

: ORDER BELOW EXH.30 IN M.A.C.P NO. 60/2022 :
(CNR No. MHRG15-000653-2022)
(Passed on 21.11.2024)

- 1) The present application is filed by the respondent no.2 under Order 6, Rule 17 of Code of Civil Procedure, for carrying amendment in written statement.
- 2) The applicant contended that the claimants have filed this petition for compensation, due to accidental death of Dnyaneshwar Prabhakar Phadatare, who was riding Activa Motorcycle bearing registration No.MH-06/BJ-9953.
- 3) They further contended that they have filed their written statement on 15.06.2023. At that time, they have not received information from their investigator that the accident had occurred while saving the pot-hole. Therefore, it is necessary to amend the written statement and take said defence in their written statement. They further contended that though the hearing of the matter had began, it is necessary to allow them to add their defence in the written statement. They prayed that they may be allowed to carry the amendment in written statement, as mentioned in the application.
- 4) The claimants filed their say at Exh.26 and objected the application. They contended that the application is misconceived and not maintainable in law. The trial has commenced and claimant no.1 had led her evidence. Therefore, under Order 6 Rule 17 of C.P.C., the amendment cannot be allowed. They further contended that the defence mentioned in the amendment application is vague and

prayed that the application be rejected.

5) Heard Ld. Advocates appearing for parties.

6) On perusal of material available on record, it appears that the evidence of claimants has commenced and the claimant no.1 was cross-examined on 14.03.2024. The present application is filed by the applicant on 04.04.2024 i.e. after commencement of evidence. As per the proviso to Order 6 Rule 17 of C.P.C., the amendment cannot be allowed after the commencement of trial. Secondly the accident had occurred on 28.07.2022. The written statement is filed by applicant on 15.06.2023. The written statement is filed after about one year from the date of accident. Therefore, the entire facts of the matter were within the knowledge of applicant at the time of filing their written statement. The applicant are relying upon the news item which was published on the day of accident. The said fact was within the knowledge of applicant. Therefore, there is no merit in the application. Hence, I proceed to pass following order :-

: O R D E R :

1) The application is rejected.

(Dictated and pronounced in open Court)

Mangaon.
Date : 21.11.2024

(H. K. Bhalerao)
Ex-Officio Member, M.A.C.T.
Mangaon-Raigad