

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10710 OF 2015

Divisional Manager,
Bajaj – Allianz General Insurance
Company Ltd.

.. Petitioner

vs.

Mahadevi Sunil Shinde & Ors.

.. Respondents

Ms Yogita Deshmukh h/f. Mr. M. M. Sathaye for Petitioner.

CORAM : M. S. SONAK, J.

DATE: 17 NOVEMBER 2015

P.C. :-

1] This petition challenges order dated 27 April 2015, by which the Motor Accidents Claim Tribunal (MACT) has declined to call the Investigating Officer of Mohal Police Station as a Court witness.

2] Ms. Deshmukh, the learned counsel for the Petitioner has submitted that in this case the first report was lodged on 3 October 2012, in which, there was no reference to the vehicle insured with the Petitioner. After three months from the date of the accident, yet another supplementary report was lodged, in which, there is a reference to the vehicle insured with the Petitioner. According to Ms. Deshmukh this is a serious discrepancy and for this purpose, it is necessary that the MACT calls the Investigating Officer as Court witness.

3] In my judgment, there is no jurisdictional error in the making of the impugned order. Earlier, the Petitioner had filed an application for taking off the record the police papers produced by the Respondents at Exhibits 33 to 44. This application was rejected by the MACT by its order dated 23 April 2015. The Petitioner has not challenged the order dated 23 April 2015. That apart, the mere exhibition of certain documents is not substitute for proof of the contents thereof. The evidentiary value to be attached to the said documents is also a matter which is still writ large before the MACT. In these circumstances, the MACT was right in not acceding to the request of the Petitioner to call the Investigating officer as a Court witness.

4] Ms. Deshmukh points out that as of date the Petitioner is always at liberty to lead appropriate evidence in order to prove its case. However, the Petitioner cannot insist that the Investigating Officer is called as a Court witness.

5] For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)