IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO. 9123 OF 2016

Bajaj Allianz General Insurance Company
Limited, GE Plaza, Airport Road,
Yerwada, Pune - 411 006.

Through its Branch Manager/Authorized
Signatory, LIC Building, Jalna Road,
Aurangabad. **....Petitioner.**

Versus

1. Bhagwan s/o. Munjaji Pawade,
Age 43 years, Occu. Nil,

2. Dhrupadabai w/o. Bhagwan Pawade,
Age 38 years, Occu. Household,

Both R/o. Suregaon, Taluka Aundha
(Nagnath), District Hingoli.

3. Manik s/o. Dayanoba Tompe,
Age Major, Occu. Business &
Agriculture, R/o. Suregaon,
Taluka Aundha (Nagnath),
District Hingoli. **....Respondents.**

Mr. S.G. Chapalgaonkar, Advocate for petitioner.

Mrs. A.N. Ansari, Advocate for respondent Nos. 1 and 2.

CORAM : T.V. NALAWADE, J.
DATED : 1st October, 2016.

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The petition is filed to challenge the orders made on

Exhs. 32, 53, 48, 57 and 59 filed in Claim Petition No. 204/2013, which is pending before Motor Accident Claims Tribunal, Parbhani. Applications at Exhs. 32 and 53 are filed for allowing the Insurance Company to examine the Investigating Officer of the criminal case involved in the matter. Application at Exh. 48 is filed to bring the record of M.L.C. on record and for permission of examining the witness for proving the M.L.C.. Exh. 57 is filed for permission to lead evidence by recalling the order of closure of evidence of Insurance Company and Exh. 59 is also filed for exhibiting the documents.

3. The Insurance Company has taken defence of non involvement of vehicle shown in the accident and it is contended that some other vehicle was involved and so, the liability cannot be fastened on the Insurance Company. It is the case of Insurance Company that there is apparent collusion between the claimants and the owner shown in the claim petition.

4. In view of the aforesaid contentions made by the Insurance Company and the circumstance that owner has not seriously contested the matter, the Insurance Company needs to be given permission to contest the matter as provided u/s. 170 of Motor Vehicle Act. In view of this circumstance, the Tribunal ought to have allowed the Insurance Company to take steps

mentioned in the aforesaid exhibits. These days happening of such things has become routine and not an exception. In view of these circumstances, this Court holds that interference is warranted by use of the extraordinary jurisdiction.

5. So, the petition is allowed. The orders made by the Claims Tribunal on aforesaid applications are hereby set aside. The applications filed for calling the record of M.L.C., for calling witness for proving M.L.C. record, for calling Investigating Officer of the criminal case and for proving and confronting the record created during investigation and the order made of closure of evidence are allowed. Orders under challenge are hereby set aside. This exercise is to be done by the Insurance Company before the Claims Tribunal within four months from the date of the order and if this exercise is not done within this period, there will be liberty to the Claims Tribunal to pass order like closure of evidence and go ahead with the matter. Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/