

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7047 OF 2018

Shriram General Insurance Co. Ltd.

Motor Third Party HUB

... Petitioner

Vs.

Santosh Pandurang Kamble (Decd.)

through LRs. & Anr.

... Respondents

Mr. Nikhil Mehta i/b. KMC Legal Venture, Advocate for the petitioner.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **2nd July, 2018.**

P.C.:

This Writ Petition is directed against the order dated 19th April, 2018 passed by the learned Commissioner for Employees' Compensation and Judge, 10th Labour Court, Mumbai in Application (ECA) No. 286/C-82 of 2011.

2. The learned counsel for the petitioner submitted that the applicant/claimant is a cleaner, who fell down from the motor vehicle while checking the water tank and sustained serious injuries. As per the case of the original claimant, the accident took place on 16th October, 2010, however the date of station diary disclosed that it was recorded on 14th November, 2010. The insurance company has applied for the witness summons of the Investigating officer who has recorded the entry from Nerul Police Station. The learned Labour

Court Judge has rejected the said Application on the ground that the certified copy of the station diary entry is available and which is filed on record. It is further observed that no investigation was carried out, as no offence was registered and the said Application was rejected. The learned counsel has submitted that the Investigating officer is necessary witness to throw light on the incident of actual accident. He further submitted that there is discrepancy in the date of accident and station diary entry. He has further submitted that the investigating officer should come before the Court, as the insurance company has to point out that the incident has not occurred in the course of employment.

3. Heard the elaborate submissions of learned counsel Mr. Mehta. Perused the order. The manner in which the applicant/claimant has claimed about the occurrence of accident and the station diary entry thereto, I am of the view that the order order dated 19th April, 2018 passed by the learned Commissioner for Employees' Compensation and Judge, 10th Labour Court, Mumbai in Application (ECA) No. 286/C-82 of 2011 cannot be faulted with, as the Investigating officer was the eye witness to the accident. No interference can be called for, hence Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)