

Order below Exh.29 in MACP No.57/2020
(Passed on 13-07-2023)

Read application. Perused say given by the opponents. Heard Ld. Counsel of both parties.

2. On going through the record it reveals that the present application is moved by applicant under Order 1 Rule 10 of CPC for impleading heirs of owner of offending vehicle No.MH/04/ET 8772 due to his death in the accident. It is submitted on behalf of applicant that the present application is filed u/s 166 of Motor Vehicles Act for seeking compensation due to vehicular accidental death of son of applicant. According to the applicant in the said accident police registered the offence vide C.R.No.99/2018 under section 279, 304-A, 337, 338 of IPC and 184 of M.V. Act against the owner and driver of Tata Venture bearing No. MH-04-ET-8772. Due to the death of owner and driver of offending vehicle it is necessary to implead his heirs i.e. his wife Nayana Tambe and daughter Purva Tambe as Opponents. It is further submitted that at the time of accident the said vehicle was insured with Reliance Insurance Company. The R.C. book of the offending vehicle was transferred to the name of deceased Pravin Tambe but the policy of the said vehicle still on the name of previous owner of the offending vehicle Sanjay Ambre. Therefore it is necessary to implead him as a opponent. In such circumstances it is necessary to implead Opponent Nos.5,6 and 7 in the array of claim. It is further submitted that, if they will not implead as a party the claim will be suffered on the ground of

non-joinder of necessary parties. Therefore applicants prayed for allowing application.

3. Application is objected by Opponent No.3 Insurance company by way of filing say below the same application. It is submitted that the present application is filed at belated stage and after 5 years of the institution of claim. Therefore it will cause prejudice to the Insurance Company and ultimately the Insurance Company will have to bear additional interest on awarded amount for protracted period. Hence prayed for rejection of an application. The Opponent Nos.1 and 2 submitted that necessary order may be passed.

4. Having regard to the argument advanced by Ld. Counsel of both parties and taking into consideration the entire circumstances on record of the case it is very much clear that the present claim is filed by the applicants u/s 166 of the Motor Vehicles Act for seeking compensation due to vehicular accidental death of son of applicant. Accordingly Opponent Nos.1 and 2 filed the written statement vide Exh.12 and Opponent No.3 filed their written statement vide Exh.18. It is seen from the record that matter proceeded ex parte against Opponent No.4. Thereafter my Ld. Predecessor framed issues vide Exh.28 and NFL order has been passed below Exh.25 on 13-10-2021. The present matter fixed for adducing the evidence of applicant. Meanwhile the applicants moved the present application to implead the heirs of driver and owner deceased Pravin Shivram Tambe as Opponent Nos.5 & 6 and previous owner of offending vehicle Sanjay Ambre as a Opponent

No.7.

5. In the light of above discussion and considering the relevant documents on record at this juncture I would like to take recourse of observation of **Hon'ble Supreme Court in case of Baluram P. Chellathangam and others reported in 2014, DGLS (SC) 1022** in which it is observed that,

“The necessary party is a person who ought to have been joined as a party and in whose absence no effective order would be passed at all by the Court. The scope and ambit of Order 1 Rule 10 of CPC regarding, the adding of parties and striking of parties is the judicial discretion of the Court which can be exercised in view of attending circumstances of the case.”

6. In view of above preposition of law and taking into consideration attending circumstances of the case I found that the application comes within purview of Order 1 Rule 10 of CPC. Therefore in order to decide controversial aspect effectively and to avoid multiplicity of the proceeding in the interest of justice I am inclined to allow the application and proceed to pass following order.

ORDER

The application is allowed.

The applicants are directed to implead Opponent Nos.5,6
7 in the array of claim petition.

Date-13-07-2023

(Dr.Anita S. Newase)
Chairman, MACT, Chiplun.

Certificate

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

Case Number		MACP No.57/2020 Order below Exh.29
Name of Stenographer	:-	Mrs.V.S.Kulkarni
Name of Court	:-	MACT, Chiplun.
Dictated on the computer by the P.O.on	:-	13.07.2023
Order signed by the P.O. on	:-	13.07.2023
Order digitally signed by the P.O. on		14.07.2023
Order uploaded on	:-	14.07.2023