

Mrs. Namrata W/o Narendra Chorode,
Aged about 45 years, Occ. Presently Nil,
R/o. Nandgaon, Tq. Warud & District Amravati

// VERSUS //

- (1) **Narendra S/o Subhash Chaudhari,**
Age Adult, Occ. Driver,
R/o. Amner, Tq. Warud & District Amravati
- (2) **Jayant S/o Prabhakar Kahale,**
Age Adult, Occ. Owner of Bus,
R/o. Bahada, Tq. & District Amravati
- (3) **National Insurance Company Limited,**
Through its Divisional Manager,
having its office at Rajapeth, Amravati,
Tq. & District Amravati

.... RESPONDENT(S)



Shri A.U. Deshmukh, Advocate for the Petitioner(s)

Shri R.D. Dharmadhikari, Advocate for Respondent Nos. 1 & 2

Shri C.C. Anthony, Advocate for the Respondent No. 3

[illegible]

CORAM : M.S. JAWALKAR, J.
MARCH 06, 2025

ORAL JUDGMENT:-

- (1) **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

(2) The present Writ Petition is filed by the Petitioner challenging the order dated 25/06/2024 passed below Exhibit 42 by the learned Member, Motor Accident Claims Tribunal, Warud whereby the Application for recalling the order dated 27/02/2024 came to be rejected.

(3) It appears that the learned Member, Motor Accident Claims Tribunal, Warud passed an order on 27/02/2024 closing the evidence of the Petitioner. It is a matter of record that the Petitioner filed her evidence on affidavit and even was cross-examined by the learned Counsel for the Respondents. It is her contention that she has also filed list of witnesses for issuance of witness summons. The Petitioner filed an Application for setting aside of that order stating that she wants to give further evidence, however, for want of reasons, the same was rejected. Therefore, fresh Application was filed by the Petitioner on 07/05/2024 in which she has given detailed reasons for her non-appearance when the matter was fixed for evidence. It appears that earlier the matter was pending before the Motor Accident Claims Tribunal, Amravati. The Petitioner applied for issuance of summons below Exhibit 38. Not only this, the Tribunal

allowed the said Application on 16/10/2023 and as per Exhibit 39, the process forms were submitted, however thereafter, the matter was transferred to the Motor Accident Claims Tribunal, Warud. Due to bonafide mistake, there could not be any follow up by the Counsel. The Application Exhibit 42 was strongly opposed by the Respondent No. 3. This Application also came to be rejected solely on the ground that the earlier Application was rejected by the order dated 23/04/2024 and again filing of such an Application is not maintainable.

(4) In my considered opinion, the Motor Vehicles Act, 1988 is a beneficial legislation and it is not the case that the Petitioner was not pursuing the matter. In fact, before transfer of the matter at Warud Court, she has filed her evidence on affidavit and also applied for issuance of summons to the witnesses. As the matter was transferred to Warud Court, the Counsel as well as the Petitioner could not attend the matter which is the sufficient reason for the Petitioner/Petitioner's Counsel's non-appearance when the matter was fixed for evidence. As such, the impugned orders are liable to be quashed and set aside.

(5) Hence, I proceed to pass following order:-

ORDER

(a) The Writ Petition is **allowed**.

(b) The orders dated 23/04/2024 and 25/06/2024; so also the order dated 27/02/2024 of closing the evidence of the Petitioner passed by the Motor Accident Claims Tribunal, Warud in MACP No. 32/2023 are hereby quashed and set aside.

(c) The learned Member, Motor Accident Claims Tribunal, Warud is hereby directed to allow the Petitioner to re-submit the list and summons to the Court.

(d) The parties to appear before the learned Member, Motor Accident Claims Tribunal, Warud on the date fixed by the Tribunal before the Warud Court.

(e) Learned Counsel for the Respondent No. 3 raised objection regarding payment of interest from 27/02/2024

till passing of this judgment, however, this issue is kept open to be agitated before the Tribunal.

The Petition stands **disposed of** in the above terms.
Pending Application(s), if any, stand(s) **disposed of**.

(M.S. JAWALKAR, J.)