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MP-7053-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

ON THE 22nd OF JUNE, 2026MISC. PETITION No. 7053 of 2025*ICICI LOMBARD GEN. INS. CO. LTD.,**Versus**RUKSANA AND OTHERS*

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Appearance:

Shri Bal Krishna Agrawal alongwith Ms. Srishti Sharma - Advocates
for petitioner.

None for respondents No.1 to 5/claimants though served.

Shri Mudit Goswami - Advocate for respondents No.6 and 7.

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ORDER

1. The present miscellaneous petition filed under Article 227 of the Constitution of India challenges the order dated 17.11.2025 passed by the VIth Motor Accident Claims Tribunal, Gwalior, in Case No. MACC/314/2021, whereby the application filed by the respondents No.1 to 5/claimants under Order VI Rule 17 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] read with Section 169 of the Motor Vehicles Act, 1988 [hereinafter referred to as "MV Act"] seeking amendment in the claim application, has been allowed.

2. The brief facts leading to filing of the present miscellaneous petition, as argued by the learned counsel appearing for the petitioner, are as under:



2.1. A claim petition under Section 166 of the MV Act came to be filed by respondents No.1 to 5/claimants seeking compensation to the tune of Rs.44,00,000/- before the Tribunal on account of the death of Hazrat alias Karu, who died in a motor accident while travelling on a motorcycle bearing registration No.MP30-MQ-2922 on 13.12.2019. After the evidence of both the parties in the said claim, case was closed and the matter was fixed for final arguments, and even after written arguments were filed by the petitioner, an application under Order VI Rule 17 of CPC read with Section 169 of the MV Act came to be filed by respondents No.1 to 5/claimants. It was *inter alia* contended therein that on account of an inadvertent typographical error, instead of mentioning the claim under Section 163 (a) of the MV Act, the claim has been mentioned under Section 166 of the MV Act. Similarly, it was further contended that instead of the income of the deceased mentioned in the claim on account of alleged typographical error, the same is required to be corrected to Rs.40,000/- per annum. The total compensation of Rs. 44,00,000/- also since mentioned due to an inadvertent typographical error be permitted to be deleted, and by treating the age of deceased as 26 years, and the annual income as Rs.40,000/- per annum, appropriate compensation be awarded.

2.2. A reply/objection to the said application was submitted by the petitioner herein, stating that at the very stage of filing of the claim application and upon appearance before the Tribunal, written statements were filed on behalf of the petitioner wherein the maintainability of the claim petition filed under Section 166 of the MV Act was objected on the ground



that the accident which is stated to be occurred while travelling to a motorcycle on the negligence of the driver of the motorcycle was incorrect, as the motorcycle on which the deceased was travelling was hit by a car and on the basis of the stand taken in the written statements, a specific issue in the said regard was also framed by the Tribunal.

2.3. Referring to the FIR lodged by the driver of the motorcycle, annexed as Annexure P/3 dated 13.12.2019, it is submitted by the learned counsel appearing for the petitioner that the same indicates that the accident took place on account of a collision between the motorcycle and an unknown four-wheeler. He submits that evidence in terms of the pleadings contained in the claim petition was led by parties, including the claimants as well as the petitioner. It has throughout been the case of the petitioner that no case of negligence by the driver of the motorcycle in question is made out and therefore, the claim petition under Section 166 of the MV Act filed by the claimants is not maintainable. The claimants contested the claim and pursued the same to the stage of final arguments. The final written arguments were submitted by the petitioner before the learned Tribunal on 22.09.2025. However, instead of submitting their arguments, the claimants filed an application under Order VI Rule 17 of CPC on 16.10.2025 seeking amendment of the claim petition and the same was illegally allowed by the learned Tribunal vide order dated 17.11.2025.

2.4. Referring to the impugned order dated 17.11.2025, learned counsel appearing for the petitioner submits that the findings recorded by the learned Tribunal to the effect that allowing the amendment would not change



the nature of the claim is apparently illegal on the face of the record. He further submits that even though no such prayer was made in the amendment application, the learned Tribunal went a step ahead and, by the impugned order, directed deletion of the specific issue framed as regards the negligence of the driver of the motorcycle. The approach adopted by the learned Tribunal is far beyond the scope and ambit of the object contained under Order VI Rule 17 of CPC. He therefore submits that the impugned order therefore, deserves interference.

3. Learned counsel appearing for the petitioner has placed reliance upon the order dated 05.10.2018 passed by this Court in M.P.No. 3687/2018 to contend that this aspect has already been considered by a Coordinate Bench of this Court, wherein it has been held that allowing an application under Order VI Rule 17 of CPC at this stage amounts to changing the nature of the claim and, therefore, cannot be permitted at this final stage.

4. None appears for the respondents No.1 to 5/claimants though served.

5. Shri Mudit Goswami, learned counsel appearing for the respondents No.6 and 7, fairly submits that although, before the Tribunal, respondents No.6 and 7 were *ex parte* but, in order to assist this Court on the issue involved, he submits that taking into consideration the very object of the legislation and the law laid down by the Apex Court in the case of *Deepal Girishbhai Soni and others vs. United India Insurance Co. Ltd, Baroda, (2004) 5 SCC 385*, it is open for a claimant to file a claim either under Section 163-A or under Section 166 of the Motor Vehicles Act, 1988;



however, both remedies cannot be pursued simultaneously. He further submits that the provisions of the CPC are not strictly applicable to proceedings before the Tribunal and, therefore, in the interest of justice, the Tribunal has permitted the amendment and the same may not be interfered.

6. No other point has been pressed by the learned counsel appearing for the parties.

7. Heard the learned counsel appearing for the parties.

8. This Court has gone through the claim filed by the respondents No.1 to 5/claimants before the Tribunal as contained in Annexure P/2. The pleadings made therein clearly indicate that the same has been filed under Section 166 of the MV Act alleging rash and negligent driving of the motorcycle by the respondent No.1, on which, the deceased was travelling. The claim of Rs. 44,00,000/- as compensation has been raised against the respondents No. 6 and 7. The evidence led on behalf of the claimants placed on record as Annexure P/5 is in tune with the pleadings made in the claim petition wherein the claimants have deposed that the deceased used to earn Rs.20,000/- to Rs.25,000/- per month as income who died on account of the accident by travelling on the offending motorcycle and the rash and negligent driving of the said motorcycle by the respondents No.6 and 7. An objection was raised by the petitioner herein in their written statement as regards the maintainability of the claim under Section 166 of the MV Act. Evidence to the said effect was also led by the petitioner. After the conclusion of evidence and at the stage of filing hearing and after filing of written arguments by the petitioner, amendment in the claim petition has been



sought for by the respondents No.1 to 5/claimants on the ground that there has been a typographical error in their claim petition. Learned Tribunal has allowed the said application and has directed for deletion of the specific issue framed regarding the negligence of the driver of the motorcycle on the ground that the same is not likely to change the nature of claim.

9. In light of the given facts and circumstances, therefore, the precise issue that falls for consideration before this Court is that whether the claim petition instituted under Section 166 of the MV Act was correctly permitted to be converted into Section 163-A of the MV Act by the learned Tribunal at the stage of final hearing.

10. In *Rukmani Devi v. New India Assurance Co. Ltd., 2008 SCC OnLine Del 626*, the Hon'ble Delhi High Court while dealing with the question as to whether a claim petition filed under Section 166 of the MV Act could be converted into one under Section 163-A of the MV Act, held as follows:

"8. Another question which is of vital importance is whether the petition filed under section 166 of the Motor Vehicles Act can be allowed to be converted into a petition under section 163-A of the Motor Vehicles Act or vice versa and if the answer is yes, then what should be the stage for allowing such a petition. There cannot be any dispute that the Motor Vehicles Act is a beneficial piece of legislation and, therefore, endeavour has to be as to how best the intention of the legislation can be achieved so as to safeguard the interest of the victims of the accident rather than defeating the same. The statute has to be construed according to the intent of the makers and it is the duty of the courts to interpret the statute to see that true intention of legislature is achieved. Taking a purposive interpretation of section 163-A of the Motor Vehicles Act the clear intendment of the legislation was to come to the rescue of all those



who in the absence of any evidence are not in a position to file a claim petition under section 166 of the Motor Vehicles Act where death of the victim or permanent disablement of the victim is required to be proved by establishing the factum of negligence involving the offending vehicle resulting into causing the accident but under section 163-A, the requirement of proving the negligence has been dispensed with."

[Emphasis Supplied]

11. The said view was further reiterated by the Delhi High Court in *United India Insurance Co. Ltd. v. Rita Devi*, 2014 SCC OnLine Del 7523, wherein it was held as follows:

"7. In the present case the Tribunal has permitted the claimants to convert the petition under Section 166 into a petition under Section 163A. It was not a case where two petitions have been pursued simultaneously by the claimants.

8. This court in the case of Rukmani Devi v. New India Assurance Co. Ltd., 2009 ACJ 2202 has held that there cannot be a bar that the claimant cannot choose at any stage of the case to convert his petition under Section 166 to 163A of the M.V. Act. In that case this court held as follows : -

"7. Based on the above discussion and after considering the ratio of the aforesaid judgment of the Apex Court, it becomes manifest that the bar is on taking simultaneous remedies under Section 163-A and Section 166 of the Motor Vehicles Act, but there cannot be any bar that the claimant cannot choose at any stage of the case to convert their petition from Section 166 to Section 163-A of the Motor Vehicles Act. Denying such right of conversion during the pendency of case would defeat the very social objective of granting speedy and expeditious compensation to the victims of the accident cases. Once the claimants have taken recourse to Section 163-A of the Motor



Vehicles Act the only hindrance which will come in the way of the claimants would be that the compensation in their favour would be payable under the said structured formula of the Motor Vehicles Act and once the claimants seek an amendment to convert their petition from Section 166 to Section 163-A of the Motor Vehicles Act, then, at the same time the claimant cannot be allowed to take the advantage of the income which the deceased/victim might have been earning over and above the amount of Rs. 40,000 per annum as restricted in the Second Schedule to the Motor Vehicles Act."

[Emphasis Supplied]

12. A Coordinate Bench of this Court at Indore in *Lakhan Puri and Ors. v. Manoj Kumar and Ors.*: M.P.No. 973/2024 decided on 07.05.2024, while considering that whether the claim petition filed under Section 166 of Motor Vehicle Act, 1958 can be converted into claim petition under Section 164 of M.V. Act placed reliance upon *United India Insurance Co. Ltd. (supra)* and held as under:

*"6. The limited issue that arises in the present appeal is as to whether the claim petition filed under Section 166 of Motor Vehicle Act, 1958 can be converted into claim petition under Section 164 of M.V. Act or not? In the present case, the claim petition has been filed under Section 166 of M.V. Act and the Delhi High Court in the case of *United Insurance Company Limited Vs. Rita Devi and Ors.* judgment dated 05.12.2014 passed in MAC.APP No.256/2007 has held as under:*

"6. The question for consideration is whether the Claim Petition filed and decided under Section 166 of the Motor Vehicles Act can be converted into one under Section 163-A so as to claim compensation without proving any negligence on the part of the driver of the vehicle involved in the accident. There is no prohibition in law to convert the said petition unless some prejudice is shown by the opposite party, in my view, a claim petition



filed under Section 166 can be converted to one under Section 163-A of the Act."

7. As per the law laid down in Hon'ble the Apex Court in the case of *Nagappa Vs. Gurdayal Singh and Ors. (2003) 2 SCC 274*, the specific provision of Order VI Rule 17 of CPC is applicable in the proceedings pending before the claims Tribunal and Court may permit amendment of claim petition. The proposed amendment are necessary for proper adjudication of claim petition and petitioners are entitled to amend his claim petition as per their choice. There is no provision in law to convert the said provision unless some prejudice is shown by the opponent party, therefore, on the basis of aforesaid, this Court is of the considered opinion that claim petition filed under Section 166 of M.V. Act can be converted under Section 164 of M.V. Act."

[Emphasis Supplied]

13. Moreover, recently, the Hon'ble Supreme Court in *Valsamma Chacko & Anr. v. M.A. Titto & Ors, SLP(C) 27621 of 2019* decided on 13.02.2025 while considering Sections 163-A and 166 of the MV Act and the law laid down in *Deepal Girishbhai Soni (supra)*, observed as follows:

"9. The above extract clearly indicates that even when fault liability claims under Section 166 of 9 the MV Act are filed, it is incumbent on the insurer to confirm their prima facie liability and after such confirmation the claimants should be required to exercise their option for conciliation under structured compensation formula. According to us the fault liability if found to be nonexistent in a particular claim petition under Section 166 of the Act, the Tribunal ought to provide an opportunity to the claimants to exercise an option to convert the claim to one under Section 163A of the Act; even if, voluntarily, it is not sought for. In the present case, we cannot but notice that the owner and insurer of the other vehicle involved in the accident were party respondents in the claim petition and a 'no fault liability' could be imposed on the insurer of the other vehicle as a third party claim.



12. The position, all the same, is that we are presently bound to follow the three Judge Bench decision in Deepal Girishbhai Soni (supra). However, considering our difficulty, which we have expressed hereinabove, with all respect but purely in the interests of justice, we are of the opinion that this matter requires re-consideration by another three judge Bench and therefore, we refer the matter to Hon'ble The Chief Justice of India for constituting a three Judge Bench for reconsideration of the issue."

[Emphasis Supplied]

14. In view of the law discussed hereinabove, this Court is of the considered opinion that there is no merit in the present petition. The law is well-settled that a claim petition filed under Section 166 of the MV Act can be converted into one under Section 163-A of the MV Act, and such conversion does not, by itself, change the nature of the proceedings in a manner that would cause irreparable prejudice to the opposite party. As held by the Hon'ble Delhi High Court in *Rukmani Devi (supra)* and *United India Insurance Co. Ltd. v. Rita Devi (supra)*, the only bar is on simultaneous pursuit of both remedies, and not on conversion of one into the other at any stage of the proceedings. The Coordinate Bench of this Court in *Lakhan Puri (supra)* has also affirmed the said position. Furthermore, recently, the Hon'ble Supreme Court in *Valsamma Chacko (supra)* has held that even where the claimant does not voluntarily seek such conversion, the Tribunal ought to provide an opportunity to do so when fault liability is found to be non-existent.

15. A perusal of the learned Tribunal's order impugned in the present petition indicates that the learned Tribunal had duly considered the



amendment application under Order 6 Rule 17 of CPC on the principles enunciated hereinabove. The learned Tribunal noted that the MV Act is a welfare legislation and the same shall be interpreted to meet the ends of justice. The learned Tribunal further stated that the respondent's application for amendment was unlikely to create any new situation as only the nature of claim was sought to be amended and that, in such a situation, the petitioner will still have adequate opportunity to challenge the merits of the amended claim. Accordingly, the reason assigned by the learned Tribunal while allowing the application under Order 6 Rule 17 of CPC cannot be said to be erroneous for the same being in accordance with the welfare scheme of the MV Act.

16. Moreover, the conversion, as permitted by the Tribunal in the present case, means that the claimants shall be confined to the structured formula compensation as provided under the Second Schedule to the MV Act and shall not be entitled to claim income of the deceased beyond Rs.40,000/- per annum. The deletion of the issue regarding negligence of the driver of the motorcycle is therefore, a consequential direction flowing from the conversion of the claim, in as much as proof of negligence is not a requirement under Section 163-A of the MV Act. Even otherwise, no material prejudice has been shown by the petitioner that would warrant interference under Article 227 of the Constitution of India.

17. In view of the discussion made hereinabove and in the given facts and circumstances, the order dated 17.11.2025 passed by the VIth Motor Accident Claims Tribunal, Gwalior, impugned in the present petition, does



not suffer from any palpable illegality or jurisdictional error warranting interference of this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The Apex Court in the case of *Shalini Shyam Shetty and another vs. Rajendra Shankar Patil, (2010) 8 SCC 329* has held that where the view taken by the subordinate court/tribunal/authority is a possible view, the same is not ordinarily required to be interfered with while exercising jurisdiction under Article 227 of the Constitution of India. The impugned order dated 17.11.2025 passed by the VIth Motor Accident Claims Tribunal, Gwalior, in Case No. MACC/314/2021 is accordingly affirmed. The present miscellaneous petition is **dismissed**. No order as to costs.

18. Pending application (s), if any, shall stand closed.

19. The Interim order passed on 17.12.2025 stands vacated. The office is directed to transmit the copy of this order to the VIth Motor Accident Claims Tribunal, Gwalior for information and compliance.

(AMIT SETH)
JUDGE

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