

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

927 WRIT PETITION NO. 2639 OF 2023

Somnath Baburao Mustapure

....Petitioner

Versus

Rahemat Maheboob Shaikh and Others

.....Respondents

.....

Shri. Vinod M. Vibhute, Advocate for the Petitioner

Respondent Nos.1 to 5, 7 – Served.

Respondent No.6 – Dead.

.....

CORAM : NEERAJ P. DHOTE, J.

Dated : NOVEMBER 19, 2025

PER COURT :-

. Heard the learned Advocate for the Petitioner finally.

2. None for the Respondents, though served with the notice of final hearing. According to the learned Advocate for the Petitioner, the Respondent Nos.1 to 5 are the legal representatives of the Deceased Respondent No.6. Therefore, the office note for bringing on record the legal representatives no more survives. It is submitted by the learned Advocate for the Petitioner that, the Claim Petition is not yet finally decided.

3. The Petitioner is the Orig. Respondent No.1 in MACP No.09/2016 pending before the learned Member, Motor Accident Claims Tribunal, Nilanga. The Petitioner is the vehicle owner. His evidence was closed by the learned Tribunal by the order dated 02.02.2022. The Petitioner filed

the Application below Exh.57 to set aside the said order and permit him to lead the evidence. The said Application came to be rejected by the impugned Order dated 12.10.2022. Hence, this Writ Petition under Article 227 of the Constitution of India.

4. The Petitioner has contested the Claim Petition by filing his Written -statement. The Petitioner is the owner of the offending vehicle. As per the avernment in Exh.57, the Petitioner was not keeping well and therefore, could not lead the evidence. The impugned order show that, as there was no Affidavit and the Application was filed in the month of July when the matter was partly heard, the Application came to be rejected. The impugned order do not show that the learned Tribunal considered the Petitioner's contention regarding ill health and consequent inability to lead the evidence. This shows that, there is non consideration of the ground raised in the Application below Exh.57 and the impugned order has been passed. Considering this aspect of the matter, the impugned order is liable to be set aside and hence, the following order.

ORDER

- (i) The Petition is allowed.
- (ii) The impugned order dated 12.10.2022 passed by the learned Member, Motor Accident Claims Tribunal, Nilanga below Exh.57 in MACP No.09/2016 is quashed and set aside.

- (iii) The Application below Exh.57 is restored back on the file of the learned Tribunal for reconsideration and decision.
- (iv) The Petitioner shall appear before the learned Tribunal on **21.11.2025** during Court hours.
- (v) The Petition stands disposed off.

(NEERAJ P. DHOTE, J.)

GGP