and that was covered under the policy of which details are given. According to non-applicant/respondent No.2 insurance company, two wheeler vehicle having registration No. MH-40/BG-4640 recorded in the name of non-applicant/respondent No.1 was insured with non-applicant/respondent No.2 insurance company vide two wheeler act only policy i.e. third party policy bearing No. 110522023480035169 valid for the period from 16-09-2020 to midnight of 15-09-2021. In support of its contention, non-applicant/respondent No.2 insurance company has filed the online copy of insurance policy below list Exh.15.

4] In the light of submissions advanced before me, I have prima facie scanned the documents available on record. From the documents referred above including copy of FORM AA, copy of disability certificate, copy of first information report, the fact of alleged accident, permanent disability caused to applicant/petitioner Ashutosh Gajanan Mate in it, involvement of offending Tipper vehicle bearing registration No. MH-40/BG-4640 owned by non-applicant/ respondent No.1 is prima facie established by the applicant/petitioner.

5] As discussed above, the non-applicant/respondent No.2 insurance company has taken a defence that the offending Tipper vehicle having registration No. MH-40/BG-4640 under the policy No. 110522023480035189 was not insured with it, but under the said policy number, the two wheeler motorcycle having registration

No. MH-40/BG-4640 was insured with it for the period from 16-09-2020 to midnight of 15-09-2021. The online copy of insurance policy available on record below list Exh.15 filed by the non-applicant/respondent No.2 insurance company also corroborate the said fact, which disclosed that as per policy No. 110522023480035189, TVS Scooty KS vehicle owned by insured i.e. non-applicant/respondent No.1 Rakesh Pal was insured non-applicant/respondent No.2 insurance company for the period which starts from 16-09-2020 to midnight of 15-09-2021 and insurance of offending Tipper vehicle was not covered as alleged by the applicant/petitioner.

6] In view of the said fact, prima facie it appears that at the relevant time of accident the offending Tipper vehicle owned by non-applicant/respondent No.1 was not insured with non-applicant/respondent No.2 insurance company.

7] Accordingly, applicant/petitioner has made out prima facie case for award of compensation under section 140 of Motor Vehicle Act. Non-applicant/respondent No.1 being the owner of the offending Tipper vehicle, only liable to pay the amount of compensation to the applicant/petitioner towards no fault liability. Hence following order is passed.

### **ORDER**

- [i] Application is allowed.
- [ii] Non-applicant/respondent No.1 only do pay amount of compensation **Rs.25,000/- (Twenty Five Thousand Rupees only)** towards no fault liability to the applicant/petitioner within the period of six weeks from the date of passing this order. He

is further directed to deposit the amount of compensation payable to the applicant/petitioner, 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.

- [iii] In case of non-applicant/respondent No.1 failed to pay compensation amount within six weeks from the date of passing this order, he shall pay interest @ 6.5 % per annum from the date of this order till realization of amount.
- [iv] On depositing of the amount of compensation of Rs.25,000/-, it be paid and credited in the bank account of applicant/petitioner Ashutosh Gajanan Mate by NEFT/RTGS after verification and identification of applicant/petitioner.

Nagpur.  
Date : 31.03.2022

( R. K. Deshpande )  
Member,  
Motor Accident Claims Tribunal-2,  
Nagpur.

Case argued on : 31/03/2022  
Order dictated on : 31/03/2022  
Transcription ready on : 31/03/2022  
Order checked and  
signed on : 31/03/2022

( R. K. Deshpande )  
Member,  
Motor Accident Claims Tribunal-2,  
Nagpur.

### C E R T I F I C A T E

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

Name of Stenographer : Prashant P. Yenurkar.