

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7502 OF 2015

Shantabai Jagannath Shendge	..	Petitioner
VS.		
Kisan Sahebrao Khanmkar & Ors.	..	Respondents

Mr. Rajaram V. Bansode for Petitioner.
Mr. Devendranath S.Joshi for Respondents.

CORAM : M. S. SONAK, J.
DATE: 17th OCTOBER 2016

P.C :

1] Heard learned counsel for the parties. By order dated 24.08.2015, it was made clear that this petition will be disposed of finally, in case, the respondents failed to appear. Accordingly, Rule. Rule is made returnable forthwith.

2] The impugned order is in two parts. The first part denies leave to the petitioner to delete respondent Nos.1 and 2 to the claim petition. The second, declines leave to amend claim petition by fixing responsibility of the accident upon the remaining respondents. There is no reason to interfere with the first part of the impugned order. However, in the facts and circumstances of the present case, leave ought to have been granted to the petitioner to amend the claim petition and clarify matters or fix responsibilities with regard to

the accident. The explanation furnished for such amendment is that the claimant was fixed, since, the accident rendered her unconscious. The amendment is necessitated because, according to the petitioner, the confusion is now cleared. There was no justification in denying leave to amend. Accordingly, leave is granted to the said extent.

3] The impugned order is modified to the aforesaid extent. The petitioner to effect the amendment within a period of two weeks from today. This amendment, shall be without prejudice to the rights of the respondents to raise whatever defence available to them under the law.

4] Rule is made absolute to the aforesaid extent. There shall however be no order as to costs.

5] All concerned to act upon the authenticated copy of this order.

(M. S. SONAK, J.)