

MACC No. 49/2017

Order No. 28 dated 13.10.2023

Contesting parties are present by filing separate hazira.

This day is fixed for hearing amendment petition dated 22.08.2022 filed by the petitioners bearing verification of petitioner no. 1 Rasheda Bewa. An affidavit is filed by the said petitioner with respect to the aforesaid petition. Copy served.

The amendment petition is moved by Ld. Advocate Mr. Saikul Islam.

Heard Ld. Advocates for the two contesting sides.

Perused the record, petition and the affidavit. Considered.

It appears from the aforesaid petition and the materials on record that the instant claim case was filed by the petitioners Rasheda Bibi @ Bewa, Jalema Bibi, Jahangir Sk, Alamgir Sk and Sabina Khatun due to death of Jalal Sk in a motor vehicle accident on 21.03.2020; the petitioners have prayed for compensation over the matter and the case was filed u/s 166 MV Act. However, it appears from the present petition that, the petitioners have claimed for amendment on the ground that, there are some mistakes in the plaint, which are essential to be rectified. The schedule of amendment discloses that the petitioners have prayed to amend the same as under Section 163A and not under Section 166 of the Act. That apart, in column no. 6 the monthly income has been mentioned as Rs.6,000/- which requires to be reduced to Rs.3,300/-; instead of the amount Rs.9,00,000/- mentioned in column no. 22 of the original claim petition, the said amount has to be reduced to Rs.4,00,000/- only. Considered.

In this context, Ld. Advocate for the OP/Insurance Company submits that though he does not have any objection regarding the particulars of the amendment as per aforesaid petition, but he has vehement objection regarding claim of interest in this case with effect from date of filing of the case as the petitioners themselves have wasted time like anything to drag the cases since 2017; so the OP/Insurance Company cannot be blamed at all. Considered.

The schedule of amendment as per present petition appears to be a formal prayer, but it cannot be understood, why it took about five years for the petitioners to prefer instant petition at the stage of PH, regarding such ingredients, which cannot be said to be subsequent facts. Rather, it seems to be practically harassment not only to the insurance company regarding such pecuniary load given to the insurance company by causing such delay, but also to the Court to render instant case as a long pending one. Further, it is added that, in this context that, the aforesaid objection regarding claim of interest in this case from the date of filing of the case, as submitted by Ld. Advocate for the OP/Insurance Company is quite justified, as the petitioners themselves have wasted time causing such delay in disposal of this case.

Be that as it may, this Court thinks that instant prayer of the petitioners preferred on 22.08.2022 supported by an affidavit filed today may be allowed at own risk of the petitioners, but without any cost.

Accordingly, the amendment prayer of the petitioners filed on 22.08.2022, supported by an affidavit filed today, may be allowed at own risk of the petitioners, but without any cost.

Amend the plaint and note accordingly.

To 23.02.2024 for evidence.

Parties to take steps accordingly.

Dictated & Corrected
by me

A.D.J.

Judge, Motor Accident Claim Tribunal-cum-
Additional District Judge, 3rd Court,
Berhampore, Murshidabad.
(JO Code. WB00671)
13.10.2023.