

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2998 OF 2016

Ashvini w/o Vijay Galgatte,
Age- 33 years, Occ: Household,
R/o Khade Nagar, Jamkhed,
Tq. Jamkhed, Dist. Ahmednagar. ... Petitioner

Vs.

1. Shivam Constuction
its Proprietor Shri Shriram
Prabhurao Munde, Age: Adult,
Occ. Business,
R/o. Kanerwadi, Tq. Parali Vaijnath,
Dist. Beed.
2. The Manager, New India Assurance
Co. Ltd., Near Ashoka Hotel,
Zendi Gate, Nagar-Aurangabad Road,
Ahmednagar. ... Respondents

Mr. Sandip R. Andhale, Advocate for the petitioner.
Mr. Mandar Deshmukh, Advocate h/f. Mr. S.G. Chapalgaonkar,
Advocate for respondent no.2.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 05-08-2016.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally
with consent of the parties.
2. The petitioner is a widow, who has filed Motor Accident
Claim Petition bearing No. 287 of 2013. The petitioner's husband

died in a motor vehicle accident on 12-09-2012. The petitioner along with her other relatives also suffered injuries. The petitioner appears to have been grievously hurt in the accident and her evidence in the claim petition has been recorded by appointing a court commissioner. The petitioner had requested evidence by Dr. Sandip Surana and has also requested for witness summons to him. Since he did not turn up after summons, the tribunal had issued bailable warrant to said witness. As petitioner could not deposit process fees within a period of three days, the tribunal had passed an order on 18-12-2015 dropping said witness from the proceedings.

3. The petitioner under the circumstances moved exhibit-33 recalling order dated 18-12-2015. The tribunal allowed the same by imposing cost of Rs. 500/- and making the petitioner liable to pay the same within four days. However, due to petitioner's illness, she could not deposit said amount within stipulated time and had filed an application seeking extension for depositing the amount. Said request came to be rejected and as such the petitioner is before this court.

4. Having regard to aforesaid factual position which is not disputed by the appearing parties though the request is being purportedly resisted by respondent no.2, the same cannot be said

to be backed by any plausible reason. Looking at aforesaid and also to that, while initially the court had issued notice, the petitioner was directed to deposit a sum of Rs. 1,000/-. Learned counsel has already intimated said amount has to be deposited in the trial court.

5. Respondent no.1 though served has not put in his appearance. There does not appear to be any resistance by him to the request in the writ petition.

6. Having regard to the facts as those have been referred to herein above, it would be expedient and in the interest of justice to allow the writ petition. Amount of Rs. 1,000/- deposited, if lying in this court, be transferred to Motor Accident Claim Tribunal at Ahmednagar as cost in substitution of Rs. 500/- under order dated 06-01-2016 of the Motor Accident Claim Tribunal on Exhibit-33. As such, rule is made absolute in terms of prayer clause 'A'. Writ petition stands disposed of.

(SUNIL P. DESHMUKH)
JUDGE