

**(2002) 04 BOM CK 0023**

**In the Bombay High Court**

**Case No : Writ Petition No. 1231 of 2002**

Padminbai Ashok Yadle and Others

APPELLANT

Vs

Mannan Ismail Shaikh and Others

RESPONDENT

**Date of Decision : 05-04-2002**

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 24  
Constitution of India, 1950 — Article 226  
Motor Vehicles Act, 1988 — Section 166(2)

**Citation :** (2003) ACJ 247 : (2002) 3 ALLMR 853 : (2002) 5 BomCR 639 :  
(2002) 3 BOMLR 278 : (2002) 3 MhLj 311

**Hon'ble Judges :** D.G. Karnik, J

**Bench :** Single Bench

**Advocate :** N.M. Mulajkar and H.T. Pawar, for the Appellant; S.R. Palnitkar, A.G.P., for the Respondent

**Final Decision :** Allowed

## Judgement

D.G. Karnik, J.—The learned A.G.P. appears and waives service for respondent No. 4 and supports the petition. Respondent Nos. 2 and 3 are served, but are absent. As per the Bailiffs report, respondent No. 1 resides with the respondent No. 2. He is in the employment of the respondent No. 2. Hence notice to him is dispensed with.

2. This petition is filed made by the heirs of Ashok Yedle, who died in a Motor accident on 26-5-1994, for transfer of the petition bearing M.A.C.P. No. 157 of 1997 pending before the Motor Accident Claims Tribunal, (for short "M.A.C.T.") Latur to the Motor Accident Claims Tribunal, Palghar, District Thane.

3. The facts, in brief, can be stated thus :

Ashok Vithal Yedle, the husband of the petitioner No. 1 died in a motor accident which took place at Nalegaon, District Latur. The vehicle involved in the accident was a Truck bearing No. MH-04-C-2577 belonging to respondent No. 2 and which

was driven by his employee respondent No. 1 at the relevant time. The vehicle was insured with the United Insurance Company Ltd. (respondent No. 3 herein).

4. The petitioners state that they reside at Mumbai and it is inconvenient for them to go to Latur and to conduct the petition. They further state that no inconvenience would be caused to the respondent No. 2 by transferring the petition from Latur to Palghar because the respondent No. 2 resides at Manor, Taluka Palghar and, therefore, it would be more convenient for him to defend the petition at Palghar than at Latur. The respondent No. 1 is in the employment of the respondent No. 2 and is presently residing with the respondent No. 2 and, therefore, it would be more convenient for him also to defend the petition at Palghar than Latur. Respondent No. 3 is having its offices all over the State and it can very well defend the petition at Palghar and has given consent for transfer of the petition from Latur to Palghar.

5. Sub-section (2) of Section 166 of the Motor Vehicles Act, 1988, initially read as under:

"Every application under Sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed."

6. Thus, it was initially necessary to file application for compensation before the Motor Accidents Claims Tribunal having jurisdiction over the area in which the accident occurred. This Sub-section (2) of Section 166 was substituted by Act No. 54 of 1994 with effect from 14th November, 1994. The amended subsection (2) reads as under :

"Every application under Sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed."

7. The provisions of the Motor Vehicles Act, 1988, relating to the compensation to the victims of the accident are undoubtedly welfare provisions made for the benefit of the victims. Such provisions, therefore, have to be liberally construed in favour of the claimants. The Court, therefore, should be liberal in granting requests for transfer of the petition, unless it is shown that grave injustice would be caused to the opponents. In the present case, there is no likelihood of any injustice, much less grave injustice, to the opponents because it would be more convenient for them to defend the proceedings at Palghar. The Insurance Company has, rightly, given no objection for transfer of the petition.

8. In the case of Dolly Kantibhai Patel Vs. Ballu Tukaram Auhad and Others, , the Apex Court, while exercising the powers u/s 25 of the Code of Civil Procedure, transferred the petition for compensation under Motor Vehicles Act from one

Court to another on the ground of convenience of the victims of the accident and holding that it would not be inconvenient for the respondents to defend the claim at the transferred case. In the case of Raju Das v. Sushil Kumar Das and Ors., reported in AIR 1991 Gauhati 71, the Gauhati High Court has taken a view that the power of transfer can be exercised both u/s 24 of the CPC as well as under Article 227 of the Constitution of India.

9. In the result, petition is allowed. The proceedings of M.A.C.P. No. 157/97 pending before the M.A.C.T. Latur, District Latur are transferred to the M.A.C.T. Palghar, District Thane. In view of the fact that the accident had occurred in the year 1995, the M.A.C.T. Palghar should decide the claim petition as expeditiously as possible and in any event within a period of six months from the date on which the records are received by it.

10. Office to issue writ forthwith. Expedite certificate copy.