

Motor Accident Claim Petition No. 100/2017
(C.N.R. - MHAH07 - 000722- 2017)
(Sarojini Mahesh Alane and another Vs. Sakharam Punja
Gaikwad and others)
Order passed below application at Exh. No.17

1. The present application is filed by the opponent No. 3 insurance company seeking to set aside *ex parte* order dated 07.09.2018 passed by below Exh. 1 contending that, due to oversight, notice of this petition did not come to the light of the concerned persons of insurance company.
2. The application is strongly opposed to by the petitioners by giving say on the application overleaf.
3. Heard learned advocate Shri. N.M. Joshi for the opponent No. 3 insurance company and learned advocate Shri. S. B. Shinde for petitioners. Perused the record.
4. The main petition is filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation in respect of accidental death of Shivam Mahesh Alane. It appears that, notice at Exh. 10 was duly received by the opponent No. 3 insurance company, but none appeared on its behalf. Hence, on 07.09.2018 *ex parte* order came to be passed. It is this order which is sought to be set aside by moving the present application.

4. The application has been supported by the affidavit of Legal Manager of the insurance company. Considering the fact that petitioners are claiming compensation *inter alia* from the insurance company, it would be in the interest of justice to give an opportunity to the insurance company to contest the petition by way of filing written-statement. No prejudice would be caused to the petitioners by doing so. On the other hand, it would help the Tribunal to decide the matter on merits. Therefore, the order :-

ORDER

1. The application at Exh.17 is allowed.
2. *Ex parte* order dated 07.09.2018 passed below Exh. 1 against opponent No. 3 insurance company stands set aside and the insurance company is permitted to file its written-statement on record.
3. There shall be no order as to costs.

(**P.S.Vithalani**)

District Judge-2 & Member, MACT
Sangamner.

Date : 24.04.2019.