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**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIM TRIBUNAL,
MALKAPUR, DISTRICT- BULDHANA**

Motor Accident Claim Petition No.170/2021

ORDER BELOW EXHIBIT – 45

MHBU110005702021 **Mohan Gopaldas Duseja & anr.**



... Applicants

Versus

Pradhyumanbhai Bipinbhai Boricha & othrs.

... Respondents

Respondent No.3 filed this application seeking issuance of summons to witnesses vis. RTO, Rajkot and RTO, Rajnandgaon or their authorized person personally or on Video Conferencing for the purpose of providing the details of driving license of driver of the vehicle as well as permit and fitness certificate of the vehicle involved in accident.

2. According to respondent no.3, the offending vehicle was being plied without effective and valid permit as well as fitness certificate. The driver was not holding an effective driving license. Therefore, it requires examination of the RTO or the authorized person.

3. From the side of the applicants, the application is resisted on the ground that the insurer can get certified copy of the required documents. The service of the Tribunal can not be utilized for the purpose of collecting evidence.

4. Heard for the both the side.

5. It is considered that the evidence of the parties is being recorded for inquiry of the accidental damage and to ascertain the compensation. The insurer has got right to raise deface of

fundamental breach of insurance policy to avoid its liability. So far as the defence of lack of fitness and permit, the evidence of concerned RTO is necessary as if there has been no fitness certificate or permit issued by the RTO, there would be no other evidence in documentary form except the testimony of the authorized person of the RTO. Similar is the situation of driving license. Keeping in view these factors, it is just and proper to issue summons to the RTO, Rajkot and RTO, Rajnandgaon, either to appear personally or through authorized officer along with relevant documents as referred this application. Hence, the following order.

ORDER

1. Issue summons to the RTO, Rajkot to appear either personally or through authorized officer with details of permit and fitness certificate as regards vehicle bearing No.GJ-03-AT-2707 and details of renewal of it.
2. Issue summons to the RTO, Rajnandgaon to come with details of driving license bearing No.CG08-19990000573 issued to Sunil Kumar Gavai.
3. Both be intimated either to appear physically or on Video Conferencing through link: <https://meet.google.com/nom-hcey-qto> on 11/01/2023 between 11.00 a.m. to 1.00 p.m. and make correspondence if any through the email address: adhocdjasjmalkapur@gmail.com.

Date : 14/12/2022

(S. V. Jadhav)
Member, Motor Accident Claim
Tribunal, Malkapur.

CERTIFICATE

I affirm that the contents of this <u>PD.F.</u> file of order is same, word to word, as per the original order.	
Name of the Stenographer	Balkrishna M. Shilwant.
Court	Adhoc District Judge-1 & Addl. Sessions Judge, Malkapur.
Date	14/12/2022
Order signed by the presiding officer on	14/12/2022
Order uploaded on	15/12/2022