

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11158 OF 2015

DILIP KARBHARI GADWE
VERSUS
SHAIKH GANI HASAN

...

Advocate for Petitioner : Mr. Shinde S. K.

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CORAM : V. K. JADHAV, J.
DATED : 18th JANUARY, 2016

PER COURT:-

1. The respondent/original claimant has filed M.A.C.P. No. 293 of 2007 for grant of compensation against the petitioner on the ground that the vehicle driven by the petitioner gave dash to the motor cycle of the respondent on 11.9.2007 and in consequence of which, the respondent/original claimant has suffered injuries. During pendency of said claim petition, the petitioner/original opponent had filed application at Exh.82 seeking directions against the claimant to produce on record the election card, birth certificate and driving licence in order to prove his date of birth. Furthermore, the petitioner/original opponent had also filed an application Exh.84 to draw adverse inference against the respondent/original claimant in the event if the said documents are not produced on record. The petitioner had also filed application Exh.85 for ossification test of the respondent-original claimant.

2. Learned counsel for the petitioner submits that in order to apply correct multiplier in the case, exact date of birth of the respondent/original claimant is necessary. The respondent/original claimant is avoiding to produce the relevant documents on record. Learned counsel further submits that by appearance only the respondent/original claimant looks like a person aged 70 years old.

3. I have carefully gone through the impugned order passed by the Member, M.A.C.T. Shrirampur, district Ahmednagar, on the applications below Exh.82, 84 and 85. It appears that the respondent-original claimant has already produced on record Aadhar card wherein his date of birth is mentioned. Thus, the purpose of filing application Exh.82 is served. It does not matter that if by appearance, the respondent/original claimant looks of more age as compared to his date of birth, as mentioned in his Aadhar card. The petitioner-original opponent may produce on record the documents in order to substantiate his contention about appearance and age of respondent/original claimant. The petitioner-original opponent has filed application Exh.85 for carrying out ossification test. Since the respondent-original claimant has produced on record the Aadhar card wherein his date of birth is mentioned, there is no question of drawing any adverse inference against him. Furthermore, the

ossification test of respondent-original claimant is also unwarranted and uncalled for. The learned Member of the M.A.C.T. Shirampur has rightly rejected applications at Exh. 82, 84, and 85. There is no substance in the writ petition and the writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

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