

M. A. C. P. No.77/2016,
Smt. Madhavi+4 -Vs- Rohit+3,
CNR No.: MHYA080005932016.

O R D E R Below Exh.2

(Passed on 13th December 2019)

1] The applicants have filed this application for getting interim compensation (N.F.L.) from non-applicant Nos.1 to 4 towards the death of Chintu Lingaiyya Krishnapalli, who died in the motor accident.

2] Applicants submitted that, on 26-06-2016 deceased Chintu alongwith his friend Nitin Shilka, were going to Kumbharkhani from Ghuggus by motorcycle bearing registration No.MH-34-AJ/7250. The deceased was riding the said motorcycle. When they reached between Lalguda to Brahmani Fata, one Indigo car bearing registration No.MH-29-L//0090, driven by N.A.No.1 came from opposite direction in a rash and negligent manner and gave a violent dash to the motorcycle, in which deceased Chintu Krishnapalli, sustained multiple injuries. Due to which the deceased received grievous injuries. He was immediately shifted to Government Hospital, Chandrapur, where he died during treatment. The said accident was took place due to sole negligence of N.A.No.1, the driver of said Indigo Car and he is solely responsible for the untimely and unexpected death of the deceased. The crime bearing No.580/2016 was registered in respect of accident against N.A.No.1 in Police Station, Wani under sections 279, 337 and 304-A of I. P. Code.

3] The applicants submitted that the said Indigo car bearing registration No.MH-29-L//0090 was being driven by N.A.No.1 under the instruction, order and employment of N.A.No.2 who is the owner

of said car. The said vehicle was validly insured with N.A.No.4 vide policy No.95571276 valid from 19-12-2015 to 18-12-2016. Hence, N.A.Nos.1 to 4 are jointly and severally liable for payment of amount of interim compensation of Rs.50,000/- to the applicants and prayed for the same.

4] Non-applicant Nos.1 to 3 failed to contest the matter though duly served with the summons, therefore, matter proceeded ex-parte by order dated 07-06-2019 against them.

5] Non-applicant No.4 filed its reply at Exh.17 and denied all the adverse allegations. As per the additional reply, there was rash and negligent act on the part of motorcycle rider. Moreover, as per the Insurance Company unless the rider of offending vehicle was possessed valid and effective driving license no compensation is liable to be paid. The claim against N.A.No.4 is not legal and valid. Without prejudice to the above contention in case if N.A.No.4 is held liable for payment of compensation then any such liability will be subject to the condition that there was no breach of terms and conditions of insurance policy and the rider of the motorcycle was holding a valid driving license at the relevant time. Lastly, prayed to reject the application against it.

6] Perused record of the case and documents filed on record. On perusal of the same, it has become clear that on 26-06-2016 deceased Chintu alongwith his friend Nitin Shilka, were going to Kumbharkhani from Ghuggus by motorcycle bearing registration No.MH-34-AJ/7250. The deceased was riding the said motorcycle. When they reached between Lalguda to Brahmani Fata, one Indigo car

bearing registration No.MH-29-L//0090, driven by N.A.No.1 came from opposite direction in a rash and negligent manner and gave a violent dash to the motorcycle, in which deceased Chintu Krishnapalli, sustained multiple injury, resulted into death.

7] I have perused the documents on record i.e. copy of F.I.R., copy of spot panchanama, copy of inquest panchanama, copy of postmortem report, copy of driving license of N.A.No.1 and copy of insurance policy. It reveals that, offence is registered against the driver of Indigo car bearing registration No.MH-29-L//0090. Admittedly, N.A.No.3 is the ex-owner of said car. From the copy of insurance policy, it appears that N.A.No.4 is the insurer of said Ape auto. The copy of driving license shows that, at the relevant time N.A.No.1 was having valid and effective driving license to drive the said car.

8] As the claim under Section 140 of M. V. Act, is based on **No Fault Liability**, applicants are entitled for interim compensation. Hence, I am of the opinion that N.A.Nos.1 to 4 are liable to pay interim amount of compensation of Rs.50,000/- to the applicants. Hence, I proceed to pass the following order.

ORDER

1] The application Exh.2 is allowed as under :

2] Non-applicant Nos.1 to 4 shall pay an amount of Rs.50,000/- (Rupees Fifty Thousands only) towards no fault liability under section 140 of M. V. Act, to the applicants Nos.1 to 5 within two months from the date of this order.

3] Failing which applicants shall be entitled for interest at the rate

of 7% per annum on the said amount from the date of order till realization of entire amount.

4] The amount shall be paid equally to applicants by account payee cheque of any nationalized bank drawn in the names of applicant Nos.1, 4 and 5. The amount of compensation of applicant Nos.2 & 3 be paid through their mother applicant No.1.

5] Applicants shall pay remaining 2/3rd court fee, if any.

Dated : 13-12-2019.

(M. Mohiuddin M.A.)
Member, M.A.C.T.,
Kelapur, Dist. Yavatmal.