

MAC Case No: 97 of 2013
(CIS No.767/13)
CNR No: WBSP01-017480-2013
Present: Subhra Som Ghosal (J.O Code: WB00984)

Order No. 40, dated: 25.09.2023.

The petitioners/claimants have been duly represented by filing hazira.

The opposite party No. 02 has also been duly represented by its Ld. Advocate.

One fresh vakalatnama is filed on behalf of the claimants. Let it be kept with the case record.

As stipulated by the previous order, today is fixed for P.H.

On call the learned advocates for the petitioners as well as the opposite party No. 02 are found to be present.

Hence the case record is taken up for hearing.

Learned advocate for the petitioners/claimants submitted that the case was filed on behalf of minor Alisha Anthony being represented by her mother as natural guardian. Now, she has attained majority. Now, that fact needs to be brought on record. So, an amendment is sought for wherein, in the 1st and 2nd line of the Cause Title of the claim application, the words "and on behalf of my minor daughter" and in the 2nd line the words, "as her natural guardian mother" shall be deleted and in its place, after the words '2) Alisha Anthony', the word '(daughter)' shall be inserted and in the 3rd line also after the word 'wife', the word 'minor' shall be deleted. In column No.19 of the claim petition, "2) Alisha Anthony (minor daughter)" shall be deleted and in its place, "2) Alisha Anthony (major daughter)" shall be inserted. It was further argued that the amendment is formal in nature and this amendment will in no way change the nature and character of the case, rather it will help in proper adjudication of the case and dispensation of just compensation. Xerox copy of the Aadhaar Card and Birth Certificates have been filed to that effect.

The Ld. Advocate for the opposite party No. 02 did not raise any objection.

I have perused the claim petition in juxtaposition with the amendment petition.

At the very outset I must hasten to articulate that as per Section 169 of the M.V Act, every Claims Tribunal may exercise all or any of the powers vested in a Civil Court. Such provision has been elaborated by Rule 342 of the West Bengal Motor Vehicles Rules, 1989. As per Rule 342 of the West Bengal Motor Vehicles Rules, 1989 the Claims Tribunal may exercise all or any of the powers of Civil Court as may be necessary in any case for discharging its functions under the Act and these rules. As per Rule 342 of the West Bengal Motor Vehicles Rules, 1989 several provisions of the Code of Civil Procedure, 1908 (5 of 1908) as subsequently amended, has been made applicable to the proceedings before every Claims Tribunal. Order VI rule 17 of the Code of Civil Procedure, 1908 is with such array of provisions mentioned in Rule 343. Hence this Tribunal is perfectly within its jurisdiction in entertaining and allowing the prayer of the petitioner/claimant if, the facts and circumstances justify such prayer.

After perusing the prayer, I find that it is in the form of updating the fact of a minor claimant attaining majority and such amendment will in no way change the nature and character of the claim petition and also will not cause any prejudice to the other side.

Hence based on the above delineations I find the prayer of the petitioners to be ratified by law. Accordingly, the amendment as sought for is allowed. Considering the bonafide nature of the petition no cost is imposed upon the petitioners. Claimants/petitioners are directed to file amended claim petition.

To 07.10.2023 for filing amended claim petition and evidence.

Typed to the dictation directly;
corrected on the system.

Additional District and Sessions Judge,
01st Court, Alipore,
South 24 parganas.

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