

Before the Chairman, M.A.C.T.Wardha

MACP No. 54/2020

CNR No.MHWRO1001594-2020

Sunanda wd/o Prabhakar Rangankar+2

.Vs.

United India Insurance Co. Ltd;+1

Order Below Exh-5

(Passed On 26.08.2021)

1. This is an application under Section 140 of Motor Vehicle Act for getting compensation under no fault liability.

2. Deceased Prabhakar was husband of applicant Sunanda and father of applicant No.2 and 3. Prabhakar died in vehicular accident on 14.09.2020. On that day deceased was proceeding on two wheeler MH-32-U-3979 from Varora towards Tembhurna by left side of road. He have valid driving license. One trailer No. RJ-7-GA-9799 which is driven by respondent No.3 came from Chandrapur side and was going towards Nagpur. It was driven by him in rash and negligent manner and dash two wheeler of deceased due to which deceased sustained multiple injuries and died. Police Station Varora registered C.R.No. 445/2020 u/s 279, 304-A of I.P.C. and u/s. 134 and 184 of M. V. Act. Respondent No.2 was holding driving license. He was also owner of

offending vehicle which was insured with respondent No.1. So both respondents are jointly and severally liable to pay compensation under NFL.

3. Respondent No.2 was served but remained absent. So matter proceeded ex-parte against him.

4. Respondent No.1 who is insurance company, has denied all allegations. According to them the driver of offending vehicle was not holding valid driving license. The offending vehicle was not having valid fitness certificate and permit and so committed breach of terms and conditions of insurance policy. They have attempted to state fault on the part of the deceased.

5. I have heard both sides. Perused papers.

6. The reply of the respondent No.1 shows that they have not disputed about involvement of offending vehicle in an accident. Police papers on record and FIR copy shows that an offence is registered against the respondent No.2 the driver of offending vehicle with allegations of driving the said vehicle rashly and negligently due to which deceased died. Copy of spot panchanama also shows presence of offending vehicle on the spot. Cause of death of Prabhakar is head injury. Copy of insurance policy shows that on the day of accident, offending vehicle was insured with respondent No.1. It appears from the paper that the respondent No.2 owner of offending vehicle. According

to respondent No.1 driver of offending vehicle was not holding valid driving license and the offending vehicle was not having valid fitness certificate/permit. Police paper doesn't reveal that offence u/sec. 3/181 of M.V. Act is leveled. Even, these facts can not be looked into at the stage. Hence, the respondent No.1 and 2 are jointly and severally liable to pay compensation u/sec. 140 of M.V. act to the applicants. So, I pass the following order.

Order

- 1) The application Ex-5 is allowed.
- 2) Respondent nos.1 and 2 to pay jointly and severally an amount of **Rs.50,000/- (Rupees Fifty Thousands only)** to the applicants within two months from the date of this order.
- 3) In case of failure on the part of respondents to deposit the amount and comply with the order within two months, then they shall be liable to pay interest on the said amount at the rate of 7 % per annum from the date of order till actual realization of the entire amount.
- 4) The amount be paid to the applicants by account payee cheque, on payment of deficit stamp duty as per rules.
- 5) An award be drawn accordingly.

Wardha.

Date : 26.08.2021

(Ashutosh N. Karmarkar)
Chairman, MACT,
Wardha.

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word, as per the original order.

Name of Stenographer	:	M.K. Deshmukh, Steno.
Court	:	Principal District and Sessions Judge, Wardha
Date	:	26.08.2021
Order signed by the Presiding Officer on	:	26.08.2021
Order uploaded on	:	26.08.2021