

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 150 OF 2019**

1. Mrs. Preeti Swapnil Kalangutkar, wife of late Mr. Swapnil Chandrakant Kalangutkar, age 27 years, housewife,
  2. Miss. Saumya Swapnil Kalangutkar, daughter of late Mr. Swapnil Chandrakant Kalangutkar, aged 02 years, through natural guardian mother, i.e. petitioner no. 1.  
Both resident of House No. D-3/4, Dayanandnagar, Dharbandora, Sanguem Goa.
- .... Petitioners

Versus

1. Mr. David Dragon Fernandes, son of Mr. Roman Luis Fernandes, aged 20 years, Driver, resident of Village Babura, Perriudok, Sanvordem-Goa.
  2. Mrs. Shantavva S. Bajantri, wife of Mr. Satyappa Bajantri, major, business, resident of House No. 2268, Pontemol-Cacora, Curchorem-Goa.
- .... Respondents

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Mr. Milton Marshal, Advocate for the Petitioners.

**CORAM : C.V. BHADANG, J.**

**DATE : 8<sup>th</sup> July, 2019**

**ORAL JUDGMENT:**

On 03.06.2019, a notice for final disposal was issued to the respondents. However, none appears for the respondents, though served. As such, this petition is being disposed off finally on hearing the learned Counsel for the petitioners.

2. The petitioners are the claimants before the Motor Accident Claims Tribunal (MACT) in Claim Petition No. 63/2016/II, in which, they sought leave to examine the following two witnesses:

- (A) Mr. Sanjit Kandolkar,  
Police Sub-Inspector,  
Curchorem Police Station,  
Curchorem, Goa and
- (B) Mr. Dinesh Gawas,  
son of Mr. Vithal Gawas,  
r/o House No. 317, Anandwadi,  
Sanvordem, Goa.

3. The learned Counsel for the petitioners submits that the contesting respondents did not object to the same. He pointed out that Mr. Sanjit Kandolkar is the Police Sub-Inspector, who had investigated the matter and had filed the chargesheet and Mr. Dinesh Gawas is an eye witness to the accident.

4. The Tribunal, by impugned order dated 30.11.2018, has refused to summon these witnesses *inter alia* on the ground that their names are not listed as witness by the petitioners and the purpose for summoning of these witnesses is not mentioned.

5. Such an approach by the learned Tribunal, cannot be countenanced. The Tribunal while hearing a claim petition

under Section 166 of the Motor Vehicles Act, is under a statutory duty to decide just compensation payable. It is a summary inquiry, to which, strictly the provisions of the Civil Procedure Code do not apply. The learned Tribunal could well have ascertained the purpose for examination of these witnesses from the learned Counsel for the petitioners/claimants and should have then decided the application for summoning these witnesses. The learned Tribunal could not have refused the examination of the said witnesses, which are otherwise material for deciding the claim for compensation.

6. In that view of the matter, the following order is passed:

**ORDER**

- (i) The petition is allowed.
- (ii) The impugned order is hereby set aside.
- (iii) The application Exhibit-59 for issuing summons to the aforesaid witnesses is hereby allowed as prayed.

**C. V. BHADANG, J.**

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