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MP-3784-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 25th OF APRIL, 2025MISC. PETITION No. 3784 of 2024*SMT. MAMTA DEVI AND OTHERS**Versus**SHRIRAM GENERAL INSURANCE COMPANY AND OTHERS*

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Appearance:

Mr. Santosh Agrawal - Advocate for the petitioners.

Mr. Bal Krishna Agrawal and Mr. Dhruv Agarwal - Advocate for
respondent No.1/Insurance Company.

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ORDER

The petitioners/claimants have filed this petition challenging the order dated 03.07.2024 passed by the Member Motor Accident Claims Tribunal, Ambah, District Morena in Claim Case No.77/2021, whereby the learned Claims Tribunal has allowed the application under Order 6 Rule 17 of CPC and permitted the Insurance Company to amend its written statement.

2. Learned counsel for the petitioner, challenging the impugned order, submitted that the evidence of the parties have been concluded and the case is at the stage of final arguments. It is his submission that after conclusion of evidence of both the sides, the Tribunal was not competent to allow the application for amendment filed by the Claims Tribunal. He further submitted that once the amendment is allowed, the entire matter would be re-opened and would prolong the proceedings of the claim case.



3. On the other hand, learned counsel for the Insurance Company submitted that right from the inception, the stand taken by the company is that the deceased was traveling in the truck as an unauthorised passenger. He submits that by way of amendment, the company has only stated in his reply that no premium for second driver was paid and therefore, on the principle of 'no premium no liability' company is not liable to pay the compensation. He submitted that no further evidence is required to be laid pursuant to the amendment and, therefore, the amendment allowed by the Claims Tribunal would not prolong the decision of the claim case.

4. Considered the arguments and perused the record.

5. In the reply filed by the Claims Tribunal, it has already been stated that the deceased was traveling as unauthorised passenger in the offending vehicle. By way of amendment, the only assertion made in the written statement is that at the time of insuring the offending vehicle, no premium was paid for second driver of the vehicle and therefore, on the principle of 'no premium no liability', the company cannot be held liable. Thus, nothing new has been stated in the amendment application and on the other hand, if the averments made by way of proposed amendment is found correct would go to the root of the matter.

6. This Court in the case of **Daylibai wd/o Bhayata and another Vs. Chhabu @ Chhatarsingh S/o Dhanji Bhilala and others**, reported in (2012) 2 MPLJ 596 has considered the issue of amendment in the written statement in case of motor vehicle accident and in paragraph - 5 and 7 held as under :

"5. Further reliance is placed on a decision in the matter of



Surender Kumar Sharma Vs. Makhan Singh, wherein Hon. Apex Court held that belated application for amendment of plaint is not liable to be rejected merely on the ground of delay, if Court finds that by allowing application real controversy between the parties may be resolved. It was further held that Court can allow the application where opposite party can be compensated by costs or otherwise. Hon. Apex Court further held that Court has wide discretion to deal with the application in such manner and on such terms, which appear it to be just and proper and with a view to do full and complete justice. Lastly reliance is placed on a decision in the matter of South Konkan Distilleries and Another Vs. Prabhakar Gajanan Naik and Others, wherein Hon'ble Apex Court observed that Court should be liberal in amendment. It was further held that seeking to rise time barred claim, can even be allowed if it serves cause of justice.

7. From perusal of record, it is evident that the amendment application filed by respondent No. 3 goes to root of the case but the same was filed with an inordinate delay at the stage of final arguments. However, since the case in hand is arising out of claim petition wherein provisions of CPC are not strictly applicable and Rule 226 of the M.P. Motor Vehicle Rules, 1994 authorizes the tribunal to obtain whatsoever application and documents which may be found necessary from the police, medical and other authorities before proceeding to award claim, therefore, this Court is of the view that no illegality has been committed by learned tribunal in allowing the amendment application filed by the respondent No. 3. Keeping in view the fact that it is a death case, therefore amount of cost imposed by the tribunal appears to be on lower side and the same is enhanced to Rs. 5000/-."

7. Thus, in view of the fact that the amendment is necessary for decision of the claim case and also keeping in view the aforesaid legal



position, in the considered opinion of this Court, the Claims Tribunal has not committed any mistake in allowing the application for amendment.

8. No illegality is found in the order passed by the Claims Tribunal. Accordingly, the petition stands **dismissed**.

(ASHISH SHROTI)
JUDGE

bj/-