

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5833 OF 2014

Sitaram s/o Khobraji Pawar,
Age : 35 years, Occu. Labour,
R/o Malakoli, Tq. Loha,
Dist. Nanded

..PETITIONER

VERSUS

1. Kanhaiah @ Zila s/o Bhimsing
Chavan, Age : Major,
Occu. Business,
R/o Malakoli, Tq. Loha,
Dist. Nanded

2. The State of Maharashtra,
Through Police Station,
Malakoli, Tq. Loha,
Dist. Nanded

..RESPONDENTS

Mr B.G. Londhe, Advocate holding for Mr M.D. Godhamgaonkar, Advocate
for petitioner;

Mr P.S. Shendurnikar, Advocate for respondent no.1;

Mrs B.B. Gunjal, A.G.P. for respondent no.2

CORAM : N.W. SAMBRE, J.

DATE : 20th January, 2015

ORAL ORDER

The dismissal of claim petition under the Motor Vehicles Act for
failure to lead evidence is the subject-matter of present petition.

2. The Member, Motor Accident Claims Tribunal, Kandhar, in exercise

of powers under Order XVII, Rule 2 read with Order IX, Rule 3 of the Code of Civil Procedure has dismissed M.A.C.P. No.837 of 2004 by his order dated 11th August, 2011, as despite sufficient opportunity being granted to the petitioner herein, he has failed to adduce any evidence.

3. While questioning the said order, learned Counsel appearing on behalf of the petitioner has invited my attention to the report submitted in the matter of investigation carried in relation to the accident in question to the Director General of Police. According to him, the Investigating Officer has intentionally not inserted the number of the vehicle which was involved in the accident in question. As such, according to him, the petitioner was not in a position to lead evidence. He, therefore, submits that the impugned order is not sustainable.

4. The above referred contention of the petitioner does not appear to be correct as perusal of the claim petition reflects that the petitioner has impleaded one Kanhaiah @ Zila s/o Bhimsing Chavan as a party respondent, who claims to be owner of the vehicle involved in the accident.

5. Learned Counsel for respondent no.1 informs this Court at Bar that respondent no.1 is not owner of any tractor vehicle, much less the tractor vehicle which is claimed to have been involved in the accident in question.

He submits that though the copy of the objection to the claim petition was not placed on record, his statement at Bar be accepted that respondent no.1 is not owner of any tractor vehicle.

6. In view of above, the case that is sought to be put-forth by the petitioner/claimant appears to be that he met with an accident in which the vehicle owned by respondent no.1 was involved. Thus, on one hand the petitioner claimed that the vehicle owned by respondent no.1 was involved in the accident and on the other hand, rely upon the alleged document, i.e. report submitted by the Superintendent of Police, Nanded to the Director General of Police on 27th December, 2012, so as to canvass that the Investigating Officer was negligent in investigating the matter and has intentionally not placed on record the registration number of the vehicle involved in the accident in question in which the petitioner was injured. The Trial Court has taken into account the opportunity given to the petitioner in the claim petition, long pendency of claim petition defaults on the part of the petitioner, earlier order of dismissal and as such dismissed the claim petition.

7. In view of above, no case for interference is made out. Thus, the writ petition stands dismissed with no order as to costs.

(N.W. SAMBRE, J.)

amj