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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 5384 OF 2022**

UNITED INDIA INSURANCE CO. LTD.PETITIONER
V/s.
MR. DADABHAU NAMDEO DAFAL AND ANRRESPONDENTS

Mr. Amol Gatne Advocate for the Petitioner

**CORAM : NITIN W. SAMBRE, J.
DATE: MAY 4, 2022.**

P.C.:

1) Heard. This Petition is by Insurance Company. In proceedings under Section 166 of the Motor Vehicles Act wherein prayer for amendment of defence to claim petition is rejected vide order impugned dated 04/03/2022.

2) Submissions of Mr. Gatne are, Petitioner happens to be public sector company. He would urge that, defence which is sought to be incorporated by way of amendment goes to the root of the matter, as Petitioner intends to press prayer for pay and recovery. Unless such defence is pleaded, Petitioner will not be in a position to lead the evidence in support of plea which is necessary for deciding the issue which is raised before the Motor Accident Claims Tribunal. As such,

according to him, by putting the Petitioner to reasonable condition, Court below ought to have allowed prayer for amendment.

3) I have appreciated said submissions.

4) The claim of the Petitioner under Section 166 of the Motor Vehicles Act is pending adjudication since 2010 which is almost for 12 years. Said proceedings have reached at the stage of final arguments when the Petitioner who happens to be non-Applicant to the said claim petition has sought amendment to the written statement thereby incorporating or introducing an altogether new case i.e. absence of driving licence by the driver of offending vehicle.

5) What can be noticed from the aforesaid factual matrix is, Petitioner-Non Applicant not only failed to satisfy test of due diligence but rather trying to set up an altogether new defence that too at the fag end of the proceedings.

6) That being so, no case for interference is made out. Petition stands dismissed.

[NITIN W. SAMBRE, J.]