



CNR : MHLA01-002949-2018.
M.A.C.P. No.244/2018.
Ranubai Versus- Amol.

ORDER BELOW EXH.30.

1. Present application has been moved on behalf of claimant seeking amendment in the petition. It is mentioned that due to typographical mistake, the deceased Kishan Gutte was shown as rider of pleasure motorcycle No.MH-12/LE-9081, but he was pillion rider. Therefore, the amendment is sought in column No.10 to substitute the word 'rider' by 'pillion rider'. In column, line No.3, along with 'pillion rider,' be substituted as 'rider' and in para No.2 of the claim-petition, line No.4 was driving be substituted 'riding' as 'pillion rider'. It is further mentioned that due to said amendment, nature of petition is not going to be changed nor will cause prejudice to the other party. On the contrary, it will help for proper adjudication of matter. In support of the application, affidavit is filed at Exh.31.

2. Say on behalf of respondent to the application is filed and mentioned that the application is not tenable and deserves to be rejected. It is further mentioned that the capacity of deceased sought to be amended as 'pillion rider' instead 'rider'. In petition under M.V. Act, such change affects the nature of petition. Thus, such change is not permitted. Thus, application deserves to be rejected.

3. Advocate for claimant and respondent submitted arguments and reiterated the contents of application and say, respectively.

4. In the application, it is mentioned that the typographical mistake has been occurred while mentioning as 'rider' instead of 'pillion rider'. It means that the claimants were duly diligent about the capacity of the deceased in respect of motorcycle, at the time of accident. The claimants are seeking amendment within the ambit of Rule 17 Order VI of C.P.C. The said provision specify that the party is to be allowed to amend the proceeding, if a fact was not within the knowledge of the party or even after due diligence, the party could not find out the certain fact. It is not the contingency contended in the present application. However, considering the police papers and medical papers placed on record, in which the said fact, which is sought by claimant in this application, is mentioned. Therefore, the application is required to be allowed. Hence, following order :-

ORDER

1. Application Exh.30 is allowed.
2. Claimants are allowed to carry out amendment in the petition as sought in the application Exh.30.
3. Claimants shall take necessary steps to carry out amendment within stipulated time.

Date : 16.03.2024.

**(Smt. R.M. Kadam)
District Judge-4 & Ex-officio
Member of M.A.C.T., Latur.**
