

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4008 OF 2025

MUNNAPRASAD HARIRAM SHARMA AND ANR.
VERSUS
ANURADHA DNYANESHWAR YADAV AND OTHERS

...
Advocate for Petitioner : Mr. Ajit M. Savagave
Advocate for Respondent : Mr. Wasim Samlewale
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 16.06.2026

PER COURT :

Heard both sides finally with their consent.

2. The petitioners are questioning interlocutory orders passed by the Tribunal on 03.12.2022, 26.04.2023, 12.07.2023, 16.01.2025 and ex parte Award dated 19.07.2023 passed in M.A.C.P. No. 225/2019. They are owners and driver of the offending vehicle. The respondents are the claimants.

3. By way of interim order dated 28.04.2025, the petitioners were granted interim relief on condition of depositing Rs. 50,000/- as a condition precedent to entertain the petition. The same has been complied with. They are aggrieved by ex parte award passed against them and order of rejecting application for condonation of delay in preferring application for setting aside ex parte award. It is submitted that interlocutory orders depriving them from conducting cross-examination, are also liable to be quashed. It is submitted that due opportunity needs to be given to the petitioners to participate in the proceeding without there being any reservations.

4. The respondents have contested the petition stating that three

witnesses were examined by them and the petitioners had opportunity to conduct cross-examination. There is serious objection for setting aside ex parte award and further permission to cross-examine the witnesses should not granted. The respondents are the sufferers and deprived of compensation.

5. The respondents had filed M.A.C.P no. 225/2019 as a heirs of deceased Dnyaneshwar, who died in the accident. The petitioners appeared in the matter and filed reply. Thereafter they failed to conduct cross-examination of three witnesses, examined by the respondents. Ultimately, award of Rs. 24,33,560/- was passed with interest at the rate of Rs. 9% p.a.

6. It cannot be countenanced that only ex parte award would be set aside without granting any opportunity to the petitioners to cross-examine the witnesses. If the matter is to be remanded, then opportunity to the fullest extent needs to be extended to the parties to participate in the proceedings. For the lapses on the part of the petitioners, already they were called upon to deposit Rs. 50,000/- which is complied with. It would be in the interest of justice to relegate the parties to the Tribunal for deciding it afresh.

7. It cannot be overlooked that its a death claim and earning member of the family died in the accident. The respondents examined three witnesses. Those will have to be recalled so as to facilitate their cross-examination. Considering the hardship to the respondents, it would be appropriate to impose additional costs of Rs. 25,000/- upon the petitioners. I, therefore, pass following order:

ORDER

- (i) The Writ Petition is partly allowed.
- (ii) The impugned order dated 16.01.2025 passed in

M.A.C.P. Miscellaneous Application No. 68/2023, ex-parte award passed on 19.07.2023 and the orders of no cross passed on 03.12.2022, 26.04.2023 and 12.07.2023 in M.A.C.P. No. 225 of 2019 are quashed and set aside on condition that the petitioner shall pay additional costs of Rs. 25,000/- (Rs. Twenty Five Thousand only) to the respondents, within a period of four (04) weeks from today.

(iii) The amount of Rs. 50,000/- with accrued interest shall be disbursed to the respondents. The payment of additional costs of Rs. 25,000/- (Rs. Twenty Five Thousand only) shall be condition precedent. It is indicated that no extension for payment of costs shall be granted.

(iv) The parties shall appear before the M.A.C.T. on 01.07.2026.

(v) The Presiding Officer shall decide the matter afresh by extending opportunity of hearing to both sides on its own merits and shall conclude the proceedings expeditiously.

(SHAILESH P. BRAHME, J.)

mkd/-