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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12193 OF 2017

Bajaj Allianz General Insurance Co. Ltd., through
Its authorized signatory

PETITIONER

VERSUS

Shivkanya Ramling Mathpati and Others

RESPONDENTS

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Mr. Mohit R. Deshmukh, Advocate for the petitioner
Mr. K.R.Yadav h/f Mr. S.J.Salunke, Advocate for respondent No.4

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th SEPTEMBER, 2023

ORDER :

1. Petitioner – Insurance Company is aggrieved by order passed by learned Member, Motor Accident Claims Tribunal, Parbhani, below Exhibit-39 in MACP No. 344 of 2013, thereby rejecting application filed by petitioner, seeking amendment in the written statement.

2. Application is moved after closing evidence of respondent – claimant. According to petitioner, it has received information from ex-investigating officer that the offending vehicle was used for hire and reward purposes, at the time of the accident in question and so the amendment was sought raising defense of

use of vehicle for hire and reward purpose and thereby contravening the terms and conditions of the policy. The Tribunal, after hearing the parties, rejected the application on the ground that it is filed at belated stage and it is based on a report of investigation of a private agency.

3. Heard learned advocate for petitioner and learned advocate for respondent No.4. Perused the memo of writ petition, its annexures and the impugned order.

4. It is settled legal position that the Motor Accident Claims Tribunal is not bound by strict rules of evidence and the Procedural rules. It can device its own procedure. Even if it is accepted that petitioner has come to know about offending vehicle being used for hire and reward purpose, at the time of accident, belatedly, petitioner ought to have been given an opportunity to raise that ground in the written statement and lead evidence to prove the same. Merely because application is belatedly filed, the same is not liable to be rejected on that ground alone.

5. Tribunal has failed to take into consideration the legal position that amendment is to be liberally allowed. For delay on the part of petitioner, claimants can be adequately compensated.

Since the impugned order denies fair and reasonable opportunity to petitioner to contest the matter on merits, by raising all the possible defences, it is unsustainable.

6. In the result, following order-

ORDER

- a. Writ petition is allowed.
- b. Impugned order dated 31st July, 2017 passed below Exhibit-39 in MACP No.344 of 2023 passed by learned Member, MACT, Parbhani, is quashed and set aside.
- c. Application Exhibit-39 is allowed, subject to petitioner paying cost of Rs.25,000/- to the claimants in the Tribunal, within two weeks from the date of receipt of writ of this order.
- d. Considering the fact that MACT is of the year 2013 its hearing is expedited. Same may be decided within one year from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI]
JUDGE

