

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7735 OF 2017
(Malhari Maharudra Misal Vs. The State of Maharashtra and
another)

Mr.R.B.Dhakane, Advocate for the petitioner.
Mr.S.G.Chapalgaonkar, Advocate for respondent No.3.
Mr.N.T.Bhagat, AGP for State/respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 26/09/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 7/3/2017 passed by the learned Chairman, Motor Accident Claims Tribunal, Beed. This petition has been filed on 05/06/2017.

2. I have considered the submissions of the learned Advocate for the petitioner, the learned AGP on behalf of respondent No.1 and the learned Advocate for respondent No.3, who has strenuously opposed this petition and has prayed that this petition be dismissed with costs.

3. Though respondent No.2 has been served with Court notice, neither any appearance is entered through an Advocate nor in

person.

4. The impugned order reads as under :-

"1. My learned predecessor vide order dated 01.11.2014 in M.A.N.R.J.E. No.299/2014 filed by claimants was pleased to grant exemption to the claimants to deposit 50% of Court fees till disposal of application filed by claimants under Sec.140 of M.V.Act. The said application is disposed off on 31.01.2017.

2. The claimants have not deposited Court fees till today. The claimants and their Advocate are absent when called repeatedly. Thus the claimants have committed breach of Order VII Rule 11(C) of the Code of Civil Procedure. Accordingly the claim petition stands rejected under Order VII Rule 11 of the Code of Civil Procedure. Decree be drawn accordingly."

5. The petitioner submits that he is willing to deposit 50% of the Court fees within 1 (one) week from today and would not seek any extension of time.

6. It is obvious that the claimant did not file an application u/s 148 of the CPC seeking enlargement of the time to deposit the court fees.

7. Learned Advocate for the Insurance Company submits that the

claimant deserves to be deprived of interest on the claim amount since the delay in the matter has been caused on account of the claimant. The claim petition is filed in 2014. By order dated 01/11/2014, the claimant was granted exemption from depositing 50% of the Court fees till the disposal of the application u/s 140 of the Motor Vehicles Act.

8. The record reveals that the said application u/s 140 was disposed of on 31/01/2017. The claimant claims to be penniless and could not deposit the court fees. It is only after the decision on the application, that the claimant received some amount towards "No Fault Liability" u/s 140 of the said Act.

9. Considering the comparative hardships, the balance of convenience and to ensure that the ends of justice are met, I deem it appropriate to partly allow this petition.

10. This petition is, therefore, partly allowed. The impugned order dated 07/03/2017 stands set aside on the following conditions :-

[a] The petitioner/claimant shall deposit 50% of the court fees on or before 07/10/2017, before the Tribunal. Request for extension of time shall not be entertained.

- [b] Eventually, if the claimant succeeds in his claim, the Tribunal shall deprive the claimant of interest on the amount ,as may be granted, for the period 07/03/2017 till 26/09/2017 which is the date of this order.

(Ravindra V.Ghuge, J.)