

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

Motor Accident Claim Petition No.247/2021

MHBU110012782021 **Sureshkumar Netramji Sharma ... Claimant**



Versus

State of Maharashtra & others. ... Respondents

ORDER BELOW EXH.16

This application is filed by respondent No.2 seeking direction to the claimants to add owner and insurance company of motorcycle bearing No.MH-19-AA-9564 as a party to the application.

2. The claimant Sureshkumar Sharma filed claim petition under section 166 of the Motor Vehicles Act, 1988 for injuries he suffered in an accident which took place between police vehicle bearing No.MH-28-C-6438 and motorcycle bearing No.MH-19-AA-9564. According to the claimant, the police vehicle dashed the motorcycle which caused him permanent disablement. The accident took place only due to rashness and negligence on the part of the driver of the police vehicle.

3. By way of present application respondent No.2 contends that the motorcycle owner and insurance company of the motorcycle are necessary parties. Therefore, it is prayed that directions be given to the claimant to add them as party.

4. The application is opposed on behalf of the claimant on the ground that he was driving the motorcycle. There was negligence on the part of the police vehicle. Therefore, the owner

and insurance company of the motorcycle are not necessary parties.

5. Opportunity is given to both the parties to make their submissions. In the claim petition as per the provisions in rule 260 of the Motor Vehicle Rules, 1989 what is necessary is to send the owner and driver of vehicle involved in accident and the insurers a copy of the application together with the notice. The Hon'ble Bombay High Court in the case of *The New India Assurance Company Ltd. V/s. Sitaram Devidayal Jaiswal (First Appeal No.1731/2010 decided on 21/11/2011)* has held that the claimant while filing the claim application is not under obligation to insure that all necessary and proper parties are impleaded as opponents to the claim petition.

6. That apart, the claimant has come with a case that negligence and rashness was on the part of the vehicle of the respondents. Therefore, untill it comes on record that the motorcycle rider was negligent or shared negligence, it would not be necessary to direct the claimant to make the owner and insurance company of the motorcycle as a party to the claim petition. Therefore, the application deserves to be rejected. Hence, the following order.

ORDER

The application is rejected.

Date : 14/06/2023

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

CERTIFICATE

I affirm that the contents of this <u>P.D.F.</u> file 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	14/06/2023
Order signed by the presiding officer on	14/06/2023
Order uploaded on	14/06/2023