

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. 41, dated: 7-10-2023.

Hazira has been filed on behalf of the applicant and opposite party No. 02.

As stipulated by the previous order, today is fixed for filing of amended claim petition and for evidence.

Petitioner files amended claim petition.

No witness is present today. So, evidence could not be done.

A petition U/o 6 Rule 17 CPC seeking amendment of the claim petition has been filed by the petitioner today.

On call the Learned Advocate for the petitioner and OP No.2 are found to be present.

Hence the case record is taken up for hearing of the amendment petition.

Learned Advocate for the petitioner/claimant submitted that the amendment as sought for is formal in nature and this amendment will in no way change the nature and character of the case, rather it will help in determining just compensation. Elaborating on this; it was submitted by the Ld. Advocate for the petitioner that in column No.23, line No.3 of the claim petition, the petitioner wants to insert the words "**and daughter**" after the words "**along with his wife**" and by the amendment, the petitioner is willing to rectify the same.

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 facts sought to be introduced, I find that those are in form of

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corrections and will only supplement that main facts already pleaded, and if the same is allowed it is not likely to change the nature and character of the claim petition and also will not cause any prejudice to the other side. Moreover, as per the provision of Motor Vehicles Act, the applicant/claimant is entitled to just compensation and for determining such compensation, facts sought to be introduced are very important. Hence the proposed amendment will help in apt adjudication of the case. It is required to be mentioned at this stage that the Hon'ble Supreme Court in ***Rajesh Kumar Aggarwal v. K.K. Modi, (SC) reported in 2006 (3) ICC (S.C) 222*** has held that it is mandatory on court to allow all amendments which are necessary for the purpose of determining the real questions in controversy between the parties. It has been further held by the Hon'ble Supreme Court that at the time of considering the amendment prayer, this court should not go into the correctness or falsity of the case in the amendment and it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. Hence whether the claim of the petitioner as sought to be introduced by way of amendment is true or false cannot form a part of consideration at this stage.

Hence based on the above delineations I find the prayer of the petitioner 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 petitioner. Claimant/petitioner is directed to file amendment claim petition. The opposite party No.2 is at liberty to file additional written statement if any in view of the amendment that has been allowed.

To 17.10.2023 for filing amended claim petition and for 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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01st Court, Alipore, South 24 parganas.