



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

WRIT PETITION NO. 4868 OF 2023

Ramky Infrastructure Ltd.
Through Its Authorized Representative,
Mr. Kotni Srinivas.

...Petitioner

versus

1. Sajjan wd/o Dhirajsingh Malke,
2. Ravina Dhirajsingh Malke,
3. Dharamsingh s/o Dhirajsingh Malke,
4. Amruta Dhirajsingh Malke,
5. Hamraj s/o Dhirajsingh Malke.

...Respondents

...
Advocate for the Petitioner : Mr. Reddy Avinash M.

Advocate for Respondents : Mr. Swapnil Joshi h/f J.P.Legal Associates

...

CORAM : ARUN R. PEDNEKER, J.

**Reserved for Judgment on
Pronounced on**

**: August 05, 2024
: August 09, 2024**

JUDGMENT :-

1. By the present petition, the petitioner challenges the order passed below Exhibit 61 in Motor Accident Claim Petition No.821/2021 whereby the application filed by the petitioner/ original respondent No.2 to implead Tata Capital Financial Services Ltd. as respondent No.3 came to be rejected by the Motor Accident Claim Tribunal, Aurangabad.

2. Briefly the case put up by the petitioner is as under : -

The respondents filed Motor Accident Claim Petition No.821/2021 under Section 166 of the Motor Vehicles Act claiming compensation for the death of Dhirajsingh Malke having met with an accident on 26/02/2021 on Dhule - Solapur Highway, Varjhadi Shivar, Tq. Gangapur,

District Aurangabad. At the relevant time, the deceased was proceeding for Aurangabad on his two wheeler bearing No.MH-20/EM-3351. He met with an accident with vehicle truck bearing No.ML-10/A-8846 from the opposite direction and the deceased died on the spot. Claim petition is filed by the claimants against the owner of the truck so also the insurance company of the truck. Petitioner/ respondent No.2 filed his written statement. The petitioner also filed an application on 07/11/2022 under Order 1 Rule 10 of the Code of Civil procedure for adding Tata Capital Financial Services Ltd. for it being a necessary and proper party to the petition. The respondent/ claimant prayed for rejection of the said application as it could delay the proceedings. The Tribunal on considering the material before it held that the petitioner/ original respondent No.2 is a registered owner of the offending vehicle in RTO record and that the respondent No.2 obtained insurance policy of HDFC Irgo General Insurance Company for the period 27th February 2021 to 26th February 2022, and premium amount is also deposited by respondent No.2 to the tune of Rs.48,656/-, and after verification of the fact, police have issued AA Form, and that the AA Form is placed on record by the claimants. The police papers show that the respondent No.2 falls within the category as owner of the offending vehicle. In the instant case, the Tribunal had held that the respondent No.2 is the registered owner of the vehicle, as such, rejected the application for

adding Tata Capital Financial Services Ltd.

3. Challenging the order passed by the Tribunal, the respondent No.2/ petitioner submits that it is in the interest of the claimants that the Tata Capital Financial Services Ltd. be added as respondent No.3 as it would establish the ownership of the vehicle so also there would be no difficulty in executing the order passed by the Tribunal. He further submits that in course of evidence if it is established that the petitioners are not owners of the vehicle, the claimants would be deprived of the compensation. He submits that he is not arguing against the interest of the claimants but in favour of the claimants and in interest of justice, so also to ensure that the claimants get compensation, the Tata Capital Financial Services Ltd. be made party to the petition.

4. The claim petition is filed by the claimants based on the documents as are available before the police. The truck is also in possession of the police. Adding of Tata Capital Financial Services Ltd. an *inter se* issue of ownership between Tata Capital Financial Services Ltd. and the present respondent No.2 would have to be decided and it would delay the proceedings. It is for the claimants to file petition against the owner of the vehicle. The registered owner of the vehicle is the present petitioner and the claimants need not add other

respondents who may be ostensible owner of the truck. As far as the claim petition of the claimants is concerned, the same is maintained against the registered owner of the offending vehicle. The Tribunal has also held that petitioner has ample opportunity to prove the fact that the offending vehicle is not at all registered in the name of petitioner. That fact pleaded in the written statement can be proved at the time of evidence. As such, the Tribunal has correctly appreciated the position of law and has dismissed the application filed by the respondent No.2/ petitioner herein.

5. In view of the above, the petition is devoid of merits and is accordingly dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.