

Order below Exhibit 5 in M.A.C.P. No. 246 / 2018

CNR : MHTH01-003466-2018

Smt. Amiben Niravkuma Mehta and 3 others .. Applicants

versus

The Transport Manager,

Thane Municipal Transport

.. Opponent

1] This is an application under section 140 of M.V. Act for award of compensation of Rs.50,000/- under N.F.L. on account of death of Nirav alias Niravkumar Krushnakant Mehta (hereinafter referred to as "the deceased" for short) in a motor vehicular accident.

2] The material averments in the application can be stated as under -

On 29.09.2017 at about 10.30 p.m. the deceased was travelling in a car bearing no. MH02-AL-2742 on his way to Mumbai. The driver of car was driving the same in moderate speed, cautiously and by observing the traffic rules. When the deceased reached in front of Modi Compound, on Nashik to Mumbai highway, a T.M.T. bus bearing no. MH04-G-8002 owned by opponent no.1 and insured with opponent no.2 came from opposite direction and gave a violent dash to the car. The sole negligence on the part of the driver of bus led to the accident. The deceased was shifted to VSGH Hospital, Thane. However, he succumbed to the injuries before the treatment. Hence, this petition is filed for award of compensation under the principle of N.F.L.

3] The opponent resisted the claim by filing written statement (Exh.15). All the averments adverse to the interest of opponent are stoutly denied. It is denied that the driver of bus was at fault. In contrast, it is contended that the driver of car was at fault. On these and amongst other grounds, opponent no.2 prayed for dismissal of the petition.

4] Heard learned advocates for the applicants and the

opponent.

5] Perused the application and investigation papers. It is pertinent to note that the true copy of F.I.R. and spot of accident panchnama indicate that T.M.T. bus bearing no. MH04-G-8002 was involved in the accident. The inquest panchnama and P.M. report further fortify the fact that the deceased died on account of the injuries sustained in the accident. Form No. 53 shows that T.M.T. bus bearing no. MH04-G-8002 was owned by the opponent. The investigation papers indicate that the driver of bus came to be prosecuted for rash and negligent driving. Thus, all the requisite elements to award compensation under section 140 of M.V.Act under the principle of N.F.L. have been made out. I am, therefore, inclined to pass following order-

ORDER

- 1} Application is allowed.
- 2} Opponents no.1 and 2 do pay Rs.50,000/- [rupees fifty thousand only] jointly and severally under No Fault Liability to the applicants within two months from the date of this order, failing which the amount shall carry interest @ 8% p.a. from the date of filing of the application till amount is deposited in the Tribunal.
- 3} After deposit of amount, every applicant is entitled to a sum of Rs.12,500/- [rupees twelve thousand and five hundred only].
- 4} Payment to applicant no.1, 3 and 4 be made by separate account payee cheques on due identification and verification.
- 5} Applicant no.2 is minor. Hence, her share be given to her mother i.e. applicant no.1.

Date : 19.10.2018

(R. N. Rokade)
Member, M.A.C.T., Thane.