

Arun Sankpal

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12726 OF 2025**

Future Generali India Insurance Co Ltd ..Petitioner

Versus

Pushkar Saxena S/o Brahma Swaroop Saxena & ...Respondents
Anr

Mr. Rajesh Kanojia, i/b Res Juris, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE : 30th SEPTEMBER 2025

P.C.:

1. Heard the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 24th April 2025 passed by the learned Member, MACT, Mumbai, whereby the learned Member was persuaded to reject an Application preferred by the Petitioner to refer the claimant to Government Hospital to assess his disability.
3. The Application was preferred on the premise that, the disability certificate has been issued by Dr. Puranik, who was not the treating Doctor. The evidence of Dr. Puranik is of no assistance to the Tribunal, as Dr. Puranik has not produced any document to prove that he had examined the Claimant, radiologically and clinically.

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4. The Tribunal did not acced to the prayer of the Petitioner to re-examine the Claimant for further assessment by a Medical Board. The Tribunal referred to the documents which have been placed on record in proof of the injuries sustained by Claimant and the resultant disability. It was noted that Dr. Puranik was cross-examined on behalf of the Petitioner.

5. The learned Counsel for the Petitioner invited the attention of the Court to the cross-examination of Dr. Puranik to demonstrate that the disability certificate issued by Dr. Puranik, is not correct. It was submitted that the Tribunal is empowered to refer the Claimant to Medical Board to assess the disability and instant case is a fit case to exercise such power.

6. There can be no quarrel with the proposition that the Tribunal may exercise the power to direct examination of the Claimant by a Medical Board where the Tribunal finds that the medical evidence produced by the Claimant in support of the claim is not satisfactory.

7. In the case of **Raj Kumar Vs Ajay Kumar & Anr**¹ the Supreme Court emphasized the necessity to examine the treating doctor, or the doctor who assessed the permanent disability. It was further enunciated that if the evidence is not found satisfactory, the Tribunal can constitute a Medical Board and refer the Claimant to such Medical Board for assessment of the disability.

1 (2011) 1 SCC 343.

8. The observations in paragraph 18 of the said judgment read as under:

“18. The Tribunal should also act with caution, if it proposed to accept the expert evidence of doctors who did not treat the injured but who give ‘ready to use’ disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who without treating the injured, readily giving liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the Doctor who treated the injured or who assessed the permanent disability. Mere production of a disability certificate or Discharge Certificate will not be proof of the extent of disability stated therein unless the Doctor who treated the claimant or who medically examined and assessed the extent of disability of claimant, is tendered for cross-examination with reference to the certificate. If the Tribunal is not satisfied with the medical evidence produced by the claimant, it can constitute a Medical Board (from a panel maintained by it in consultation with reputed local Hospitals/Medical Colleges) and refer the claimant to such Medical Board for assessment of the disability.”

9. In the case at hand from the perusal of the impugned order, it becomes abundantly clear that the learned Member, MACT, has

adverted to the medical certificates and radiological reports, the evidence of Dr. Puranik, and, thereafter, recorded a finding that the material and evidence on record appeared to be sufficient to assess the disability. In the face of such finding, the insistence on the examination of the Claimant by Medical Board does not merit countenance. In any event, the Claimant will have to bear the consequences, if ultimately the Tribunal finds the evidence adduced by the Claimant in proof of disability is unworthy of credence. Therefore, the Petition does not deserve to be entertained.

10. Petition stands dismissed.

[N. J. JAMADAR, J.]