

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.580 OF 2001

- 1] Rahul Amrutlal Bora,
Age 25 years, occ. Nil,
Khistgalli, Ahmednagar
- 2] Lata Amrutlal Bora,
Age 53 years, occ.Household,
r/o. Ambikanagar, Kedgaon,
Ahmednagar ..Appellants

Versus

- 1] Sayyed Shakoor Abdul Aziz,
Age 45 years, occ.Busines,
r/o. Fakirwada, Behind D.S.P.
Office, Ahmednagar
- 2] Nazneen Sayyed Shakoor,
Age 40 years, occ.household,
r/o. Fakirwada, Behind D.S.P.
Office, Ahmednagar
- 3] The United India Insurance Co.
Ltd., City Branch, Office No.2,
Kohali Motors Bldg., Seven
Hill Corporation Colony,
Aurangabad, through its Branch
Manager ..Respondents

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Mr.U.S.Malte, advocate for appellants

Mr.V.P.Latange, advocate for respondent nos.1 and
2

Mr. A.B.Gatne, advocate for respondent no.3

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CORAM : M.T. JOSHI, J.
DATE : FEBRUARY 11, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the direction to pay compensation in a Motor Accident Claim Petition, original respondent nos.1 and 2 i.e. driver and owner of the two wheeler, have preferred the present appeal.

3] The record would show that deceased – Soheb was driving the motorcycle bearing registration No.BLC-4650 on 6th September, 1992 on Fakirwada – Kothala stand road at Ahmednagar. At that time, said motorcycle was dashed by a scooter i.e. Kinetic Honda bearing registration No.MVB-3222. According to present respondent nos.1 and 2 i.e. original claimants (parents of the deceased), present appellant no.1 – Rahul was driving the said scooter owned by appellant no.2. According

to them, the accident has occurred solely due to the rash and negligent driving of the scooter by appellant no.1.

4] However, present appellants came with a case that the accident has occurred solely due to rash and negligent driving of the motorcycle by the deceased and the scooter was insured with present respondent no.3.

5] Learned Member, on the basis of the material before him, came to the conclusion that the accident has occurred due to contributory negligence of the appellant no.1 and the deceased. Learned Member computed the compensation amount at Rs.50,000/-. Further, as it was found that appellant no.1 was minor and was not holding any valid and effective driving license, respondent no.3 – insurer was exonerated from indemnifying the compensation.

6] Mr.Malte, learned counsel for the appellants, submits that the accident has occurred solely due to rash and negligent driving of the motorcycle by the deceased and appellant no.1 was holding the valid and effective driving license and therefore, he submits that the appeal may be allowed.

7] On the other hand, learned counsel for the respondents support the reasoning of the learned Member of Motor Accident Claims Tribunal.

8] On the basis of this material, following points arise for my determination :-

a] Whether the accident has occurred solely due to rash and negligent driving of the motorcycle by the deceased ?

b] Whether respondent no.3 is liable to pay any compensation ?

. My findings to above points is in negative and the appeal is, therefore, dismissed for the reasons to follow.

R E A S O N S

9] The written statement of present appellants filed on record would show that except denial, no material was placed on record in support of their case. It was simply denied that appellant no.1 was not rash and negligent in driving the said vehicle. On the other hand, respondent nos.1 and 2 had examined the Police Inspector, who has conducted investigation in the incident and found that appellant no.1 was rash and negligent in driving the scooter. In that view of the matter, I do not find any irregularity in the findings of learned Member as regards the manner of the accident.

10] As regards the liability to pay the compensation, present appellant no.1, in his cross-examination, has given evasive answers to the questions put to him. At one point of time, he deposed that his driving license was seized by the police, however, in my view, nobody had prevented him from producing the duplicate copy of his driving license. In the circumstances, in my view, the award of the learned Member of the Motor Accident Claims Tribunal needs no interference.

11] The appeal is, therefore, dismissed without any order as to costs.

[M.T. JOSHI, J.]