

MHPA040008642015



Received on :- 23.09.2015
Registered on :- 23.09.2015
Decided on :- 14.06.2022
Duration :- 06Y 08Ms 21 Ds

IN THE COURT OF MOTOR ACCIDENT CLAIMS TRIBUNAL
AT HINGOLI
(PRESIDED OVER BY P.V. BULBULE, DJ-3)

M.A.C.P.No.335/2015

Exhibit No.

Jagan S/o Ramaji Gade
Age: 28 years, Occu: Driver
Now- Nil & owner of Tata Pickup
bearing Reg.NO.MH-38/E-1888,
R/o Ridhora, Tq. Sengaon,
Dist. Hingoli

..PETITIONER..

VERSUS

Cholamandalam MS Gen.Insurance
Co. Ltd.
Through its Branch Manager,
CTS Bi,14536, 3rd Floor,
Oberoi Towers, Civil Line,
Jalna Road, Diagonally,
OPP. Hotel Amerpreet, Aurangabad,
Dist. Aurangabad

..RESPONDENT..

Claim: For compensation under Sec.166 of the Motor Vehicles Act.

Shri S.B.Gadade, Advocate for the petitioner

Shri S.G.Waghmare, Advocate for Respondent

JUDGMENT

[Delivered on the 14th day of June 2022]

This is a petition under Section 166 of the Motor Vehicles Act for granting compensation of Rs.2,00,000/- along with interest @ 12 % per annum till realization of the amount.

2- On 22-04-2015, the petitioner was proceeding in his pickup vehicle as a drive towards Mondha Hingoli from Ridhora. In front of Kayadhu river on Hingoli-Aundha road near Wanjarwada at about 7.30 P.M. jeep bearing No.MH-29/C1512 came from the front side in a rash and negligent manner. The petitioner applied brake but his pickup toppled down by the side of the road. He sustained the injuries.

3- The respondent appeared and filed the Written Statement at Exh.10. Respondent has denied all the adverse allegations. It is claimed that the petitioner was negligent. The petition is not maintainable under Section 166 and it should be u/Sec.163-A of the Motor Vehicles Act. There is collusion between the petitioner and the owner of the jeep. Therefore, the

respondent prayed for the dismissal of the petition.

4- My learned predecessor has framed the issues below Exh.12. Those issues along with my findings and reasons thereon are as follows :

Sr. No.	<u>ISSUES.</u>	<u>FINDINGS</u>
1	Does the petitioner prove that he sustained injuries in the accident between Pick-up vehicle No MH-38/E-1888 and jeep No MH-29-C/1512?	..No..
2	Whether the petitioner has committed the breach of terms and conditions of the insurance policy thereby driving Pick-up vehicle No.MH-38/E-1888 without holding a valid driving licence?	..No..
3	Whether the present petition is maintainable?	..No..
4	Whether the petitioner is entitled to compensation? If yes, what is quantum?	Only NFL
5	What order?	Only the NFL amount of Rs.25,000/- is granted.

REASONS

As to ISSUES NOS.1 TO 5 :

5- The petition is five years old and from the Action Plan provided by the Hon'ble High Court. The issues are framed at

Exh.12 on 11-09-2019. Since then, the petitioner failed to adduce his evidence. On 20-08-2021, the order below Exh.01 is passed and his evidence is closed. Thereafter, on 11-03-2022 the petitioner applied for an adjournment. Again, the petitioner is absent. The respondent closed his evidence by pursis Exh.13.

6- The petitioner claims that the jeep gave a dash to the pick-up. I have perused the spot panchnama produced along with list Exh.04. The incident occurred on 22-04-2015 and was spot prepared on 23-04-2015. In the spot panchnama, it is mentioned that both the vehicles were not on the spot and it is removed. So, there is no oral evidence on record. Likewise, the documentary evidence is also not sufficient to prove the negligent act of the jeep driver. The NFL amount of Rs.25,000/- was granted on 11-09-2019. The petitioner is not interested and as per **Naliniprava Behera V. Executive Engineer, E.H.T. and another, reported in 2018 ACJ 987, (Orissa)**. In this case, the Hon'ble High Court observed by referring to the judgment of the division bench that the claim petition cannot be dismissed in default after framing of the issues. On 09-06-2022 also, the petitioner is absent. The respondent argued the matter. The petitioner has failed to prove the rash and negligence. There is no circumstantial evidence.

7- Because of my above observations, the 'N.F.L.' amount of Rs.25,000/- is justifiable. Hence, in the light of the above discussion, I am inclined to answer Issues Nos.1 to 3 in the

negative and issue No. 4 and 5 is recorded only to the extent of N.F.L. amount.

8- In view of my findings on the issue Nos.1 to 5, the petition deserves to be partly allowed. In the facts and circumstances of the case, there shall be no order as to costs. In the result, I proceed to pass the following order :

ORDER

- 1 The petition is hereby partly allowed only to the extent of the NFL amount.
 - 2 In case, the respondent has not deposited the 'N.F.L.' amount, be deposited as per the order passed below Exh.05 along with interest.
 - 3 No order as to costs.
 - 4 Award be prepared accordingly.
- The judgment is pronounced in open Court.

Dated:14 /06/2022

(P.V.Bulbule)
Member, M.A.C.T.&
District Judge-3,
Hingoli

