

Order below Exh-No.05 in M.A.C.P. No.34/2018.
(Ram Giri and anr. -Vs- Balaji and anr.)

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 Avinash Ram Giri.

2- Petitioners' case is that, petitioners are parents of deceased Avinash. It is averred that on 24.03.2018, Avinash along with his friends had been to village Khambegaon for the prayer of God on occasion of Ram Navami. After completing prayer, Avinash was returning to home by walk. When he reached on the bridge on Loha-Palam road in the vicinity of village Sategaon near field of Datta Madhavrao Kadam, one tractor bearing No. MH-22/H-6274 came there in rash and negligent manner and gave dash to Avinash, due to which accident occurred. In the said accident Avinash sustained severe bodily injuries, therefore, Avinash was immediately shifted at Civil Hospital, Loha wherefrom he was shifted to Government Medical College and Hospital, Nanded, however, the concerned doctor declared him dead. After the accident upon the report of friend of Avinash, police station Palam registered crime against the driver of tractor vide Crime No.49/2018. Respondent No.1 is the owner of said tractor which was insured with respondent No.2 at the time of accident. Therefore, respondents are liable jointly and severally to pay compensation to petitioners.

3- Respondent Nos. 1 opposed the petition by filing say and W.S.

at Exh-19. He admitted the ownership of tractor, its involvement in the accident, however, denied that the accident occurred due to rash and negligence of his driver. He further submitted that the false report is lodged against the driver. He also submitted that the driver is having valid driving licence and the said tractor is insured with respondent No.2 at the relevant time of alleged accident. Therefore, submitted that, he is not responsible for payment of compensation and prayed to dismiss the petition against him.

4- Respondent No.2 resisted the petition by filing say and w.s. at Exh-14. This respondent denied the mode and manner of accident and involvement of the tractor in the alleged accident. This respondent admitted that the tractor was insured with it at the time of alleged accident, however denied that the accident caused due to rash and negligent driving of its driver. This respondent submitted that the tractor is falsely implicated in the crime to grab the amount from it. It further submitted that the driver was not having valid driving licence and therefore, there is breach of terms and conditions of the policy. He also submitted that the deceased along with his friends was travelling in the said tractor and the risk of occupant is not covered by the policy. On all these grounds, lastly prayed for dismissal of petition against it.

5- Heard learned advocates for petitioners and respondents, perused the record. To substantiate the claim, petitioners have filed on

record below list Exh-4, copy of report, additional statement of informant, spot panchanama, postmortem report, inquest panchanama, copy of insurance cover note of tractor and driving licence of driver. Upon going through the report and additional statement of informant, it appears that accident took place on 24.03.2018 at about 8:00 p.m. on the bridge in the vicinity of village Sategaon, near field of Datta Madhavrao Kadam on Loha-Palam road wherein the tractor was involved with the allegation that the accident occurred due to rash and negligent driving of its driver. The said documents also shows that Avinash sustained injury in the said accident. The copy of spot panchanama shows that the tractor was seen on the spot and was seized. Inquest panchanama shows that Avinash died due to injury in the accident. Postmortom report shows that Avinash died due to blunt trauma to his chest in accident. Documents also show that crime was registered against driver of tractor. The respondent No.1 admitted as well copy of R.C. book shows that he is the owner of tractor. The copy of insurance cover note of the said tractor shows that it was insured with respondent No.2 at the material time of accident. Therefore, respondents cannot escape from its liability.

6- At this stage the petitioners have satisfied the requirement of Section 140 of M.V. Act. The defence of respondents cannot be considered at this stage. The respondent has to prove its defence on merit. Hence, the following order.

O R D E R

- 1- Application is allowed.
- 2- Respondents 1 and 2 are jointly and severally liable to pay the amount of Rs.50,000/- (Rs. Fifty thousand only) to the petitioners 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 equally.
- 4- Assistant Superintendent (C.& F) is directed to recover deficit court-fees, if any, before making payment to the claimants.

Sd/-

(**Amol D. Harne**)

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

GANGAKHED.

Date : 06.03.2019.