

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14347 OF 2018

Shri. Shashikant Prakash Yewale Petitioner
Versus
Sou. Archana Ramesh Narade @ Narande & Ors. Respondents

**WITH
WRIT PETITION NO.14375 OF 2018**

Shri. Shashikant Prakash Yewale Petitioner
Versus
Sou. Sunita Raju Sankaji & Ors. Respondents

**WITH
WRIT PETITION NO.9426 OF 2019**

Shri. Shashikant Prakash Yewale Petitioner
Versus
Smt. Dipali Vinayak Londhe & Ors. Respondents

**WITH
WRIT PETITION NO.9425 OF 2019**

Shri. Shashikant Prakash Yewale ... Petitioner
Vs
Shri Jaywant Sitaram Hegade & Ors. ... Respondents.

**WITH
WRIT PETITION NO.9411 OF 2019**

Shri. Shashikant Prakash Yewale Petitioner
Versus
Shri. Jaywant Sitaram Hegade & Ors. Respondents

**WITH
WRIT PETITION NO.9413 OF 2019**

Shri. Shashikant Prakash Yewale Petitioner

Versus
Sou. Sunita Jitendra Awale & Ors. Respondents

WITH

WRIT PETITION NO.9427 OF 2019

Shri Shashikant Prakash Yewale ... Petitioner
Vs
Shri Jaywant Sitaram Hegade & Ors. ... Respondents

WITH

WRIT PETITION NO. 9412 OF 2019

Shri Shashikant Prakash Yewale ... Petitioner
Vs
Sou. Pushpa Krishnat @ Krushna Hegade & Ors. ... Respondents.

Mr. Akshay A. Kulkarni for the Petitioners in all the Petitions.
Mr. Rushikesh G. Patil for the respondent no. 1 in WP/9411/2019, WP/9425/2019, WP/9427/2019, WP/9412/2019, for respondent nos. 1 & 2 in WP/14347/2018, WP/9413/2019, WP/14375/2018 & for respondent nos. 1, 2 & 5 in WP/9426/2019.

CORAM : NITIN W. SAMBRE, J.

DATED : 10th AUGUST, 2022

P.C.:

1. The vehicle owner against whom the claim is made u/s.166 of the Motor Vehicle Act based on the theory of composite negligence moved before the Tribunal vide application at Exhibit-24 claiming that since the accident involves a mini bus also, the driver, owner & insurer of the same, if not necessary, are

appropriate party to the claim proceedings.

2. The said application was rejected vide impugned order dated 01/08/2018.

3. Since all the above petitions involves the identical issue, the facts in the WP/9411/2019 are taken into consideration.

4. It is the contention of the counsel for the petitioner that the settled position of law is, the respondent-claimant can impleaded in a case of a composite negligence such parties who are necessary for deciding the issue. However, according to him in case if the issue of composite negligence is looked into, the liability can be shared and it shall be always open for the petitioner i.e. the respondent no. 1 to recover the proportionate amount of compensation from the other vehicle owner/insurer/driver. As such, according to him order impugned warrants interference.

5. The order impugned is supported by the counsel for the respondents/claimants.

6. I have appreciated the aforesaid submissions.

7. Considering the very basis of the principle of composite negligence and the very liability under the said principle can be fastened on either of the vehicle owner or insurer or driver, rightly

so vide impugned order the Tribunal has observed that the prayer of the petitioner does not warrants any consideration on merit.

8. The learned counsel for the petitioner has drawn support from the judgment of the Apex Court in the matter of *Khenyei vs. New India Assurance Company Limited & Ors.* reported in (2015) 9 SCC 273 particularly paragraph no. 21.

9. The fact remains that this Court is required to be sensitive to two principles - (a) the principle governing the very issue in the matter of deciding claim petition under the principle of composite negligence & (b) that the claimant are *dominus litis*. As such, the aforesaid judgment will be of hardly any assistance.

10. No case for interference is made out. All these petitions, as such stand dismissed.

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(NITIN W. SAMBRE, J.)