

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 WRIT PETITION NO. 7235 OF 2022

NEELIMA GANPAT RAJNALE ALIAS NEELIMA SHIVAJI GOBRE
VERSUS
REKHA SHRIPATI JOGDAND AND OTHERS

...
Advocate for Petitioner : Mr. Bide Dnyaneshwar A.
...

CORAM : MANGESH S. PATIL, J.

DATE : 13 JULY 2022

PC :

The petitioner is aggrieved by the order passed by the Motor Accident Claims Tribunal on his application (Exhibit - 42), refusing her leave to amend the written statement.

2. In the petition filed by the respondents no. 1 to 5 under section 166 of the Motor Vehicle Act, the petitioner along with the respondent no. 6 who at the material time was driving the offending vehicle submitted a joint written statement admitting that she was the owner of the vehicle involved in the accident and the respondent no. 6 was the driver at the relevant time. They also pleaded that the accident had occurred due to the sheer negligence of the deceased himself. Even the stand was taken that the deceased had dashed against their jeep and there was no error or mistake on the part of the respondent no. 6 herein.

3. In spite of such specific stand taken in the joint written statement, and having proceeded to participate in the enquiry, the petitioner alone applied for amendment of the written statement. It was not even a joint application of her with the respondent no. 6. Besides, saying that the earlier pleadings were erroneously made she sought to delete the afore-mentioned admissions given in paragraph no. 3 of the written statement.

4. It is trite, as has been pointedly remarked by the learned Member of the Motor Accident Claims Tribunal, a party cannot resile from the material admissions from the pleadings. At the most those can be explained away. There is absolutely no whisper in the application (Exhibit – 42) filed by the petitioner making any attempt to explain these admissions. The petitioner cannot be allowed to approbate and reprobate.

5. There is no illegality in the order. The petition is dismissed.

[MANGESH S. PATIL]
JUDGE

arp/