

MHST010014462018



M.A.C.P.No.106/2018

(Anuradha Shivaji Shirke & Ors.
Vs. Umaji Baban Shirtode & Ors.)

ORDER BELOW EXH.6 :-

(Passed on 17th September' 2022)

This is an application under Section 140 of the Motor Vehicles Act for grant of compensation on principle of no fault liability.

2) It is the case of the claimants that, on 08.12.2017 at about 03:00 p.m. deceased Shivaji Hanmant Shirke was proceeding from Tadawale Sammat to Koregaon on motorcycle bearing No. MH-11/AV-5065 with his wife Vidya Shivaji Shirke as pillion rider. The driver of vehicle Tata Ace Pickup (*Chhota Hatti*) bearing No. MH-11/BL-6125 proceeding from opposite direction, drove his vehicle rashly, negligently, without taking into consideration the situation of the road and gave dash to the motorcycle of Shivaji, due to which Shivaji sustained grievous injuries and died at Sasoon Hospital, Pune. The said accident took place due to fault of the Pickup vehicle driver i.e. opponent No.3, therefore, claimants have prayed for grant of compensation of Rs.50,000/-.

3) Perusal of record more particularly; the police record filed alongwith list of documents Exh.4 i.e. F.I.R., complaint, spot panchanama, Inquest panchanama, Post Mortem report, death

certificate and driving license of deceased, RC of the offending vehicle involved in accident reveal that on 08.12.2017 at about 03:00 p.m. on Tadawale Sammat to Koregaon road at village Chandwadi, accident of Tata Ace Pickup vehicle No. MH-11/BL-6125 and motorcycle No. MH-11/AV-5065 took place and Shivaji who was driving the motorcycle sustained grievous injuries and succumbed to injuries in the hospital.

4) Opponents No.1 and 2 are the owners and opponent No.3 is the driver of the said offending vehicle Tata Ace Pickup bearing registration No. MH-11/BL-6125. The alleged accident took place on 08.12.2017. Accordingly, in view of Section 140 of the Motor Vehicles Act, opponents No.1 to 3 being owners and driver of the offending vehicle, are liable to pay compensation of Rs.50,000/- to the claimants/petitioners on the principle of no fault liability. In a claim for compensation under Section 140 of the Motor Vehicles Act, the claimants are not required to plead and establish that the death or permanent disablement in respect of which claim is made is due to any wrongful act, neglect or default of the owner of the vehicle or of any other person. Opponents No.1 and 3 have not filed say. The contention of opponent No.2 is that, he is not concerned with the offending vehicle as opponent No.1 is the registered owner of it, hence he is not liable to pay the compensation. However, said contention does not appear to be prima facie true in view of the vehicle purchase agreement dated 17.03.2017 between opponents No.1 and 2. Hence, the contention of opponent No.2 cannot be considered at this stage, as this is an application for compensation on 'no fault liability' and liability will be decided at the time of final hearing. Accordingly, present application deserves to be allowed.

With these reasons, I pass following order.

ORDER

- (1) Application (Exh.6) is allowed.
- (2) Opponents No.1 to 3 do jointly and severally pay amount of Rs.50,000/- (Rs. Fifty Thousand only) to the claimants/petitioners vide Section 140 of the Motor Vehicles Act within one month from the date of this order.
- (3) In the event of failure on the part of opponents No.1 to 3 to pay the compensation as directed, they shall additionally pay interest at the rate of 6% per annum to the claimants till the date of realization on due amount.
- (4) Compensation amount be given to the claimants vide account payee cheque/RTGS/NEFT etc.
- (5) Award be drawn up accordingly.

Date : 17.09.2022.

(N.H.Jadhav)
Ad-hoc District Judge-2
and Member, M.A.C.T., Satara