

M.A.C.P.No.233/2019
Kartik & oth/Gemsingh & anr.

ORDER BELOW EXH.5.

1. This is an application under section 140 of the Motor Vehicles Act, 1988 for award of compensation of Rs.50,000/- under no fault liability for the death of Swapnil Rajendra alias Raju Rathod resident of Ramtirth, Tq. Tuljapur, District- Osmanabad caused in a motor vehicle accident.

2. Brief facts of the application can be summarized as under :

On 11-02-2018, the deceased-Swapnil alongwith his parents and other Sugar-cane cutting labours were proceeding by Truck bearing No.MH-25/8457 from Nandgaon to Narangwadi for cutting sugar-cane in the field. The driver of said Truck was driving it slowly, cautiously and by correct side of the road as it was loaded with Sugar-cane and labours in the Truck. When their Truck reached near the field of Babulal Bagwan at about 11.45 a.m. at Nandgaon and Hangarga (Nal) village boundary, one Truck bearing No.MH-25.B-7948 came from opposite direction in very high speed, rashly and negligently due to which the driver could not control his Truck and given cut dash and brushed to the Truck bearing No.MH-25/8457. Due to cut and brushed dash the Truck bearing No.MH-25/8457 tilted to the left side of road in which the deceased Swapnil, his parents sustained grievous injuries and died on the spot alongwith two she-goats and other labours sustained injuries. The accident occurred only due to rash and negligent driving on the part of driver of Truck bearing No.MH-25.B-7948. Accordingly, the crime came to be registered against the driver of Truck bearing No.MH-25.B-7948 at Naldurg Police Station vide crime No.33/2018. The applicants being brother and grand-parents were

dependents upon the deceased.

3. Respondent No.1 was registered owner of the Truck bearing No.MH-25.B-7948 and it was insured with respondent No.2. Hence, the respondents are jointly and severally liable to pay the compensation.

4. Respondent No.1 by filing written statement Exh.19 admitted the involvement of the vehicle in the accident but denied the negligence on the part of the driver of Truck bearing No.MH-25.B-7948 and prayed to reject the application.

5. Respondent No.2 resisted the claim by filing written statement Exh.20. All the material averments in the application adverse to the interest of respondent No.2 are denied. The mode and manner of the accident is put in contest. It is contended that, driver of Truck bearing No.MH-25.B-7948 was not at fault. On these grounds, it is prayed to reject the application.

6. Heard learned Advocate Shri.P.Y.Jadhav for the applicants, learned Advocate Shri.S.S.Dhumal for respondent No.1 and learned Advocate Shri.S.P.Danve, for respondent No.2.

7. Perused the application and investigation papers. The F.I.R. dated 16-02-2018 do reveal the involvement of the Truck bearing No.MH-25/8457 and Truck bearing No.MH-25.B-7948 in the collision. The inquest panchanama and post mortem report fortify the fact that, the deceased died on account of injuries sustained in the accident. From the pleadings it appears that, respondent No.1 is registered owner of Truck bearing No.MH-25.B-7948 and it was insured with respondent No.2 covering the date of accident. Thus, all the requisite elements to award the compensation under Section 140 of the Motor Vehicles Act, 1988 on the principle of no fault liability have been made out. I am, therefore, inclined to allow the application and pass the following

order:

ORDER

1. Application is allowed.
2. Respondents No.1 and 2 shall pay Rs.50,000/- (Rs.Fifty thousand only) jointly and severally, under no fault liability to the claimants, within two months, from the date of this order, failing which amount shall carry interest at the rate of Rs.7% p.a.from the date of filing application till the amount is deposited in the Tribunal.
3. After depositing the amount, an amount of Rs.15,000/- be deposited in the name of minor claimant No.1 in any of the Nationalized Bank for the period till he attain the age of majority under the guardianship of his grandmother claimant No.2 and rest of the amount with interest if any be paid to claimants No.2 and 3 equally by account payee cheques.

(Smt.S.M.Shinde)

Date : 11-02-2020.

Chairman,MACT,Osmanabad.

CERTIFICATE.

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

Name of Stenographer

F.R. Kakade,

Court

Principal District &
Sessions Judge,
Osmanabad.

Date

11-02-2020.

Order signed by the Presiding Officer on

11-02-2020

Order uploaded on

17-02-2020