

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7686 OF 2019

Babasaheb s/o Rangnath Mokate

Petitioner

Versus

Balasaheb s/o Ramchandra Dane
and others

Respondents

Mr.Amol S. Gandhi, advocate for the Petitioner.
Mr.Swapnil Dargad, advocate holding for Mr.S.G.Chapalgaonkar,
advocate for Respondent No.4.

CORAM : V.K.JADHAV, J.

DATE : 17th February, 2021.

PC :

1 By consent of learned Counsel for respective parties,
heard finally at the stage of admission.

2 The petitioner has filed MACP No.140/2017 for grant of compensation under the provisions of Section 166 of the Motor Vehicles Act on account of personal injury sustained by him in the motor vehicle's accident. By order dated 07th February, 2019, the Tribunal has closed the evidence of the petitioner-original claimant. The petitioner-original claimant has thereupon filed application Exhibit-78 to set aside the order of closure of evidence and further to permit him to examine the doctor as a witness. By the impugned order dated 14th March, 2019, below Exhibit-78, the Tribunal has rejected the application by imposing cost of Rs.500-.

3 By order dated 08th July, 2019, while issuing notice, this Court (**Coram: Ravindra V. Ghuge, J.**) has directed the Tribunal to adjourn the proceedings of MACP No.140/2017, subject to petitioner depositing an amount of Rs.4000/- before the Tribunal.

4 Learned Counsel for the petitioner submits that the petitioner has made deposit of Rs.4000/- before the Tribunal.

5 The learned Counsel for the Respondent-Insurer submits that even though the MACP is of the year 2017, the petitioner has adduced evidence in the year 2019 and after cross-examination of those witnesses is over, the Tribunal has passed the order of evidence closure. The petitioner has not filed any application for examination of the doctor till that time. The learned Counsel submits that in view of the same, present petition is liable to be dismissed.

6 It appears that the petitioner has filed the Claim Petition for compensation on account of personal injury sustained in the motor accident. In view of the same, examination of the doctor, who has treated the petitioner, is necessary to substantiate the claim before the Tribunal. The petitioner has already deposited Rs.4000/- before the Tribunal. In view of the same, if the application at Exhibit-78 is allowed subject to costs, purpose of filing this writ petition would be fulfilled.

7 Hence, I pass the following order:

(i) Writ Petition is partly allowed.

(ii) The impugned order dated 14th March, 2019, passed by the learned Tribunal, below Exhibit-78 in MACP No.140/2017, is quashed and set aside.

(iii) The application Exhibit-78 is allowed in terms of its prayer and the petitioner is permitted to examine only the doctor as a witness and no other witness, in support of his claim, subject to costs of Rs.500/- to be paid to the Respondent-Insurer. Since the petitioner has already deposited Rs.4000/- before the Tribunal, the amount of cost of Rs.500/- shall be paid to the Respondent-Insurer out of the said deposit of Rs.4000/- and balance amount of Rs.3500/- shall be refunded to the petitioner.

(V.K.JADHAV)
JUDGE

adb