

MHST010027342020



Order Below Exh. 59 in MACP No. 165/2020
(Sanika Shantaram Barkade & Ors. Vs. Vijay Mahadev Shinde & Ors.)

This application is filed by the applicants/claimants seeking amendment of the claim petition.

02. It is contended by the applicants that deceased Mangal Shantaram Barkade was doing household work, service and agricultural work. According to the applicants, due to inadvertence and oversight, the fact that the deceased was performing household work was not specifically pleaded in the claim petition. It is submitted that the proposed amendment is merely technical in nature and would not alter the basic nature of the claim petition. It is further contended that if the amendment is not permitted, serious prejudice and irreparable loss would be caused to the applicants. Therefore, permission is sought to incorporate the said fact and carry out consequential amendments in the claim petition.

03. Respondent No. 2 strongly opposed the application by filing say on this application itself and contended that the applicants had already stated on oath on 19.12.2020 that the deceased was earning Rs.20,000/- per month from service and Rs.1,20,000/- per annum from agricultural activities. It is submitted that the present contention is an afterthought and the

contentions of the applicants are false. It is further pointed out that the applicants filed affidavit of examination-in-chief in the year 2023, their cross-examination has been completed, and thereafter, they closed their evidence on 20.04.2026. Respondent No.2 also closed his evidence on 15.06.2026. The matter is now posted for arguments. Therefore, it is contended that the application is highly belated and deserves to be rejected.

04. Heard learned Advocates for both sides. Perused the record and proceedings.

05. It is not in dispute that the present claim petition is pending for final arguments. The record reveals that the applicants have already led their evidence, their witnesses have been cross-examined and their evidence has been closed. The respondent has also completed and closed his evidence. Thus, the trial has not only commenced but has already concluded and the matter is awaiting final adjudication.

06. The proposed amendment seeks to incorporate the contention that the deceased was performing household work in addition to service and agricultural activities. Though, the applicants contended that the omission occurred due to oversight, no satisfactory explanation is offered as to why such fact was not pleaded earlier despite ample opportunities available during the pendency of the proceedings. The claim petition was filed on 19.12.2020 i.e. about 6 years ago. Even after filing of evidence

affidavit and completion of cross-examination, no attempt was made to seek amendment. The present application has been moved only after closure of evidence of both sides and when the matter is posted for final arguments.

07. It is well settled that amendments necessary for determining the real controversy between the parties may ordinarily be allowed. However, after commencement of trial and particularly after completion of evidence, the party seeking amendment must establish that despite exercising due diligence, the matter sought to be introduced could not have been raised earlier. The applicants have failed to demonstrate any such due diligence. The fact regarding household work, if true, was within the exclusive knowledge of the applicants from the very inception of the proceedings and could have been pleaded at the time of filing the claim petition itself.

08. The proposed amendment cannot be treated as a mere technical amendment at this advanced stage. The claim regarding household services rendered by the deceased is directly connected with assessment of compensation and would have bearing on the determination of loss suffered by the claimants. If such amendment is permitted after closure of evidence, the respondents would be deprived of a fair opportunity to effectively contest the said plea through pleadings, evidence and cross-examination. Consequently, prejudice would be caused to the respondents.

09. Considering the stage of the proceeding, absence of satisfactory explanation for the delay, failure of the applicants to establish due diligence and the likelihood of prejudice being caused to the respondents, this Tribunal is of the opinion that the applicants are not entitled to the discretionary relief of amendment. Hence, the following order:

ORDER

- 1] The application (Exh.59) stands rejected.
- 2] No order as to costs.

(Dictated and pronounced in open Court).

Satara.
Date : 22.06.2026.

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