

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7479 OF 2016

SOPAN GORAKSHNATH TAKE AND ANOTHER
VERSUS
HIRAMAN CHAGAN CHANDRAKOR DIED LRS

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Advocate for Petitioners : Shri Autade Vijay R.
Advocate for Respondents 1A to 1C : Shri Syed Parvez
h/f Shri Shaikh R.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 13, 2017

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PER COURT :-

1. The petitioners, who are original respondents in MACP No.242 of 2009 are aggrieved by the order dated 26.4.2016, by which, the Tribunal has granted leave to amend the claim application.

2. Learned counsel for the petitioners has strenuously criticized the impugned order. Contention is that the proposed amendment in the second paragraph of Exhibit 45 is totally false and the contents are untrue. The petitioners / defendants have filed a detailed say opposing the said application on 26.2.2016 contending that all the contentions in the proposed amendment are false and untrue.

3. It is then canvassed that the person who has died i.e. Hiranman Chagan Chandrakor, was earlier cross-examined on 19.8.2015 and he has given certain admissions in his cross-examination which would disprove the proposed amendment sought to be made by his wife, in the claim petition.

4. Learned counsel for the respondents / original claimants, have strenuously opposed this petition and pray that the petition be dismissed with costs.

5. It is trite law that the merits of the proposed amendment are not to be evaluated while considering an application for amendment. It would amount to prejudging the case, if the proposed amendment is scrutinized to assess its merits. The widow, who is now a claimant in place of the deceased, who was earlier the claimant in MACP, seeks to introduce an amendment on the basis of subsequent events. The claim petition pertains to the injuries suffered by Hiranman in the accident that had occurred on 24.12.2008. Now that Hiranman has died, his widow has stepped into the array of claimants and seeks to contend that his death is directly connected with the injuries that he had suffered in the accident. Whether such contention could be proved or not is a matter of adjudication and the trial Court has rightly not gone into the merits

of the proposed amendment.

6. I do find that the impugned order does not contain sufficient reasons, though the conclusion cannot be faulted. The application for amendment has been rightly allowed. The concerned learned Judge, who has passed the order dated 26.4.2016, should have properly set out the contentions of the parties and should have arrived at his conclusions by passing a reasoned order. I am sustaining the order only for the reason that the conclusions are correct.

7. This petition, being devoid of merits is, therefore, dismissed.

8. The learned Registrar (Judicial) is directed to place a copy of this order before the learned Judge, who has passed the impugned order, so as to apprise the concerned Judicial Officer of the importance of passing reasoned orders.

(RAVINDRA V. GHUGE, J.)

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