



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

982 FIRST APPEAL NO. 377 OF 2025

FATIMA ZAKIYODIN SHAIKH AND ANR

VERSUS

DIVISIONAL MANAGER BOMBAY ELECTRIC SUB-URBAN TRANSPORT
CULABA MUMBAI

Mr.F.K. Patel, Advocate for the appellants.

Mr.D.P. Madkar h/f. Mr.Deepak S. Manorkar, Advocate for sole
respondent.

CORAM : KISHORE C. SANT, J.

DATE : 30.09.2025

PC :-

01. In the present appeal a challenge is raised to an order of dismissal of Motor Accident Claim Petition No. 409 of 2019 by learned Member, Motor Accident Claims Tribunal, Beed dated 01.08.2023. The appellants claim is dismissed as the appellants-claimants were not present for cross-examination by the respondents. After filing evidence affidavit, the claimants did not appear before the learned Tribunal to conduct cross-examination. Said affidavit was filed on 12.07.2022. Till passing of the order he never appeared i.e. for more than one year. The learned Tribunal, therefore, dismissed the petition.

02. Learned Advocate for the appellants submits that the appellants had no knowledge that they are required to appear for cross-examination. The Advocate engaged by them also did not inform that their presence is required even after giving evidence affidavit. Thus, due to lack of communication, they could not attend the proceeding. It is

further stated that on the date of passing of order, another Advocate was present with no objection from the earlier Advocate, who reported to the learned Tribunal immediately after passing of the dismissal order. The learned Tribunal, however, maintained the order. It is earnestly prayed that if the matter is remanded and an opportunity is given, the claimants shall not seek adjournment and shall cooperate in speedy disposal of the claim petition.

03. Learned Advocate for the respondent vehemently opposes the appeal. He submits that sufficient opportunities were given to the appellants. In spite of several chances, the witnesses did not offer himself for cross-examination. The learned Tribunal, therefore rightly passed the order and no interference is required.

04. Considering that the Motor Vehicles Act is a beneficial legislation, the claimants should not be deprived of their right to claim compensation. At the same time, it needs to be kept in mind that it is because of absence of the claimants, the learned Tribunal was left with no option than to pass the dismissal order.

05. Considering above, following order is passed :-

- i) This appeal is allowed with costs of Rs.10,000/- (Rupees Ten Thousand Only), to be paid by the claimants to the respondent within six weeks from today.
- ii) The matter is remanded back to the learned Motor Accident Claims Tribunal, Beed.

- iii) The learned Tribunal shall try to dispose off the claim petition within a period of one year and in any case before 31st October, 2026.
- iv) The claimants shall not seek any adjournment. If claimants seek adjournment, the learned Tribunal shall pass appropriate orders imposing costs upon the claimants.
- v) It is made clear that the appellant shall not be entitled to receive interest for the period from 01.08.2023 till remand of the claim petition.
- vi) Parties to appear before the learned Tribunal on 03.11.2025, without requiring fresh notice.

[KISHORE C. SANT, J.]