

MHKO010037362017



**Before the Member, Motor Accident Claims Tribunal, Kolhapur.**

**(Presided over by P.S. Vithalani)**

**M.A.C.P. No. 470/2017.**

**Shri. Swapnil Laxman Kamble.**

**..... Petitioner.**

**Vs.**

**M.S.R.T.C. & Ors.**

**..... Opponents.**

**Order below application Exh. 20**

1. This is an application filed by the petitioner under O.VI, Rule 17 of Code of Civil Procedure seeking amendment in the petition.
2. In the application, the petitioner contends that after the accident, when he was initially discharged from one hospital, he was shifted to Sai Ganesh Fracture Accident Hospital, Kolhapur. However, due to inadvertent omission, while drafting petition, the name of Sai Ganesh Fracture Accident Hospital, Kolhapur remained to be mentioned. Hence, by moving the present application, the petitioner is seeking amendment in the petition to add the contents regarding his medical treatment in Sai Ganesh Fracture Accident Hospital, Kolhapur.
3. The application has been resisted by the opponent Nos. 1 and 2 by giving say on the application overleaf. It is contended that at the time of filing of the petition, the petitioner was aware about the treatment taken by him in various hospitals, but despite that he did not mention about the same.

It is contended that contents of the application are false and hence, prayer for rejection of application is made.

4. The petition has proceeded without written statement of the opponent No. 3. Similarly, the opponent No. 3 has not filed say to this application.

5. I have heard the learned advocate Shri. M.M. Mahajan for the petitioner.

6. The learned advocate Shri. P.S. More representing opponent Nos. 1 and 2 as well as the learned advocate Shri. P.D. Patil on behalf of the opponent No. 3 are absent when called.

7. The learned advocate Shri. M.M. Mahajan for the petitioner submitted that it was genuine omission regarding mentioning the name of hospital in the petition. Hence, he prayed to allow the application.

8. On hearing the learned advocate Shri. M.M. Mahajan and on going through the record, I find that the main petition is filed under Section 166 of M.V. Act, 1988 seeking compensation in respect of injuries sustained by the petitioner in motor vehicular accident. On getting notice of the petition as well as notice of the interim application, Exh. 5, all the opponents marked their appearance. However, only opponent Nos. 1 and 2 filed their written statement-cum-say at Exh. 19. Then, matter was fixed for argument on N.F.L. application Exh. 5. At that stage, the present application is moved.

9. Even by permitting the petitioner to add the contents in respect of treatment taken in Sai Ganesh Fracture Accident Hospital, Kolhapur, his claim would not get proved automatically. He will have to prove the claim petition by leading admissible evidence. At the enquiry of petition, the petitioner will have to prove the medical treatment taken by him in various hospitals. Hence, by permitting proposed amendment, no prejudice would have caused to other side. Opponents will have an opportunity to cross-examine the petitioner and

his witnesses as well as to lead rebuttal evidence. In that view of the matter, the proposed amendment needs to be allowed without costs. Hence, the following order is passed:

**O R D E R**

1. Application Exh. 20 is allowed.
2. The petitioner is permitted to make amendment in the petition as prayed.
3. The amendment shall be carried out forthwith.
4. There shall be no order as to costs.

**Kolhapur.**  
**Date : 14-10-2019**

**(P.S. Vithalani)**  
**Member, M.A.C.T.**  
**Kolhapur.**