

ORDER BELOW EXH. 5 IN M.A.C.P. NO. 01/2018

1. By this application under Section 140 of the Motor Vehicle Act, 1988 (M. V. Act) the widow and two sons of one deceased Arjun Bhaurao Nipunge have prayed no fault liability compensation, subjecting the death of the deceased, in a vehicular accident.

2. The claimants have come with the case that, the deceased met with an accident on 06/10/2017 at about 3.00p.m. at Newasa fata in the square of Shevgaon. The accident took place due to rash and negligent driving of one motor-cycle bearing No. MH-17/BQ-3006, resulting the death of the deceased. The deceased was the pedestrian. The opponents being the owner, the driver and the insurance company of the said vehicle, are jointly and severally liable to pay the compensation as prayed.

3. Along with the application under Section 166 of the M. V. Act, the claimants have placed on record the copies of the FIR, the supplementary statement of the informant, the panchanama of the spot of the incident, the inquest panchanama, the panchanama of the motor-cycle, the post mortem report, the driving licence of the motor-cycle, the R.C. book of the vehicle and insurance cover note.

4. I have heard Mr. S. K. Kapse, the learned counsel for the claimants, Mr. B. B. Satpute, the learned counsel for opponent No.1 and Mr. Tambe, the learned counsel for opponent No.3.

5. On the basis of the above documents, the death of the deceased in an accident which took place arising out of the use of the offending motor-cycle, at least for this application, can not be disputed. The defences raised by opponent No.3, can not be considered at this stage, including the dependency. In the light of the same, once there is the death in the accident arising out of the use of the vehicle and once there is the valid insurance, the liability of the opponents is the consequence. Hence, I am inclined to pass the following order.

ORDER

1. Application Exh. 5 is, hereby, allowed.
2. The opponents shall pay the compensation of Rs. 50,000/- under Section 140 of the Motor Vehicles Act,1988, jointly and severally, towards no fault liability to the claimant within the period of two months from today. If the compensation is not paid within the said period, it shall carry the interest @ Rs.9% p.a. from today.
3. On realization of the amount, of Rs. 20,000/-(Rs. Twenty thousands) be paid to claimant No.1 and Rs. 15000/-(Rs.Fifteen thousands) each be paid to claimants No. 2 and 3, by issuing the account payee cheques.
4. The amount shall not be disbursed unless the deficit Court fee stamp, if any, is deposited by the claimants.

NEWASA
DATE : 11/07/2018

(A. L. TIKLE)
MEMBER, M. A. C. Tribunal,
NEWASA