

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11692 OF 2023

Iffco Tokio General Insurance Co. Ltd Through
Its Authorized Officer

Petitioner

Versus

Soni Ashok Pagare And Others

Respondents

Mr. Girish Rane h/f Mr. S.S. Rathi, Advocate for the petitioner.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th SEPTEMBER, 2023

ORDER :

1. Learned Member, Motor Accident Claims Tribunal, Dhule, has rejected application Exhibit-54 in Motor Accident Claim Petition No. 643/2017, filed by petitioner, under Order 16 Rule 14 of CPC, to call investigating officer as Court witness. Petitioner is aggrieved by this order.

2. Heard the learned advocate for the petitioner. Perused the memo of writ petition, annexures thereto and the impugned order.

3. Learned Member, has rejected the application observing that the contention and request of petitioner is not known to law.

4. This order prima facie is unsustainable in law and facts of the case as Rule 14 of Order 16 provides for calling a witness as Court witness on satisfaction of the Trial Court. The impugned order is contrary to the said provision and is therefore unsustainable. In the result, following order.

ORDER

- (i) Writ petition is allowed.
- (ii) Judgment and order dated 05.06.2023, passed by learned Member, Motor Accident Claims Tribunal, Dhule in Motor Accident Claim Petition No. 643/2017 below Exhibit-54 is hereby quashed and set aside.
- (iii) The matter is remanded back to the Tribunal for consideration of application Exhibit-54 on its own merits, after hearing the parties, within a period of four weeks from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI, J.]