



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

1030 WRIT PETITION NO. 2159 OF 2023

The Oriental Insurance Co. Ltd Through Its Branch Manager Through Its
Authorized Signatory

VERSUS

Appasaheb Babulal Bodakhe And Others

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Advocate for the Petitioner : Mr. Deshpande Dhananjay P.
Advocate for Respondent No.1 : Mr. Rajebhosale Sandeep B.

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CORAM : ARUN R. PEDNEKER, J.

Dated : October 09, 2024.

PER COURT :-

1. By the present petition, the petitioner challenges the order dated 23/12/2022, in M.A.C.P.No.370/2018, passed by the MACT, Aurangabad, wherein the application for amendment of the written statement filed by the Insurance Company/petitioner is rejected. The petitioner, through the application at Exhibit 200, pleaded to amend the written statement to include the contention that the vehicle was registered under the category of heavy goods vehicle, whereas the insured had proposed the said vehicle as a "Misc. Class D" type of vehicle. The premium for "Misc. Class D" vehicles is less than that for heavy goods carrying vehicles. This amounts to misrepresentation of material facts while purchasing the insurance policy, thereby rendering the insurance contract void *ab initio*.

2. The intended amendment to the written statement, however, appears redundant upon perusal, as the insurance company has already taken the defense that the vehicle was not insured with respondent No.3 at the time of the accident. Additionally, it was stated that the insured

owner had not deposited the full premium for the vehicle. As such, the amendment sought to be introduced is already reflected in the written statement. The Trial Court also rejected the application on the grounds that the issues raised by respondent No.3, i.e. the insurance company, by way of the proposed amendment, can be considered at the time of final arguments. Since the written statement already contains the relevant plea, no further amendment is required, and the insurance company has raised its defense accordingly.

3. In view of the same, nothing survives in the petition, and the petition is accordingly dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.