

ORDER BELOW EXH. 5. IN M.A.C.P. NO.19/2018
CNR No.MHPA100001942018

Muktabai w/o Tulshiram Shinde + 4

.. Claimants

Vs.

Prakash s/o Marotrao Panpatte +2

.. Respondents

1. Perused the application, written statement vide Exh.19 filed by the respondent No.2.
2. Heard learned respective Advocates for both the parties.
3. This is an application filed by the claimants under section 140 of the Motor Vehicles Act for grant of interim compensation of Rs.50,000/- on the basis of No Fault Liability, in respect of death of Tulshiram Bapurao Shinde (here-in-after referred as the deceased) occurred in vehicular accident on dated 02.03.2018.
4. It is the case of claimants that on 02.03.2018, the deceased was proceeding towards his village Wadi as pillion riders while his friend Ramesh Munjaji Khade as rider, on motorcycle bearing registration no. MH-22/AF-9418, when his motorcycle reached at village Peth-shivani that time one car bearing No.MH-29-AR-3212 (hereafter referred as offending vehicle) proceeding in rash and negligent manner, gave dash to the said motorcycle due to which the deceased sustained multipel injuries. He was shifted to Medical College, Nanded where he died duly treatment.
5. On complaint Ramesh Munjaji Khade, Crime came to be registered vide Crime No.37/2018 under sections 279, 337, 338, 304-A of I.P.C. against the driver of offending vehicle with Palam police

station on 03.03.2018.

6. The claimants are legal representatives of the deceased as claimant No.1 is wife, claimant Nos. 2 & 4 are daughters and claimant No. 3 is son while claimant No. 4 is mother, of the deceased. The alleged offending vehicle was belonging to respondent No.1 and it was insured with respondent No.2, at the relevant time. Thus, it is submitted that respondents be directed to pay interim compensation.

7. Respondent Nos.1 & 3 appeared but failed to file their say, hence petition proceeded without say against them.

8. Respondent No.2 has resisted the claim petition by filing say vide Exh.19. According to it, there is delay to lodge FIR. Driver of the offending vehicle was not holding valid and effective driving licence at the relevant time of accident, hence, there is breach at the hands of respondent No.1. Rider of motorcycle of the deceased was riding said motorcycle with triple seat. The involvement of offending vehicle is strongly challenged. Thus, it is submitted that no such liability can be fastened upon the respondents.

9. Perused the record. FIR shows that alleged accident occurred on 02.03.2018 while complaint is lodged on 03.03.2018. Spot panchnama, inquest panchnama, postmortem report reveals involvement of offending vehicle in the accident. At this stage, only involvement is to be seen while granting interim compensation based on No Fault Liability. Record shows that offending vehicle is involved in the accident. There is no delay to lodge FIR after occurrence of accident. Under such circumstances, it can be safely said that offending vehicle is involved in the accident. Claimants being wife, daughters, son

and mother of the deceased. Hence, in view of above discussion, this Tribunal proceed to pass following order :

O R D E R

1. Application is allowed.
2. Respondent Nos.1 and 2 are jointly and severally liable to pay amount of Rs.50,000/- (Rs. Fifty thousand only) to claimants within one month from the date of this order, failing which the amount shall carry interest @ 8% per annum from the date of this order till its realization.
3. On deposit of said amount, amount of Rs.10,000/- each be deposited in name of claimant Nos. 2 & 3 in any beneficial scheme in any nationalized bank of their choice under guardianship of their mother i.e, claimant No.1 and amount of Rs.5,000/- each be paid to claimant Nos.4 & 5 while remaining amount be paid to claimant No.1, by issuing account payee cheques of any nationalized bank, in their respective names, after recovery of deficit court fees, if any.

Date : 23.03.2021.

(S.G. Inamdar)
Member, M.A.C.Tribunal,
Gangakhed, Dist. Parbhani.