

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8256 OF 2023

**CHANDPASHA RASHIDSAB MASULDAR
VERSUS
NAUSHAD MULTAN SAYYAD AND ANOTHER**

...
Advocate for Petitioners : Mr. Mohammad Waseemullah
Advocate for Respondent No.1 : Mr. Fayaz Patel
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th JULY, 2023

PER COURT :

1. Petitioner is aggrieved by the order dated 20/06/2023, passed by learned Commissioner of Employees Compensation Act and Judge, Labour Court, Latur, below Exhibit- U-68 in Application (WCA) No.06/2016, thereby allowing application filed by respondent No.1/claimant for amendment.
2. Respondent No.1/original applicant filed claim application for compensation of Rs.10,75,136/-, against respondent No.2 – employer, as he has suffered serious injury to his left leg in accident during the course of his employment. *Ex parte* award was passed in the said claim application, which was challenged by respondent No.2 by filing writ petition No.10516/2022. The writ petition was allowed by order dated 12/10/2022, with a direction to respondent No.2 to pay cost of Rs.50,000/- to respondent No.1.

Accordingly respondent No.2 deposited the cost and the matter was re-opened. Respondent No.1, thereafter, filed application Exhibit-U-68 for amendment in the claim application, thereby adding present petitioner as owner of the stone crusher, where respondent No.1/original applicant was working. The said application is allowed. Petitioner is aggrieved by this order.

3. Heard learned advocate for petitioner and learned advocate for respondent No.1. Perused the memo of writ petition, annexures thereto and the impugned order.

4. It appears from record that since beginning respondent No.2 has denied that he is owner of the said stone crusher, where respondent No.1 was working. Respondent No.2 filed written say denying that he is owner of the stone crusher, but he did not disclose as to who is the real owner. On 07/07/2023, respondent No.2 filed affidavit of his elder brother/petitioner stating that petitioner is the owner of said stone crusher. After receipt of the said affidavit, amendment application is moved by respondent No.1, which is rightly allowed by the labour Court.

5. Learned advocate for petitioner strenuously urged that application filed by respondent No.1 for framing of additional issue has been rejected by learned Commissioner and in that view of the matter, present application could not have been allowed. There is

no merit in the said argument, as the application for framing additional issue has been rejected by the learned Commissioner holding that the first issue framed as to "*Does the petitioner prove that he met with an accident during the course of and out of employment with respondent?*", covers all the aspects regarding employment tie between the applicant and respondent as well as happening of accident during the course of employment.

6. Admittedly, since petitioner himself has filed affidavit stating that he is owner of the said stone crusher as per the documents, he is necessary party and therefore, amendment is rightly allowed by the learned Commissioner.

7. There is no illegality or perversity in the order impugned in present petition. Writ petition being devoid of merit is dismissed with no costs.

(NITIN B. SURYAWANSHI, J.)