

MHST010006712021



Order Below Exh. 31 in MACP No. 64/2021
(Yogesh Rajendra Dhadchire & Anr. Vs. Rajesh Ganpat Taru & Anr.)

This is an application filed by respondent No. 2 for adding owner of Truck bearing No. MH-50-N-1426 and its Insurance Company in this petition.

02. It is contended by the respondent No. 2 that the accident took place between 2 vehicles on Umbraj-Masur road. At the time of accident, deceased was traveling by Rickshaw bearing No. MH-11-CJ-1584 and Eicher Truck No. MH-50-N-1426 gave dash from front side. However, Truck driver lodged FIR against driver of aforesaid Rikshaw. Said accident took place due to rash and negligent driving by truck driver. Hence, owner of Truck bearing No. MH-50-N-1426 and its Insurance Company are necessary parties in this petition. Hence, prayed to allow application.

03. The petitioners filed their say vide Exh.30 and strongly opposed to this application contending that the accident took place due to negligence of Rickshaw driver and offence was registered against him. There is no justifiable reason mentioned in the application. Truck driver and its insurance company are not necessary parties to this petition. The application is not

maintainable. Hence, prayed to reject the application.

04. Heard both sides. Perused record and proceeding.

05. It appears that, it is admitted that the accident took place between Rickshaw bearing No. MH-11-CJ-1584 and Eicher Truck No. MH-50-N-1426, the deceased was traveling in said Rickshaw and FIR is also lodged against its driver. Even though, if it is hold for the sake of convenience that the accident took place due to composite negligence of both vehicles, it is well settled that in case of composite negligence, the petitioner can recover at his option whole damages from any of the vehicle. Therefore, there is no need to add both the vehicles in the petition.

06. Here, I would like to refer observations in case of **Khenyel Vs. New India Assurance Co. Ltd. and others, 2015 ACJ 1441**, wherein Hon'ble Supreme Court has observed that *"In the case of composite negligence, the claimant is entitled to sue both or any one of the joint tortfeasors and to recover the entire compensation as liability of joint tortfeasors is joint and several."* The Hon'ble Supreme Court has further clarified that *"In case of composite negligence, apportionment of compensation between two tortfeasors vis-a-vis the claimant is not permissible. He can recover at his option whole damages from any of them."*

07. In the light of this legal position the petitioners have option to claim and recover the compensation from any of the

vehicles. Hence, the respondent cannot compel them to add the other vehicle involved in the accident. Therefore, there is no substance in the application. It deserves to be rejected. Accordingly, I pass following order :

ORDER

Application (Exh.31) is rejected.

Satara.
Date : 17.03.2026.

(A. S. Waghmare)
Chairman, M.A.C.T.
Satara.