

ORDER BELOW EXH. 6 IN M. A. C. P. no. 23/2018
(*Subhadra Mahadev Biramane & 2 ors. Vs. Sushant Shivaji Pharande & anr.*)

1) Petitioners have filed this application in main Motor Accident Claim Petition No. 23/2018 for interim compensation as 'No Fault Liability' under section 140 of Motor Vehicles Act on account of death of Mahadev Sadashiv Biramane, in an accident.

2) It is case of the petitioners that, on 17/09/2017 at about 07:45 p.m. Mahadev Biramane, was travelling as a pillion on motorcycle no. MH/11/BJ/5230. The opponent motorcycle no. MH/11/AJ/557, coming from the opposite direction, gave a forceful dash to motorcycle on which Mahadev was pillion. As a result of the accident, Mahadev sustained serious injuries and succumbed to it on the same day.

3) The applicants have filed documents alongwith list at Exh.4 i.e. Certified copies of F.I.R. dated 18/09/2017; spot panchnama dated 18/09/2017; Inquest panchnama dated 17/09/2017; Post-mortem report dated 17/09/2017; From the Post-mortem report it appears the probable cause of death as "death due to hamoragic shock due to severe head injury by road traffic accident."

4) Both the opponents vide joint written statement at Exh. 16 and denied the contents of the application in-toto. It is the opponents contention that accident was caused due to the negligence of motorcycle rider on which Mahadev was pillion.

5) Perusal of FIR reveals that, complaint is lodged against the rider of motorcycle No. MH/11/AJ/557. However, in Para no. 8 of the written statement, it is admitted that motorcycle No. MH/11/AJ/557 is in the ownership of opponent no. 1 and that the

opponent no. 2 was riding it. Considering the above documents, it appears that, Mahadev Biramane's death is caused in the accident occurred on 17/09/2017 involving motorcycle nos. MH/11/BJ/5230 and MH/11/AJ/557. Present claim application is against the owner and rider of motorcycle no. MH/11/AJ/557.

6) Therefore, at this juncture, whilst considering an application under section 140 of Motor Vehicles Act, fault finding inquiry is not warranted at all.

7) Considering the death of Mahadev Biramane, is caused in the accident, said applicants are entitled for the relief of compensation under section 140 of Motor Vehicles Act. Hence, I pass following order.

ORDER

- 1) Application (Exh. 6) is allowed.
- 2) Both the opponents do pay jointly and severally a sum of Rs. 50,000/- (Rs. Fifty thousand only) as "No Fault Liability amount" to the applicants within the period of one month from the date of this order failing which the amount shall carry interest @ 9% p.a. from the date of this order till it's realization.
- 3) Amount be paid by account pay cheque only to all the applicants equally.
- 4) Interim award be drawn up accordingly.

Place : Satara
Date : 26th February, 2019

(Y.H. Ameta)
Member, M.A.C.T.
Satara