

ORDER BELOW EX. 06 IN M.A.C.P.No.219 of 2021.

(CNR NO. MHST01-002460-2021)

01] This is an application moved by three applicants for compensation under Section 140 of the Motor Vehicles Act, 1988. The applicants have already moved application under Section 166 of the Motor Vehicles Act, 1988 (In short, " M.V.Act").

Facts in brief :

02] On 20.07.2021 at 7.45 a.m. on Dahiwadi to Tupewadi road, within local limits of village Tupewadi, Tal. Maan, Dist. Satara, the alleged accident took place. On that day, the deceased was pillion rider on TVS Scooty No. MH-11/CU-1168 and was proceeding towards Tupewadi. At that time, a three-wheeler vehicle bearing No. MH-11/AG-2716 came from opposite direction and gave forceful dash to TVS Schooty vehicle of deceased by coming towards its wrong side. Due to said dash, the vehicle fell down on the road and deceased Sahil sustained severe injury to his right leg but during treatement he died on 21.07.2021. It is alleged that, said accident took place due to rash and negligent driving of three-wheeler rickshaw vehicle No.MH-11/AG-2716. Thereafter, the matter was reported to the Police Station, Dahiwadi wherein the crime was registered.

According to the applicants, the driver was driving his vehicle in a rash and negligent manner. The deceased was aged about 19 years and having a good health. The applicant No. 1

Nisar is a father, applicant No. 2 Jasmin is a mother and applicant no. 3 is a brother of the deceased. It is alleged that, all are totally dependent upon the income of the deceased. The deceased was taking education at Dr. D.Y. Patil Institute of Hotel Management & Catering Technology. Sahil was an intelligent student. His father is running hotel business and Sahil was looking after to it and helping to his father. It is alleged that the deceased could get approximately Rs. 6,40,000/- per year income. The applicants claimed compensation under the principles of 'No Fault Liability'.

03] At Exh. 20, opponent no. 1 filed his say and denied all the contents of application. In addition to this he contended that the applicants have not filed any documentary evidence in support of the income of deceased, therefore, the amount of compensation is exorbitant. Hence, he prayed to reject this application.

04] At Exh. 23, opponent No. 2 filed his say. He contended that on 20.11.2020, the vehicle bearing No. MH-11/AG-2716 was transferred to Gulabrao Kisan Tupe and it was recorded by R.T.O. The third party insurance was in the name of Mayur Kisan More. He contended that, Gulabrao Kisan Tupe was supposed to make entry in his name for the insurance. After the transfer of the vehicle, it was for Gulabrao Kisan Tupe to take the responsibility of the vehicle. After transfer of the vehicle, after the period of nine months, the alleged incident took place. He has filed online application receipts for transfer of the vehicle. The copy of the Reliance General Insurance shows the name of insurer as Mayur Kisan More which is third party insurance.

05] Opponent no. 3 has not filed say.

06] I heard the counsel for applicant at length and perused the record.

07] On perusal of record, it appears that the deceased Sahil died due to the accident and prima facie involvement of the vehicle is found. The other documents filed on record support to the claim moved by the petitioner. The copy of F.I.R., Spot panchanama, Post Mortem report, Inquest Panchanama, R.C.Book of Rickshaw, Copy of driving license of Auto rickshaw driver, Fitness certificate of Rickshaw, driving license of Scooty rider, Food license copy of Hotel of applicant No. 1, copies of income tax returns of applicant no. 1, 10th class passing Certificate of deceased, 12th class Marklist of deceased, college marklists, college leaving certificate of deceased, Hospital and medical bills etc. documents filed on record shows that the vehicle was insured with insurer/ Opponent no. 3 and the insurance was in force.

The vehicle was already transferred in the name of Gulabrao Kisan Tupe as contended by respondent No. 2 but only online receipt is filed therefore on the basis of online application only, he cannot avoid his liability which is a joint and several liability therefore, in view of the provisions under Section 140, all opponents are jointly and severally liable to pay compensation of Rs.50,000/-

08] From the perusal of the record, prima facie, it shows that the applicant No. 1 is a father of deceased, applicant no. 2 is a mother and applicant No. 3 is a brother of deceased and all are dependent on deceased. Hence, I am of the opinion that applicant No. 1 to 3 are entitled to the 'No Fault Liability' amount Rs.50,000/-. Hence, I passed the following order.

ORDER

1] The application is partly allowed.

2] The opponents No.1 to 3 jointly and severally do pay Rs.50,000/- to the claimant No. 1 / applicant No. 1 Nisar Gani Inamdar, Applicant No. 2 Smt. Jasmin Nisar Inamdar and Applicant No. 3 Saeed Nisar Inamdar towards compensation under Section 140 of the Motor Vehicles Act, 1988.

3] If the amount of compensation is not paid within 30 days, the opponent do pay interest on the amount of compensation at the rate of 7.5% per annum from the date of the application till the realisation of the amount.

4] Interim award be drawn accordingly.

Satara.
Date : 10th March, 2023

(Sanjay R. Salkute)
Member, M.A.C.T.,Satara.