

**MACP No.144/2011**

(CNR No. MHAK010009322011)

**Nilesh .V. Gowardhan +1**

**ORDER BELOW EXHIBIT-49**

(Passed on 8<sup>th</sup> March, 2021)

**1]** The Claimant and his Counsel absent, so also, the proposed Non-applicants 3, 5 & 6 and their Counsel absent. Since the matter is 10 years old and the application Exh.49 is pending since 15.12.2018 for amendment to the claim petition, as well as addition of parties and the Non-applicants 3, 5 & 6 filed reply at Exhs.52, 57 and 60, respectively, therefore, this Court perused the application Exh.49 and reply filed by the proposed Non-applicants.

**2]** The Claimant has filed present application and prayed for amendment to the petition, as well as addition of proposed Respondents being party Respondents on ground that, on the fateful day of the accident the Claimant was travelling in Bus No.MH-12-AU-9452 from Daryapur to Akola via Dahihanda and he had put his hand on Bus window and when the Bus crossed bridge situated on Manmodi, at that time one Truck bearing No.MTV-5122 came from opposite direction toeing with water tanker and due to rash and negligent driving on part of the Non-applicant No.4 the said truck colluded with the Bus and his right hand detached from his body. According to the Claimants the Bus No.MH-12-AU-9452 and the Truck No.MTV-5122 involved in the accident. Therefore, the driver of Bus and the Truck, as well as owner of truck are necessary party. According lto the Claimant the proposed Non-applicants 5 & 6 are owner of Truck No.MTV-5122 but said truck sold in auction and purchased by the Non-applicant No.5 and after accident the said Truck released

..2..

on supratnama in favour of the Non-applicant No.6. Therefore, in order to decide the claim petition under Section 166 of Motor Vehicle Act, 1988 the proposed Non-applicants are necessary party, so also, the Applicants wanted to amend the petition has proposed in Para A(1) and A(2).

**3]** The proposed Non-applicant No.3 filed Reply at Exh.52 and stated that, he was not driver of the Bus No.MH-12-AU-9452, therefore, he is not necessary party to the Claim petition, hence, prayed for rejection of the application.

**4]** The proposed Non-applicant No.5 Executive Engineer, V.I.D.C., filed Reply at Exh.57 and opposed the application on ground that, the Truck already been sold in auction to the Non-applicant No.1 and on the day of accident the Non-applicant No.5 was not owner of the truck, hence, the Executive Engineer of V.I.D.C., is not necessary party.

**5]** The proposed Non-applicant No.6 filed Reply at Exh.60 and opposed the application on ground that, he is not concern with the alleged Truck and the accident, therefore, he is not necessary party.

**6]** It is submitted that, the Claimant has filed claim petition under Section 166 of the Motor Vehicle Act, 1988 and prayed for compensation to the tune of ₹.9. Lakh with interest @ 12% per annum, for causing permanent 80% disability on account of accident occurred on 3.03.2010 between S.T. Bus No.MH-12-AU-9452 and Truck No.MTV-5122. According to the Claimant he was proceeding from Daryapur to Akola via Dahihanda in Bus No.MH-12-AU-9452 and said Bus and the Truck were colluded due to which is right hand of the Claimant detached from toe and amputated. Initially, the

Claimant filed claim petition against the Non-applicant No.1 Govardhan Enterprises owner of the Truck and the Divisional Controller MSRTC but the drivers of Bus and the Truck not been impleaded as party Respondents. However, the Claimant prayed for addition of parties to the driver of Bus and driver of the Truck, as well as Executive Engineer, V.I.D.C., and the proposed Non-applicant No.6 in whose favour the alleged offending Truck released on supratnama in Crime No.8/2010, registered with Yeoda Police Station.

**7]** It is well settled principle of law that the drivers of the offending vehicles are not necessary parties. The proposed Non-applicant No.5 Executive Engineer, V.I.D.C., stated that, the Claimant himself disclosed in the application about sale of truck by the proposed Non-applicant No.5 to the Non-applicant No.1 and the Non-applicant No.6 obtained supratnama of the said truck.

**8]** The claimant has not brought any material on record to show that, on 3.03.2010, the Non-applicant No.5 was the owner of Truck No.MTV-5122 and the Claimant has already join the Non-applicant No.1 being the owner of the Truck and tanker and as such the proposed Non-applicant No.6 is proper party to the claim petition and other proposed Non-applicants 3 & 5 are not necessary parties to the claim petition to decide Issues involved in the claim petition. In view of above facts and circumstances of the case, I proceed to pass following order:

**ORDER**

**i]** Exhibit-49, an application for amendment and addition of parties is hereby partly allowed.

..4..

ii] The Claimant is hereby permitted to add the proposed Non-applicant No.6 as party Respondent No.3 and to amend the pleadings as prayed, however, the application as against proposed Non-applicants 3 & 5, is hereby rejected.

iii] Application as against the proposed Non-applicant No.4 is hereby rejected as the Claimant fail to serve notice upon him.

iv] The Claimant to carry out necessary amendment within period of 7(seven) days from today, failing which appropriate order would be passed.

Dt. 8.03.2021  
Akola

**(Y.G.Khobragade)**  
Chairman, MACT

-0-

**CERTIFICATE**

**I hereby certify that, the contents of this PDF  
File are same word for word as per original order.**

**[1] Name of Steno: Shailesh R Allap**

**[2] Court's name : Court of Principal District &  
Sessions Judge, Akola**

**[3] Date : 08.03.2021**

**[4] Signed by PO on: 10.03.2021**

**[5] Uploaded on : 10.03.2021**