



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.756 OF 2026**

The Oriental Insurance Co. Ltd. ... Petitioner
versus
Anjali Subhash Yendhe and Ors. ... Respondents

Ms. Deepika Prabhala i/by res Juris, for Petitioner.

CORAM: N.J.JAMADAR, J.

DATE : 19 JANUARY 2026

P.C.

1. Heard the learned Counsel for the Petitioner.
2. By this Petition under Article 227 of the Constitution of India, the Petitioner – insurer assails the legality, propriety and correctness of the order dated 9 October 2025 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai, whereby the Claim Petition, being MACP No.2089 of 2016 was permitted to be amended so as to delete Opponent No.2 and the insurer of the vehicle, then being driven by Opponent No.2, from the array of the Opponents and the averments in paragraph No.14(ii) of the Claim Petition to the effect that the accident would not have taken place, but for the gross negligence and rashness of the drivers of both the offending vehicles.
3. Learned Member, MACT was persuaded to allow the application observing, inter alia, that the proposed amendment was necessary for bringing correct factual position on record and the determination of the real

question in controversy. Learned Member further observed that, having regard to the social and beneficial nature of the legislation, the application for amendment deserved to be allowed.

4. Learned Counsel for the Petitioner would submit that it was a specific case of the Petitioner that the accident had occurred on account of the rash and negligent driving on the part of the drivers of both the vehicles, including Kaustubh Yendhe, Opponent No.2, who was at the wheel of the car which met with an accident. The said opponent No.2 was the brother of Respondent No.1 – Applicant and son of Respondent Nos.5 and 6. A specific case of contributory negligence was alleged. By the proposed amendment, the Applicant professed to withdraw the admissions that the opponent No.2 was equally responsible for the accident. Therefore, such an amendment could not have been allowed, especially after the commencement of the trial.

5. The aforesaid submissions are required to be appreciated keeping in view the nature of the proceedings before the MACT for award of compensation. The claim for compensation before the Tribunal is not an adversarial adjudication. Strict rules of pleadings and evidence do not govern the proceedings before the Tribunal. The Tribunal is tasked with the exercise of determination of compensation in accordance with the statutory provisions.

6. A useful reference in this context can be made to a decision of the

Supreme Court in the case of **Dulcina Fernandes v/s. Joaquim Xavier Cruz**¹, wherein the nature of the proceedings for award of compensation and adjudication by the Tribunal was expounded. The observations in paragraph No.7 read as under :

“7.It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pick-up van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probability and certainly not on the basis of proof beyond reasonable doubt. [Bimla Devi & Ors. Vs. Himachal RTC (2009) 13 SCC 530]. In United India Insurance Company Ltd. V/s. Shila Datta and Ors. (2011) 10 SCC 509 while considering the nature of a claim petition under the Motor Vehicles Act, 1988, a three-judge-bench of this Court has culled out certain propositions of which propositions (ii), (v) and (vi) would be relevant to the facts of the present case and, therefore, may be extracted hereinbelow :

“(ii) The rules of the pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo motu initiated by the Tribunal.

(v) Though the Tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation.

(vi) The Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry,

1 AIR 2014 SC 58

to assist it in holding the enquiry."

The following further observation available in paragraph 10 of the report would require specific note:

"We have referred to the aforesaid provisions to show that an award by the Tribunal cannot be seen as an adversarial adjudication between the litigating parties to a dispute, but a statutory determination of compensation on the occurrence of an accident, after due enquiry, in accordance with the statute."

(emphasis supplied)

7. The aforesaid being the nature of the proceedings before the Tribunal, the technical objections sought to be advanced on behalf of the Petitioner to the proposed amendment do not merit acceptance. The learned Member of the Tribunal was, therefore, justified in allowing the application for amendment.

8. In any event, the Petitioner would have an opportunity to raise all the contentions, including that Kaustubh Yendhe (the deleted opponent No.2) was driving the car in a rash and negligent manner, and, thereby contributed to the accident. Thus, in exercise of the supervisory jurisdiction, this Court does not find any reason to interfere with the impugned order.

9. The Writ Petition, thus, stands dismissed.

10. All the contentions of the Petitioner are, however, kept open to be adjudicated at the time of final decision of the MACP No.2089 of 2016.

(N.J.JAMADAR, J.)