

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3414 OF 2017

Bajaj Allianz General Insurance Co. Ltd. ... Petitioner

Vs.

Meghna Suresh Parekh & anr. ... Respondents

**with
WRIT PETITION st. NO.13465 OF 2017**

Meghna Suresh Parekh ... Petitioner

Vs.

1. Survir R. Rawat & anr. ... Respondents

Mr.D.S. Joshi for the Petitioner in WP/3414/2017 and for Resp.
No.2 in WP(stamp)/13465/2017

Mr.S.S. Jinsiwale for Petitioner in WP(stamp)/13465/2017 and for
Respondents in WP/3414/2017

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 18, 2017**

P.C. :

1. Rule. By consent of the parties, Rule made returnable
forthwith and heard finally.

2. In these two Writ Petitions, both the insurance company and the original claimant are challenging the order dated 24.1.2017 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai, in Application No.3006 of 2009 below exhibit 51, thereby framing additional issues. The issues were earlier framed on 5.2.2014 by the learned Member, MACT, Mumbai in the said application. Then, on 24.1.2017 i.e., after 3 years and after hearing the final arguments partly, the trial Court has framed additional issues as issue Nos.1A and 1B. These issues are as under:

“1A. Whether the applicant proves that at the time of the accident she was employed abroad in Dubai and also her period of employment?

1B. Whether the applicant further proves that she obtained a VISA and work permit to work in Dubai as pleaded by her?”

3. In these two issues, the burden is put on the applicant/claimant to prove that she was employed abroad in Dubai; her period of employment and whether she had a Work Permit in Dubai. The Tribunal has also noted in the said order that the parties were given liberty to adduce evidence, if any, on the above additional issues.

4. The learned Counsel for both the parties have challenged this order mainly on the ground that the parties have tendered their respective evidence. The final arguments are partly heard and thereafter, the Tribunal has framed these additional issues. Both the learned Counsel have submitted that when the additional issues are framed, then, it is necessary for the parties to lead evidence and it will be cumbersome for the parties again to bring witnesses/documents and proceed with the matter.

5. The learned Counsel for the original claimant has submitted that the original claimant has examined the employer from Dubai. Under such circumstances, her challenge is as to why an additional burden is cast on her to prove that whether she was having work permit and whether she has obtained VISA to go to Dubai?.

6. The learned Counsel for the insurance company has submitted that in fact, the insurance company has asked for production of the passport and the said application was allowed by the Tribunal. However, neither the passport nor the VISA or her work documents were produced by the claimant. That order passed by the Tribunal is not challenged by the claimant. Both the

parties apprehend that adducing the evidence at this stage will again amount to fresh trial and will cause prejudice to the parties. Mr.Joshi submitted that framing of additional issues will amount to giving a back-door entry to the claimant to produce the documents which were rejected earlier by the learned Member, MACT. Mr.Joshi further submitted that the subsequent application of the claimant below exhibit 78 for production of the passport was rejected. Thus, the orders are not challenged.

7. The objection in respect of framing of additional issues by the Tribunal at the stage of final arguments cannot be entertained as the Tribunal enjoys power under Order 14 Rule 4 of the Civil Procedure Code to frame additional issues at any stage, even before the decree. In the present matter, final arguments of the parties are not yet over. The learned Judge might have felt that the additional issues are required to be framed to clear his thought process or the requirement of the proof. As additional issues are framed and liberty is given to the parties to lead evidence, it is upto the Tribunal to allow or not to allow a particular evidence. The order passed by the learned Member, Tribunal giving liberty to the parties to adduce evidence if they want, is also correct and legal.

8. Thus, no interference is required in the impugned order. Both the Writ Petitions are accordingly dismissed. However, considering the progress in the matter, the learned Member, Tribunal, is directed to complete the matter on or before 31.8.2017.

(MRIDULA BHATKAR, J.)