



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO. 10946 OF 2023

Yashwant Kishanrao BiradarPetitioner

VERSUS

Maroti Balaji Gudsure & othersRespondents

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Mr. D. S. Mali, Advocate for the Petitioner.

Mr. R. S. Shinde, Advocate for Respondent Nos 1 and 12.

Mr. S. S. Jadhavar, Advocate for Respondent Nos. 2, 4 to 8.

CORAM : R. M. JOSHI, J.

DATE : 3rd JULY, 2024.

PER COURT :

1. This Petition takes exception to the order dated 19.01.2023 whereby no fault liability was fixed on all Respondents in MACP No. 32/2019.

2. Learned counsel for Petitioner/original Respondent No. 10 makes a submission that the Petitioner is not a registered owner of vehicle involved in the accident and, therefore, he is not liable to make payment of compensation even on no fault liability. In support of his submission, he placed reliance on judgment of Hon'ble

Supreme Court in case of Naveen Kumar vs. Vijay Kumar and others,
AIR 2018 SUPREME COURT 983.

3. Learned counsel for Respondents opposed the said contention with a submission that there is evidence on record to indicate that ownership of the vehicle was transferred and therefore, the liability of the concerned person is required to be considered by the Tribunal.

4. Prima facie perusal of the record indicates that written statement is filed by the Petitioner wherein it is specifically denied that he is owner of the vehicle in question. There is material placed before this Court to indicate that the vehicle was registered not in the name of Respondent No. 10.

5. Considering the judgment of the Hon'ble Supreme Court in case of Naveen Kumar (supra), liability to pay compensation under Motor Vehicles Act could be fasten only on the registered owner of the vehicle. Prima facie, there is reason to believe that the Petitioner was not registered owner of the vehicle as on the date of occurrence of the accident. In view of this, case is made out by the Petitioner to cause

interference in the order dated 19.01.2023 passed in MACP No. 32/2019, at this stage.

6. Consequently, no execution proceeding could be initiated against the Petitioner for recovery of the said amount. Execution proceeding against the Petitioner are quashed. Liberty of file fresh application for execution against other Respondents against whom the order is passed by the Tribunal under Section 140 of Motor Vehicles Act. Petitioner is permitted to withdraw the amount deposited in this Court. Needless to say that if ultimately Petitioner is held to be responsible for payment of compensation during the course of the trial, he will be liable to make the said payment even under impugned order.

(R. M. JOSHI)
Judge

dyb