

Order below Exh-No.05 in M.A.C.P. No.32/2016.
(Dhondiba Kachare and anr. -Vs- Rajaram and 4 ors.)

1- This is an application/ petition under Section 140 of the Motor Vehicles Act for grant of compensation to the tune of Rs.50,000/- under no fault liability on account of death of one Balaji Dhondiba Kachre.

2- Petitioners' case is that, petitioners are parents, respondent No.4 is widow and respondent No.5 is daughter of deceased Balaji. On 27.01.2016, Balaji along with his friend were gone to evening walk. When they reached in front of Anganwadi on Pawana Nagar to Kamshet road, at that time one motor-cycle bearing No. MH-14/DD-9135 (here-in-after referred as offending vehicle) came from back side in rash and negligent manner and gave dash to Balaji and his friend, due to which accident occurred. In the said accident Balaji sustained severe bodily injuries, however, while shifting Balaji to Hospital, he succumbed to injuries. After the accident upon the report of one Laxman Joshi, police station Lonawala Rural registered crime against the driver of offending vehicle i.e. respondent No.3 vide Crime No.12/2016. Respondent No.1 is the new owner and respondent No.2 is the previous owner of the offending vehicle. Therefore, respondent Nos. 1 to 3 are liable to pay compensation to petitioner.

3- Respondent No.1 though served with notice, but failed to appear, hence petition proceeded ex-parte against him. Respondent Nos. 2 and 3 appeared but failed to file w.s., hence petition proceeded without

w.s. against them.

4- Respondent Nos. 4 and 5 by filing their common w.s. at Exh-13, support the contention of petitioners in respect of their relations with deceased Balaji, as well the occurrence of accident and death of Balaji in the said accident. However, denied that the petitioner No.1 is entitle for compensation.

5- Heard learned advocate for parties appeared. Perused the record. To substantiate the claim, petitioners have filed on record below list Exh-4, copy of report, spot panchanama, postmortem report, inquest panchanama, copy of R.C. book of offending vehicle. Upon going through the report it appears that accident took place on 27.01.2016 at about 7:30 p.m on Pawnanagar to Kamshet road wherein the offending vehicle was involved with the allegation that the accident occurred due to rash and negligent driving of its driver. The said documents also shows that Balaji sustained injury in the said accident and succumbed due to injuries. Inquest panchanama and Postmortom report shows that Balaji died due to injury to his vital part i.e. head in accident. Documents also show that crime was registered against driver of offending vehicle. Certificate of registration shows that respondent No.1 is the registered owner of the offending vehicle and accident form report shows that the respondent No.2 is new owner. Therefore, respondent No. 1 to 3 cannot escape from its liability.

6- At this stage, the petitioners have satisfied the requirement of

Section 140 of M.V. Act. Therefore, the application deserves to be allowed.

Hence, the following order.

O R D E R

- 1- Application is allowed.
- 2- Respondent No. 1 to 3 are liable to pay the amount of Rs.50,000/- (Rs. Fifty thousands only) to the petitioners and respondent Nos.4 and 5 within two weeks from the date of this order, failing which the amount shall carry interest @ 9% per annum from the date of this order till realization.
- 3- The respondents are further directed to pay the above-said amount by account payee cheque/ D.D in the name of petitioners and respondent Nos. 4 and 5 equally.
- 4- On depositing the cheque/ D.D, Assistant Superintendent (Cash and Finance) to recover deficit court-fees, if any before delivering the cheque.

Sd/-

(**Amol D. Harne**)

Member, M.A.C.T/ District Judge-1,

GANGAKHED.

Date : 03.08.2018.