



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

MISC.CIVIL APPLICATION NO. 324 OF 2022

NITIN APPASAHEB JAYBHAY
VERSUS
BHANUDAS SHYAMRAO TAWLE AND OTHERS

Mr. B. R. Jaybhar, Advocate for the applicant
Ms. Namita Thole, Advocate for respondent Nos.1 to 3 (appointed)

CORAM : R. M. JOSHI, J.
DATE : 19th JULY, 2024

PER COURT :-

1. This application is for transfer of proceeding bearing No. M.A.C.P. No. 30/2023 (old MACP No. 132/2017) pending before District Judge-1, Kallamb, Dist. Osmanabad to District Court to Aurangabad.
2. It is the contention of the applicant that at the time of the filing of the said proceedings initially at Osmanabad and he was resident at taluka of Kallamb. Thereafter he has shifted to Aurangabad. He, therefore, wants this proceedings to be transferred to Aurangabad.
3. In spite of service of notice, respondent Nos.1 and 2 who are individuals have to failed appeared so also the New India Assurance Co.Ltd. did not cause appearance. Hence, to assist this Court Ms. Namita Thole was appointed.
4. Learned counsel for the applicant submits that it is the right

of the applicant that the claimant to prosecute the proceedings under the Motor Vehicles Act seeking compensation at the place where he resides. Thus, there is no impediment in allowing the application.

5. Learned appointed counsel for the respondents opposed the application by drawing attention of the Court to the fact that at the relevant time the applicant was resident of Kallamb and that the accident has also occurred in taluka Kallamb. Thus, the Court at Kallamb itself has jurisdiction to prior decide the said petition.

6. Section 166(2) of Motor Vehicles Act, 1988, (for short the 'Act') provides that an application for seeking compensation arising out of vehicular accident can be filed at the option of claimant, in Tribunal within whose jurisdiction (i) accident has occurred, (ii) claimant resides or (iii) where defendant resides. The intention of legislation is clear to facilitate the claimant to prosecute his claim for compensation as per his convenience. The option for filing of the application at a particular place covers situation when transfer of such proceeding is required owing to change in circumstances.

7. In the case in hand, even if it is accepted that claimant was resident of Kallamb at relevant time but now admittedly he resides at Aurangabad. Thus, petitioner/claimant is within his right under Section 166 of the Act to seek transfer the claim petition from Kallamb to

Aurangabad. There is nothing to indicate that any prejudice much less irreparable loss would be caused to the respondents if transfer is allowed. Hence, application is allowed in terms of prayer clause 'A'.

8. Fees of the appointed counsel is quantified Rs. 10,000/-, which is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

ssp