

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6737 OF 2018**

ICICI Lombard General Insurance Co. Petitioner
Limited

Vs.

Shantabai Shankar Gangurde & Ors. Respondents

Mr. Rajesh Kanojia a/w Deepika Prabhala i/by Res Juris for Petitioner
Mr. Rameshwar N. Gite for Respondent Nos. 1 to 4.

Coram : NITIN W. SAMBRE, J.

Date : 24TH FEBRUARY, 2021

P.C.:

1. The order impugned is dated 4th September, 2017 passed against the Petitioner, whereby the Review Petition preferred came to be rejected. It is required to be noted that the review is based on such set of facts, which were in existence, when the claim petition under the provisions of Motor Vehicles Act was decided. It is only after final decision in the claim petition, the petitioner has carried out certain investigations and the material collected during such investigation is sought to be relied upon for seeking review of the award delivered by the Motor Accident Claims Tribunal.

2. In my opinion, remedy of review is not available to the Petitioner particularly in the aforesaid background, as whatever material in the form of pleadings and evidence brought before the M.A.C.T. same was considered while delivering the award. The ground of fraud should have been agitated in the claim proceedings which were neither pleaded nor established.

3. There is a separate remedy available to the Petitioner to file an appeal under Motor Vehicles Act. But the Petitioner has not chosen to take recourse to such remedy. In the facts and circumstances, no case for causing interference in extra ordinary jurisdiction is made out. The petition fails. Dismissed.

4. Mr. Gite opposes prayer for continuation of interim relief for a period of two weeks from today. However, having regard to the fact that the proceedings are pending before this Court for more than two years, it will be appropriate to continue the interim relief for a period of two weeks from today.

(NITIN W. SAMBRE, J.)