

(1)

ORDER IN EXH 29
IN MACP NO. 22/2020

Respondent No.2 has taken out an application to add the owner and insurance company Scorpio vehicle No. MH-14/BX-9227 stating therein that, the accident has been occurred because of said Scorpio vehicle but the petitioners have not made owner and insurance company of the said vehicle as party respondents in present claim petition, therefore, the claim is not maintainable. So petitioner be directed to make aforesaid parties as party respondents.

02 The petitioner resisted the application by filing reply on overleaf of the application itself wherein he stated that the deceased was travelling in vehicle No.MH12/GR-8004 which met with an accident, therefore, said claim is made only against owner and insurance company of the said vehicle No. MH12/GR-8004.

03 Heard Ld. Advocate Shri. D.H. Londhe for petitioner. None present for respondent No. 2 though called repeatedly up to 05.15 p.m. Today matter is fixed for cross-examination of petitioner. Petitioner No. 1 is present since morning but in second session, instead of taking cross-examination of the said witness, the present application is moved and thereafter Ld. Advocate for respondent No. 2 did not appear. Here it is pertinent to note that respondent No. 2 has filed the WS at Exh. 19 wherein they took the defence that driver of vehicle No. MH12/GR-8004 was not at fault in the said accident.

(2)

In view of said WS and petition, issues are framed specifically in respect of negligence on the part of driver of vehicle No. MH12/GR-8004. The petitioner has to discharge the burden to prove the said issue of negligence and if he succeeds then only, liability would be fastened on the shoulder of respondent Nos.1 and 2 and if not then, they would be exonerated. Thus, it is a matter of evidence wherein respondent No.2 would be at liberty to show that driver was not at fault and driver of another vehicle was at fault. Therefore, contention of the present application can be considered at the time of final judgment and at present, said application cannot be entertained. More so, respondent No. 2 has not taken defence of non joinder of necessary party in the WS, even if there is non joinder of necessary party, then petitioner would suffer. Hence, I found no substance in the present application. Hence, I pass following order:-

ORDER

Application is rejected.

Date: 22.08.2022

(J.A. Shaikh)
Additional Sessions Judge,
Baramati.

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

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| Name of Steno. | :- | S.P. Chabukswar |
| Court Name | :- | J.A. Shaikh Additional Sessions Judge, Baramati |
| Date | :- | 22.08.2022 |
| order signed by P.O. on :- | | 22.08.2022 |
| order uploaded on | :- | 23.08.2022 |