

ORDER BELOW EXH. 5. IN M.A.C.P. NO.31/2020
CNR No.MHPA100004752020

Renuka w/o Vijay Bansode & Others. .. Claimants

Vs.

Laxman s/o Bhagoji Ghatmal & Others. .. Respondents

The petitioners have taken out the present application under section 140 of the Motor Vehicles Act, 1988 seeking compensation on the principle of 'no fault', on account of the death of Vijay s/o Keshavrao Bansode resulted from an accident occurred out of the use of a motor vehicle bearing registration No. MH-11/AL-7888 (in short offending vehicle).

2. The brief facts leading to the present application may be delineated as follows ;

The petitioners are claiming to be the heirs and legal representatives of the deceased Vijay s/o Keshavrao Bansode. Petitioner No.1 is the wife, petitioner Nos. 2 and 3 are the daughters and petitioner No.4 is the mother of the deceased. They asserted that on 04.10.2020 the deceased was riding the motorcycle on Parli to Dharmapuri road. He was proceeding towards village Pangaon, Dist. Latur. When he reached at Saradgaon Ghat, the offending vehicle came from front side and gave a tremendous dash to the deceased. In said accident the deceased sustained severe injuries and consequently died on the spot. One Nitin s/o Jagganath Karpude lodged the report to Parli police station Tq. Parli, Dist. Beed. On the basis of said report a crime was registered vide cr.No.288/2020 for offences under sections 279, 337, 338 and 304A of the I.P.C. against the driver of the offending

vehicle.

3. The respondent No.1 opposed the application by filing his say at Exh.18. At the outset, respondent No.1 contended that the application is false and baseless and as such not tenable. He denied that the deceased was riding the motorcycle with moderate speed. He denied that the offending vehicle dash the deceased. He further denied that the driver of offending vehicle was driving it in rash and negligent manner. Respondent No.1 prayed for rejection of the application.

4. Respondent No.2 Insurance company also opposed the present application by filing its say at Exh.15. It is contended that the application is based on false allegations. It is further contended that at the time of alleged accident the driver of the offending vehicle was not having a valid and effective driving licence. The owner and driver of the offending vehicle committed the breach of terms and conditions of the insurance policy. It is further contended that respondent No.1 has not complied with the mandatory provisions under section 134(c) of the M.V.Act. Respondent No.2 denied that accident occurred due to rash and negligent driving of the offending vehicle. Respondent No.2 prayed for rejection of the application.

5. Perused the documents filed on record. The said documents are, AA from, copy of F.I.R., copy of spot panchanama, copy of inquest panchanama, copy of P.M. report, copy of aadhar card of the deceased, copy of R.C.book of the offending vehicle, copy of insurance policy of offending vehicle, copy of fitness certificate, copy of tax receipt, copy of p.u.c., and copy of driving licence of driver of offending vehicle.

6. It reveals from the said documents that the accident occurred on 04.10.2020 on Parli to Dharmapuri road in the vicinity of the area of village Saradgaon. It reveals that the said accident occurred due to rash and negligent driving of the offending vehicle, in which the deceased Vijay s/o Keshavrao Bansode sustained injuries and resultantly died on the spot. It further reveals that police registered the crime vide Cr.No.288/2020 against the driver of the offending vehicle for the offences under sections 279, 337, 338 and 304-A of the I.P.C.

7. It reveals from a copy of insurance policy that the offending vehicle was duly insured with respondent No.2. The said policy was valid at the time of accident. It further reveals that respondent No.1 is the owner of the offending vehicle and insured with respondent No.2.

8. It is well settled that so far as the claim under section 140 of the Motor Vehicle Act is concerned, the claimants are not required to plead and establish that the death in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner of the offending vehicle. Further, the claim shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death the claim has been made. So, the petitioners have made out the prima-facie case regarding involvement of the offending vehicle in the accident. In this view of the matter the present application deserves to be allowed. Hence the following order is passed -

O R D E R

1. Application is allowed.
2. Respondent Nos. 1 and 2 do pay to the petitioners jointly and severally a sum of Rs. 50,000/- (Rs. Fifty Thousand only), apportioned Rs. 12,500/- (Rs. Twelve Thousand

and Five Hundred) to each petitioners, towards compensation on the basis of 'no fault liability', within one month from the date of order, in default of which the petitioners shall be entitled to interest on the said amount at the rate of 7% per annum from the date of order.

3. The amount which is to be paid to the minor claimant Nos. 2 & 3 shall be kept in Fixed Deposit with any Nationalized Bank till they attain the age of majority.
4. The said amount be paid to the petitioners by way of account payee cheque, after due identification of the petitioners or the same may be directly deposited in the account of petitioners.

Dated :15.01.2022.

(**L.D.Gaikwad**)
Member, M.A.C.Tribunal,
Gangakhed, Dist. Parbhani.