



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.920 OF 2024

1. Poonam d/o Devendra Mishra, aged about 24 years, Occupation – Education.
2. Mrs. Sandhya w/o Devendra Mishra, aged about 50 years, Occupation – Service, Both petitioner nos. 1 and 2 are resident of Quarter No.1/60, Raje Raghuji Nagar, Sakkardara, Nagpur.

...PETITIONERS

VERSUS

1. Snehal w/o Bhauraoji Buche, aged about 24 years, Occupation : Education.
2. Ku. Avanti d/o Bhauraoji Buche, aged about 22 years, Occ : - Education .
3. Bhauraoji s/o Narayanrao Buche, aged about 53 years, Occu – Private.

All the respondents are residents of Quarter No.6/24, Raje Raghuji Nagar, Sakkardara, Nagpur.

4. Member, M.A.C.T.-1, Nagpur (P.B. Naikwad) District Court, Annex Building, Room No. 402.

All the respondents are r/o Quarter No.6/24, Raje Raghuj Nagar, Sakardara, Nagpur.

...RESPONDENTS

Shri K.R. Trivedi, Advocate for the petitioners.

Shri T.S. Deshpande, Advocate for respondent nos. 1 to 3.

CORAM : PRAVIN S. PATIL, J.

DATED : 28/02/2025.

ORAL JUDGMENT :

RULE. Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this writ petition, the present petitioners are challenging the order dated 18.12.2023 passed below Exhibit 58 by the Member, Motor Accident Claims Tribunal ('the Claims Tribunal'), Nagpur by which learned Tribunal rejected the application filed by the petitioners to set aside "No Cross" order and further to grant permission to cross-examine the witnesses.

3. The present respondents/claimants filed an application for compensation under the provisions of Motor Vehicles Act, 1988 before Claim Tribunal, Nagpur on 10/07/2015. The present petitioners/Original Respondent nos.1 and 2 appeared before the Claims Tribunal, Nagpur and filed their written statement.

4. Before the Claims Tribunal, the Claimants adduced their evidence on 08.06.2022. However, the present petitioners chooses not to cross examine the witnesses i.e. PW1, PW2 and PW3, and therefore, learned Claims Tribunal, constrained to pass no-cross order against them on 08.06.2022, 06.01.2023 and 17.08.2023 respectively.

5. On 21.10.2023, the present petitioners moved an application below Exhibit 58 before the learned Claims Tribunal, Nagpur for setting aside the no-cross order and grant them permission to cross-examine the witnesses i.e. PW1, PW2 and PW3. The reasons stated by them in the application is that their earlier Counsel filed No Instruction Pursis before the Claims Tribunal, but this fact was not informed to them. Therefore, they could not prosecute the matter before the Claims Tribunal.

6. The present respondents did not file any reply to the said application before the Claims Tribunal.

7. It is seen from the impugned order that after filing of the application by the present petitioner, they again did not responded nor appeared on several dates to prosecute the application. Therefore, learned Claims Tribunal constrained to decide the application and accordingly, by the impugned order dated 18.12.2023 by holding that after sufficient opportunity given to the petitioners and further there is no satisfactory explanation for the delay, the application filed vide Exhibit 58, came to be rejected.

8. Heard Shri K.R. Trivedi, learned Counsel for the petitioners and Shri T.S. Deshpande, learned Counsel for respondent nos.1 to 3.

9. The Counsel for the petitioners states that they were totally dependent upon the previous Counsel. The said Counsel did not take proper steps in the matter. Hence, for the fault of Counsel, present petitioners should not suffer, hence seeks indulgence of this Court in the matter.

10. Learned Counsel for the respondents pointed out that on the basis of roznama obtained from web-site of E-Court that on 02.07.2022, 06.01.2023, 08.02.2023 and 02.03.2023, the present petitioners were present before the Claims Tribunal and aware about the matter. As such, they can't blame the Counsel for not taking appropriate steps in the

matter. He rightly stated that the petitioners/original respondent Nos.1 and 2 are equally responsible in the matter.

11. That after going through the record, it is clear that the petitioners being not conversant to the court proceeding and previous Counsel did not take necessary steps in the matter. I feel it necessary to grant one more opportunity to petitioners to cross-examine the witness. Because non-granting of opportunity will directly affect the issue of Just and Fair Compensation while deciding the claim petition finally.

12. Learned Counsel appearing for the petitioners made a solemn statement that he will not sought any further adjournment in the matter and will co-operate to decide the matter expeditiously before the Claims Tribunal without any delay. The statement of the petitioners is accepted as an undertaking to this Court.

13. That in the present matter the respondent nos. 1 to 3 (Original Claimants) can be compensated for delay caused in deciding the claim petition due to lethargic approach of petitioners by directing them to pay each costs of Rs.5000/- to respondents/claimants 1 to 3.

15. Hence, I proceed to pass the following order:

(i) The impugned order passed by the Motor Accident

Claims Tribunal-1 below Exhibit 58 in MACP No.1440/2015 dated 18/12/2023 is hereby quashed and set aside.

(ii) The application filed by the petitioners in MACP No.1440/2015 below Exhibit 58 is allowed.

(iii) Petitioners/original respondent nos.1 and 2 are directed to conduct cross-examination of PW-1, PW-2 and PW-3 as expeditiously as possible without obtaining any unnecessary adjournment.

(iv) Each petitioner should pay costs of Rs.5000/- to respondent nos.1 to 3 as a condition precedent before conducting cross-examination of witnesses PW-1, PW-2 and PW-3.

(v) The Member, Motor Accident Claims Tribunal, Nagpur is requested to decide pending MACP No.1440/2015 as expeditiously as possible and in any case within a period of nine months from the date of production of this order.

16. No order as to costs.

(PRAVIN S. PATIL, J.)