

M.A.C.P. No.38/2021
CNR No. MHWR010011522021

Smt. Vimalbai Wd/o Dnyaneshwar Thakare+1
..V/s..
Yashwantrao S/o Keshorao Raut and others

Order below Exh.5
(Passed on 30.07.2022)

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 Prashant Dnyaneshwar Thakare, who died in the motor vehicular accident, which took place on 26.06.2021 at about 15.15 hours at Nagpur-Wardha bypass road, Dist.Wardha.

3] It is averred by the applicants that on 26.06.2021 Prashant Thakare was standing near Nivedita Nilmay, Nagpur-Wardha bypass road near to his motorcycle No.MH-32-AA-9766 and was asking for address. At the relevant time, Bolero Goods Service vehicle No.MH-29-VE-3461 (hereinafter referred to as said 'Bolero vehicle') came from Nagpur without following rules, in rash and negligent manner and dashed to the Prashant Dnyaneshwar Thakare. Due to sudden accident, Prashant Dnyaneshwar Thakare sustained injuries to his leg, hand, mouth and head and died on the spot. He was hospitalized at Kasturba Hospital, Sewagram. Said accident took place due to rash and negligent driving on part of driver of said Bolero.

4] It is further averred that at the time of the accident, deceased Prashant was 26 years old and he was earning Rs.15,000/- per month. Respondent No.1 is the owner and respondent No.2 is driver of said Bolero vehicle. Said Bolero vehicle was insured with respondent No.3 and they are responsible to pay compensation amount under

Section 140 of the Motor Vehicle Act. Applicants prayed to grant present application.

5] The respondent No.1 appeared through Advocate and filed written statement (Exh.12). Though, non-applicants No.2 and 3 appeared through Advocate, they failed to file written statement. Therefore, matter proceeded 'no W.S.' against them.

6] By filing written statement (Exh.12) respondent No.1 has denied contents of application and claim. He has denied age, income, occupation of deceased Prashant and alleged accident.

7] It is specifically averred that he is not owner of the said Bolero as he has sold said Bolero vehicle as per agreement on Notarized document to one Mahesh Jivan Shinde and handed over possession of said Bolero vehicle to Mahesh Shinde. Therefore, he is not responsible for the act of new owner. He has not appointed as a driver to respondent No.2. Respondent No.1 prayed to reject present application.

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

9] Applicants have furnished copy of Form Comp. AA, First Information Report dated 20.06.2021, Crime Details Form, postmortem examination of deceased Prashant, Certificate of insurance and policy schedule from 04.03.2021 till 03.03.2022.

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 26.06.2021 at about 19.40 hours by informant Rameshwar Dnyaneshwar Thakare against the driver of said Bolero vehicle. Documents which have been produced on record shows that

Prashant died in motor vehicle accident occurred on 26.06.2021 due to dash given by said Bolero vehicle. Though, respondent No.1 disputed that he has sold his said Bolero vehicle to one Mahesh Jivan Shinde, it is seen that it is not case of respondent No.1 that he is not registered owner of the said vehicle. Thus, it is seen that respondent No.1 is the registered owner of the vehicle and non-applicant No.2 is driver of said Bolero vehicle and it was insured with non-applicant No.3 when said accident occurred. Considering this aspect, at this stage prima facie the non-applicants No.1 to 3 are liable to pay compensation to the applicant No.1.

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)** Respondent 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 applicant No.1 within one month from the date of this order.
- iii)** In case of failure on the part of non-applicants 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)** An award be drawn up accordingly.

Wardha
Date: 30-07-2022

(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-1, Wardha.
Date	:	30.07.2022
Order signed by Presiding Officer on	:	30.07.2022
Order Uploaded on	:	30.07.2022