

Motor Accident Claim Petition No. 19/2016(Rahul Gulave and another V/s Vikas Ware and another)(C.N.R. - MHAH07 - 000040 - 2016)Order below application at Exh. No. 66

1. The present application has been filed by the respondent No. 2 Insurance Company, seeking leave of the Court to contest the present petition on all the defences that may be available to the respondent No. 1 i.e. the driver and owner of the offending vehicle. It has been contended by the respondent No. 2 that the petitioners have filed the present petition for compensation for death in motor vehicular accident. The respondent No. 1 has, however, failed and neglected to contest the present petition. Therefore, it seems that there is collusion between the petitioners and the respondent No. 1. Hence, it is prayed that the leave may be granted to the respondent No. 2 to contest the present petition on all the defences that may be available to the respondent No. 1 including the defence of negligence and quantum of compensation.

2. The petitioners have filed their reply and submitted that they have no objection to grant the present application.

3. I have heard the learned counsel for the petitioners and respondent No. 2. I have perused the relevant provisions of Section 170 of the Motor Vehicles Act, 1988.

Section 170 - Impleading insurer in certain cases. Where in the course of any inquiry, the Claims Tribunal is satisfied that -

a. there is collusion between the person making the claim and the person against whom the claim is made, or

b. the person against whom the claim is made has failed to contest the claim, it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in sub-section (2) of section 149, the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.

4. I have perused the record. It emerges from the record that a notice of the present petition was served upon the respondent No. 1, however, he had failed to file his appearance in the present petition. Therefore, keeping in view of the legal principle under Section 170 of the Motor Vehicles Act, 1988, I find that the respondent No. 2 is necessarily to be granted leave to contest the present petition on all the defences that may be available to the respondent No. 1. Hence, I pass the following order.

Order

1. The present application is allowed.
2. The respondent No. 2 is hereby granted leave to contest the present petition on all the defences that may be available to the respondent No. 1.

Date : 07/01/2022.

(R.J. Pawar)
Member, M.A.C.T.
Sangamner.