

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1736 OF 2020

Dr. Jayant s/o Haribhau Sadawarti,
aged about 29 years, occ.Doctor, R/
o Mallogit, Plot No. 2, Navjeevan
Colony, Tq. &Dist. Amravati, Mobile
No. 9422801248

.... **PETITIONER**

// VERSUS //

1. Anil s/o Dama Karpate (Diver),
Aged about : 35 years, Occ. Driver,
R/o Navegaon Bandh, Tq. Arjuni
Mor, Distt. Gondia.
2. Dharmesh s/o Ravishankar Jaiswal,
Aged about 56 , Occ. Owner, C/o
Shri Amol L. Joshi, R/o Shree
Ganesh Apartment, Itwari Garden,
Chandrapur, Tq. & Distt.
Chandrapur.
3. The Oriental Insurance Co. Ltd.,
through its Divisional Manager,
Office at "saubhagya", 2nd floor,
Badnera Road, Amravati, Tq. &
Distt. Amravati.

.... **RESPONDENTS**

Smt. S.W. Deshpande, Advocate for the petitioner.
Shri C.A. Anthony, Advocate for the respondent no. 3.

CORAM : ROHIT B. DEO, J.

DATED : 29.03.2022

ORAL JUDGMENT :

Heard. **RULE.** With consent, the petition is heard finally.

2. The limited grievance of the petitioner, who is the claimant in M.A.C.P. 208 of 2013 is, that while the petitioner's prayer for producing the discharge summary was allowed, the learned Tribunal has refused the prayer to summon Dr. Ashok Tank for removal of ambiguity in disability Certificate Exhibit 38.

3. A perusal of the order impugned, particularly paragraph 5 thereof, reveals that the learned Tribunal has observed that while the petitioner is free to summon a doctor to prove the discharge summary, the prayer to summon Dr. Tank, is refused and/or qualified by the rider that Dr. Tank shall not be summoned for removal ambiguity in Exhibit 38. The learned Tribunal has held that there is no ambiguity in disability Certificate Exhibit 38. In an accidental claim matter, an overly legalistic approach may not always be appropriate. The petitioner is already permitted to summon the Doctor to prove the discharge summary, which would mean that the petitioner is free to summon, even Dr. Tank, who is examined earlier to prove the disability Certificate. If the petitioner wishes to put questions to Dr. Tank, touching the disability certificate, particularly in the context of the contents of the discharge summary, he deserves such opportunity.

4. On a holistic consideration, I am setting aside the order impugned.

5. The petition is allowed. The learned Tribunal is requested to dispose of the accidental claim petition as expeditiously as possible, and in any event, within the next three months.

(ROHIT B. DEO, J.)

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