

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

WRIT PETITION NO. 7307 OF 2020

Shabana Sajid Shaikh
and anr.

..Petitioners

Vs.

The Divisional Controller,
Maharashtra State Regional
Transport Corporation,
Ahmednagar
and others

..Respondents

Mr.A.C.Darandale, Advocate for petitioners
Mr.A.D.Wange, Advocate for respondent no.1

**CORAM : R.G. AVACHAT, J.
DATE : JANUARY 14, 2021**

PER COURT :-

Heard both sides.

2. The challenge in this petition is to the order dated 07.10.2020 passed below Exh.48 in M.A.C.P. No.417 of 2017. By impugned order, the application filed by the petitioners praying to examine a witness, has been turned down.

3. Learned counsel for the petitioners states that after having carefully gone through the FIR, it was realised that there was an eye witness to the fatal accident. Inadvertently, said witness could not have been examined. Learned Member, Motor Accident Claims Tribunal, rejected said application on the ground that in the charge-sheet, statement of said witness does not find to have been recorded by the Investigating Officer.

4. Learned counsel appearing for respondent no.1 opposes the prayer made by the petitioners.

5. In my view, the reason given for rejection of the application below Exh.48 is unsustainable. It is not that the person whose statement was recorded under Section 161 of the Code of Criminal Procedure, or cited by Investigating Officer as a witness in the criminal case, can only be a witness in a claim for compensation before the M.A.C.T. Since the name of proposed witness does figure in the F.I.R., the petitioners want to examine him as witness. As the claim is for compensation on account of death of husband of petitioner

no.1, in the interest of justice, the petition deserves to be allowed.

6. In view of the above, the petition is allowed. Impugned order dated 07.10.2020 passed below Exhibit-48 in M.A.C.P. No.417 of 2017 is set aside. The application below Exhibit-48 stands allowed.

[R.G. AVACHAT, J.]

KBP