

M.A.C.P. No. 30/2019
CNR No. MHWR010006782019

Smt. Mandabai W/o Chhaganrao Madavi and others
..V/s..
National Insurance Company Ltd. and others

Order below Exh.5
(Passed on 14.01.2022)

This is an application filed under Section 140 of the Motor Vehicles Act, 1988.

2] The applicants have come with a case that they are the legal representatives of deceased Ishwar Chhaganrao Madavi, who died in the motor vehicular accident, which took place on 06.02.2019 at about 19.00 to 19.30 hours at Mouza Rimdoh, Near Motha Maruti Temple, Hinganghat-Rimdoh Service Road, N.H.No.7, Hinganghat, Tah.Hinganghat, Dist.Wardha.

3] It is averred by the applicants that on 06.02.2019 deceased was riding motorcycle bearing registration No.MH-40-R-0880 (hereinafter referred to as 'said motorcycle') in moderate speed and by following traffic rules and was going from Hinganghat side to Rimdoh. When he reached at mouza Rimdoh, near Near Motha Maruti Temple, Hinganghat-Rimdoh Service Road, N.H.No.7, Hinganghat at about 19.00 to 20.00 hours, Ashok Leyland Travel Bus bearing registration MH-31-CQ-0705 (hereinafter referred to as 'said Travel Bus') came from Hinganghat side and was going towards Nagpur side, in high speed, in zig zig zag manner without following the traffic rules and it gave forcible dash to the said motorcycle. Due to dash given by said Travel Bus to said motorcycle, Ishwar Madav and his friend dragged about 100 ft. and Ishwar Madavi received fatal injuries. After the

accident, he was immediately sent to Government Hospital, Hinganghat while taking treatment, Ishwar Madavi died.

4] It is further averred that at the time of the accident, deceased Ishwar was 27 years old and he was in service and getting salary of Rs.20,000/- per month.

5] It is further averred that Ishwar died in motor vehicular accident due to rash and negligent driving on part of driver of said Travel Bus, Police Station, Hinganghat had registered Crime No.99//2019 for the offence punishable under Sections 279, 337, 338 and 304-A of the Indian Penal Code R/w Section 184 of the Motor Vehicles Act against driver of respondent No.3. Respondent No.2 is the owner of the said Travel Bus and respondent No.1 is the Insurance Company with whom said Travel Bus was insured. The policy was in force at the time of the alleged accident. Therefore, respondents are liable to pay compensation. Petitioners prayed to allow present application.

6] The respondent No.1 appeared through Advocate and filed reply (Exh.16). Respondents No.2 and 3 remained absent though duly served with notice. Hence claim proceeded exparte against them.

7] By filing reply (Exh.16) respondent No.1 has denied contents of application. It has denied age, income and occupation of deceased Ishwar. It is averred that spot panchanama was prepared on 06.02.2019 at about 20.30 hours but there is no mention about the registration number of Ashok Leyland Travel Bus. More so, the offending Bus was also not shown as a standing at the spot of the alleged incident. F.I.R. was lodged on 08.02.2019. No explanation on record to show the said Travel Bus was involved in the accident. Respondent No.1 prayed to reject present application.

8] Heard learned Advocate for both parties at considerable length. Perused documents filed on record.

9] Petitioners have furnished copy of Form Comp. AA, First Information Report dated 08.02.2019, Crime Details Form, Inquest panchanama, Memorandum of postmortem examination of deceased Ishwar, certificate of insurance, driving license of respondent No.3.

10] I would like to say that the assessment of the application at this stage is prima facie. As aforesaid, only involvement of the vehicle is required to be considered. That can be seen from the documents produced on record. At the outset, I would like to say that the point of negligence does not assume importance at this stage. It appears that F.I.R. is lodged on 08.02.2019 at about 12.11 hours by informant Omeshwar Chhaganrao Madavi against the driver of said Travel Bus mentioning that driver of Travel Bus drove of said Travel Bus in rash and negligent manner and gave dash to said motorcycle of the deceased Ishwar. Documents which have been produced on record shows that Ishwar died due to accident occurred in between motorcycle and Travel Bus occurred on 06.02.2019 at about 19.30 to 20.00 hours. Considering this aspect, at this stage prima facie the respondents No.1 to 3 are liable to pay compensation to the applicants.

11] In view of above discussion and documents produced on record are sufficient to hold that the basic criteria or parameters have been fulfilled and the application needs to be allowed. Hence, I proceed to pass following order :-

Order

- i) The application Ex.5 is hereby allowed.
- ii) Respondents No.1 to 3 shall pay jointly and severally the amount of Rs.50,000/- (Rupees Fifty Thousand only) as compensation under No Fault Liability to the petitioners No.1 to 3 within one month from the date of this order.

- iii) In case of failure on the part of Respondents No.1 to 3 to deposit the amount and comply with the order within one month, 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.
- iv) Upon deposit of the amount, it be apportioned equally amongst petitioners No.1 to 3 and be paid to them by account payee cheques.
- v) An award be drawn up accordingly.

Wardha
Date: 14-01-2022

(Smt. R.J. Rai)
Member
Motor Accident Claims Tribunal,
Wardha.

CERTIFICATE

I affirm that the contents of this P.D.F. file are same word to word as per the original order.

Name of Stenographer	:	M.A. Chaudhari
Court Name	:	In the Court of the Adhoc District Judge Wardha.
Date	:	14.01.2022
Order signed by Presiding Officer on	:	14.01.2022
Order Uploaded on	:	14.01.2022