

M.A.C.P. No: 144/2011

Nilesh..Vrs.Govardhan & Ors.

COMMON ORDER BELOW EXH.31 & 32

(Passed on 26th October, 2015)

1. The application Ex. 31 is moved by the respondent No. 1 under order 1 rule 10 r/w section 151 of the Civil Procedure for impleading one Shri Miyakhan Rahim khan, aged about 50 years, resident of Jamil colony, Wadgaon road, Amravati as a necessary party, being the owner of the offending vehicle involved in this proceeding. It is his contention that the respondent no. 1 is impleaded as a party herein as the owner of vehicle involved in the accident with respect to which the present proceeding for compensation under section 166 of the Motor Vehicles Act. He has filed his written statement specifying that he is not the owner of the vehicle involved in the accident, but Shri Miyakhan Rahim khan, resident of Jamil colony, Amravati, who has received the vehicles (registration No. MTV 5122 and MTV 740) involved in the accident in question under the orders of Judicial Magistrate First Class, Daryapur dated 31.07.2012 in Criminal Case No. 305/2010. The respondent no. 1 has relied upon some documents in support of this application.

2. Vide order dated 26.07.2013 though the say of the other side i.e. the claimant was sought for, the claimant does not appear to have filed any say on this application. Vide order dated 05.07.2014 the application Ex. 31 was directed to be kept for argument.

3. The learned counsel for the claimant today filed the application Ex.32 seeking direction to N.A. No. 1 to supply him copies of the documents filed with said application Ex. 31.

4. From perusal of the record, it would appear that it is neither the claimant nor Miya khan Rahim khan who is seeking impleadment of said Miya khan as a party to this proceeding in the capacity as the owner of the vehicle involved in the accident in question. According to respondent no. 1, who has been impleaded in this proceeding in the capacity as the owner of such vehicle, he is not the owner of the same but said Shri Miya khan. Though the application Ex. 31 is seen moved as on 26.07.2013 and the same is within the knowledge of the claimant through his counsel, he did not respond thereto for over two years and today moved the application Ex. 32. It would also be worth noting that, since after 05.07.2014

when the application Ex. 31 was directed to be posted for argument, the respondent no. 1 or his counsel did not advance any argument in support of this said application and the proceeding is getting adjourned from time to time for hearing on the said application Ex. 31.

5. In view of the nature of the present proceeding, the pleading of the claimant about the owner of the vehicle involved in the accident in question, the failure of the respondent no. 1 to pursue the application Ex. 31 and inaction of the claimant either to accept or decline the contentions made in the application Ex. 31 for over last two years, I do not find force in either of these applications Ex. 31 & 32. Both these applications are therefore rejected.

Date: 26.10.2015

(V.M.Pathade)
Member,MACT, Akola.

AFFIRMATION

I affirm that the contents of this PDF File are same word for word as per original order.

Name of Steno : M.S.Baig, Stenographer (H.G)

Court's name : Ad-hoc District Judge-1 and
Assistant Sessions Judge, Akola.

Date of Dictation : 26.10.2015

Signed by Presiding : 26.10.2015
Officer on

Uploaded on : 26.10.2015