

MHRG010004912023



M.A.C.P. NO. 46/2023

ORDER BELOW EXH.6

1. The petitioners have filed this application for grant of compensation u/s 140 of M.V.Act.

2. The facts of the present petition are as follows :

The petitioners are the legal heirs of deceased Rahul Chaudhari, who died in a motor vehicle accident which occurred on 10/09/2022 at about 11.45 p.m. at Thal phata. On that day deceased Rahul was going towards Alibag from Chondhi-Mushet on motorcycle No.MH01/DW 7879. He was the pillion rider. When the motorcycle reached at Thal phata, the motorcyclist was taking turn towards hotel Step line by giving indicator. By that time Car No.MH29/AR 4711 came from Chondhi side in high and excessive speed and gave dash to the motorcycle on which the deceased was traveling. Due to the serious impact the deceased Rahul sustained serious head injury and died. According to petitioner the accident was occurred only because of rash and negligent driving of Car No.MH29/AR 4711. The opponent is the is the owner of the said car and therefore the petitioner claimed compensation from him.

3. The opponent contested the petition by filing his written statement-cum-say Exh.15. This opponent denied all

adverse allegations leveled against him including age, earning, occupation and income of the deceased as well as factum of rash and negligent driving of driver of opponent. According to this opponent the car driver Sushil Patil was driving the car at the time of accident, but the petitioners have not impleaded him as a party to the proceeding, therefore, petition is bad for non joinder of necessary party. The accident was occurred due to rash and negligent driving of motorcyclist Herambh Aamle who was riding motorcycle No. MH01/DW 7879. The rider as well as pillion rider had not wore helmet at the time of accident. While taking turn, the motorcycle was skidded and hence accident occurred. The car had not given dash to the motorcycle. With these contentions this opponent prayed for dismissal of the application.

4. I have heard Shri.A.D.Patil, the ld.counsel for petitioner and Shri.Bangera, the ld.counsel for opponent.

5. The applicants have placed on record copy of FIR, spot panchanama, inquest panchanama, post mortem notes. On perusal of the copy of FIR it appears that on 10/09/2022 there was an accident between Car No.MH29/AR 4711 and motorcycle No.MH01/DW 7889. The FIR further shows that while taking turn, the car gave dash to the motorcycle, due to which Rahul Chaudhari sustained head injury and died. The petitioner has placed on record post mortem notes. It shows that the post mortem of the dead body of deceased Rahul was conducted in Civil hospital, Alibag and the autopsy surgeon opined that the deceased died due to cardiorespiratory arrest due to road traffic accident with extra dural heamorage and skull fracture. Thus the FIR and the inquest panchanama shows that deceased met with an accident

and in the accident deceased sustained injury and died. The FIR further shows involvement of Car No.MH29/AR 4711 in the accident. The FIR further shows that in respect of accident police registered an offence against driver of the car. Thus from the above evidence it is prima facie established that deceased met with road traffic accident and in the said accident he died. The opponent No.1 in his W.S. admitted that he is the registered owner of Car No.MH29/AR 4711, therefore, the petitioners are entitled to compensation u/sec. 140 of M.V.Act from the opponent.

6. Needless to mention here that enquiry of negligence u/sec.140 of M.V.Act is foreign. Sec.140 of the Act is beneficial and social piece of legislation. The enquiry contemplated u/sec.140 of M.V.Act is summary in nature. There is no requirement of law to consider the negligence of driver of offending vehicle as well as other defences available to opponent insurance company. It is worthwhile to mention here that so far as the defences available to the insurance company, can be considered at the time of deciding of the main petition. In view of the above discussion I have no hesitation to accept the contention of the applicants. In the result, I pass the following order :

ORDER

- 1) The application Exh.6 is allowed.
- 2) The opponent do pay Rs.50,000/-(Rs. Fifty thousand only) under No Fault Liability to the applicants within one month from the date of this order.
- 3) In case of failure to pay amount, as directed above, the amount shall carry interest at the rate of

9% p.a. from the date of application till its entire realization.

- 4) On realization of the amount, it be paid to the applicant by account payee cheque, after recovery of deficit court fee stamp, if any.

Alibag
Date : 16/10/2023

(Ashokkumar B. Bhillare)
Member, M.A.C. Tribunal, Raigad-
Alibag.