

ORDER BELOW APPLICATION (EXH.16) IN
MOTOR ACCIDENT CLAIM PETITION NO. 64/2021
CNRMHST01000671-2021

(Yogesh Rajendra Dhadchire etc. Vs. Rajesh Ganpat Taru.)

The accident has taken place between rickshaw and truck. The police machinery has prosecuted rickshaw driver for the accident. The applicants have filed this petition claiming compensation under Section 166 of the Motor Vehicles Act against the rickshaw and its Insurance Company.

02] By the present application the owner of the rickshaw seeks to add owner of the truck and its Insurance Company as a party to the petition.

03] The applicant by filing say resisted the application.

04] Learned advocate for the applicant/respondent No. 1 has submitted that the accident being taken place between two vehicles owners and insurer of both the vehicles are necessary party for proper adjudication. Hence, he has prayed to add the owner and Insurance Company of the truck.

05] Per contra, learned advocate for the petitioners by placing reliance on the decision of Hon'ble Supreme Court in the case of **Khenyel Vs. New India Assurance Co. Ltd., and others 2015 ACJ 1441** has submitted that in the case of composite negligence, the petitioner can recover at his option

whole damages from any of the vehicle. There is, therefore, no need to add both the vehicles. Hence, he has prayed for rejection of the application.

06] In **Khenyel Vs. New India Assurance Co. Ltd., and others** supra Hon'ble Supreme Court has observed to the effect 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. There is, therefore, no substance in the application. It deserves to be rejected. Accordingly, I pass following order :

ORDER

The application (Exh.16) is rejected.

SATARA
Date : 20th August 2022

(S. G. Nandimath)
Member, M.A.C.T. Satara.