

Gayatri

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10089 OF 2023

Ashit Rohit Shah

Adult of Indian inhabitant

Occupation : Business

Having his address at

303/403, Viceroy Image B/H,

ABS Tower, O. P. Road,

Vadodara Gujarat – 390007.

... Petitioner

Vs.

1. The State of Maharashtra

2. Pallavi Uttam Munj,

Adult aged about 44 years,

Occupation : not known,

House No. 524, Marzaban road, Next to
pre Mansion Hall, Fort, Fmumbai – 400 001

3. Ashok Patel

Adult age about 48 years

House No. 524, Marzaban road,

Next to pre Mansion Hall, Fort

Mumbai – 400 001.

4. Tata AIG Gen. Ins. Co. Ltd.

a registered company, having its office at

2nd floor, Unit No. SB-143 TO 146,

Highland Corporate Centre, Kapurbawdi

Junction Majiwada, Thane – 400 607.

...Petitioners

Ms. Simran Wagle, Advocate for Petitioner.

Mr. Devendranath S. Joshi, Advocate for Respondent No. 4- Insurance company.

Mr. P. P. Pujari, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 8th FEBRUARY 2024

P.C.

1. This petition is listed today for final disposal at admission stage, pursuant to order dated 2nd February 2024.
2. The limited issue involved in this petition is about omission of Chapter X of the Motor Vehicles Act, 1988 ("MV Act") and the relevant date from which the said omission was made effective.
3. The petition takes an exception to the order dated 10th July 2023 passed by the Motor Accident Claims Tribunal, Mumbai below an application at Exhibit 2 in Motor Accident Claim Petition No. 1743 of 2022 filed under Section 140 of the MV Act. By the said order, application filed under Section 140 is allowed and the petitioner as well as the insurer is directed to pay compensation under Section 140.
4. Learned counsel for the petitioner submits that the claim is filed by respondent nos. 2 and 3 claiming compensation with reference to

an accident that occurred on 27th November 2022. She submits that the claim application is filed on 17th December 2022. Learned counsel for the petitioner submits that by notification dated 30th August 2019, the Motor Vehicles (Amendment) Act, 2019 was brought into force. She further submits that by way of notification dated 25th February 2022 Section 50 of the Motor Vehicles (Amendment) Act, 2019 was made effective from the 1st April 2022. She submits that on the date of the accident and on the date of filing application the provision of Section 140 was not on the statute book. She submits that the impugned order is passed without any jurisdiction. She therefore, submits that this petition is filed for challenging the said order which is passed without support of any provision.

5. Learned counsel appearing for respondent no. 4 does not dispute the aforesaid legal provisions. Though respondent nos. 2 and 3 are served and on the last occasion they were represented by some advocate as it indicates in the order dated 2nd February 2024, none appears today.

6. In view of the undisputed dates with respect to omission of Chapter X of the MV Act containing Section 140 of the MV Act, the

impugned order is passed by the Tribunal without support of any legal provision in existence on the statute book. Hence, the impugned order is without any jurisdiction.

7. For the reasons stated above, the impugned order dated 10th July 2023 passed below Exhibit 2 in Motor Accident Claims Petition No. 1743 of 2022 filed under Section 140 of the MV is quashed and set aside and the application at Exhibit 2 - stands dismissed.

8. All parties to act on an authenticated copy of this order.

[GAURI GODSE, J.]

GAYATRI
RAJENDRA
SHIMPI

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by GAYATRI
RAJENDRA
SHIMPI
Date:
2024.02.14
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