

Sl.8
8.07.2025
Court No.6
BP

C.O. 2324 of 2025

Bajaj Allianz General Insurance Co. Ltd.
-versus-
Manisa Pradhan & Ors.

Mr. Soumalya Ganguli
..for the petitioner

Mr. Pingal Bhattacharya
Mr. Rajdeep Sinha
..for the opposite parties

This application under Article 227 of the Constitution of India is at the instance of the Insurance Company and is directed against an order dated 10th February, 2025 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track, 1st Court, Tamluk, Purba Medinipur in M.A.C.C. No. 484 of 2019.

By the order impugned the application under Order 26 Rule 9 of the Code of Civil Procedure and an application under Order 16 Rule 14 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that local investigation of the shop under the name and style "Mobile Zone" is necessary for the purpose of ascertaining the current amount of business income or annual net profit of "Mobile Zone". It has been stated in the application under Order 26 Rule 9 of the Code of Civil Procedure that the income tax returns along with the balance sheet showing the business income which have

been marked as exhibits are not sufficient for the purpose of ascertaining the business income or the annual net profit of "Mobile Zone".

Heard the learned advocate for the opposite parties on such submission.

After going through the said application this Court finds that the petitioner herein has filed the instant application only for the purpose of fishing out evidence which is not permissible. Business income has to be proved by way of documentary evidence and oral evidence and for such purpose holding of local investigation cannot be permitted. The learned trial judge was right in holding that local investigation is not required to ascertain the current income details as the same can be done by adducing oral and documentary evidence.

After going through the said application this Court further finds that the petitioner prayed for issuing summons upon the investigating officer in connection with a criminal case. It has been stated in the said application that according to the petitioner the alleged incident did not occur as there was inordinate delay of three days in lodging the alleged FIR; the police had not taken cognizance of the incident on the same date; there was a delay in seizure from the owner and how the vehicle was identified is not clear and the charge-sheet filed was based on the seizure only and the identification of the vehicle itself is doubted. It has been further stated in paragraph 4

of the said application that it appears from the papers in connection with the criminal case that the final report was submitted with regard to the alleged incident dated 14th August, 2019 which occurred between the vehicle bearing no. - WB -31/ 4743 and three unidentified vehicles that finally dashed with the deceased motor cycle and the identity of the three vehicles is missing from the seizure list and the charge sheet.

After going through the said application this Court is of the considered view that the petitioner is aggrieved by the manner in which investigation was carried out in connection with the said criminal case. The learned judge was right in observing that in case there is any anomaly or infirmity in the investigation, the Motor Accident Claims Tribunal is not the appropriate forum for ventilating such grievances. The learned Judge assigned cogent reasons for rejecting such application.

This Court does not find any reason to interfere with the impugned order.

At this stage the learned advocate for the opposite parties submits that the direction be passed upon the learned Judge, Motor Accident Claims Tribunal to dispose of the Motor Accident Claim Case No. 484 of 2019 expeditiously.

Since the Motor Accident Claim Case is pending from the year 2019, C.O. 2324 of 2025 stands disposed of by requesting the Motor Accident Claims Tribunal cum

Additional District Judge, Fast Track, 1st Court, Tamluk, Purba Medinipur to dispose of M.A.C.C. No. 484 of 2019 as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)