

**THE HIGH COURT OF MADHYA PRADESH****MP No.4424/2019****Smt. Mithlesh and others Vs. Nahar Singh and others****Gwalior, Dated : 30.08.2019**

Shri R.P. Gupta, Advocate for petitioners.

This petition under Article 227 of the Constitution of India has been filed against the order dated 19/8/2019 passed by the Third Additional Motor Accident Claims Tribunal, Morena in Claim Case No.197/17, by which the application filed by the petitioner for summoning the additional witnesses has been rejected.

The necessary facts for disposal of the present petition in short are that the petitioners have filed a Claim Petition under Section 166 of the Motor Vehicles Act. After they closed their evidence, the insurance company examined some of its witnesses and had also filed an application for summoning Ramdas, Investigating Officer. The application filed by the insurance company was allowed, however, later on the insurance company changed its mind and did not examine Ramdas, Investigating Officer. After the case was fixed for final arguments, the petitioners filed an application for summoning Ramdas, ASI, Police Station Saraichhola for his examination. It is mentioned in the application that although the insurance company had cited Ramdas, Investigating Officer, as its witness and an application filed by the insurance company for summoning Ramdas, Investigating Officer, was also allowed, but later on with a dishonest intention, the insurance company has not examined Ramdas,

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Investigating Officer and, therefore, the petitioners may be permitted to examine Ramdas, Investigating Officer.

The application filed by the petitioners has been rejected by the Claims Tribunal by order dated 19/8/2019 passed in Claim Case No.197/2017.

Challenging the impugned order passed by the Claims Tribunal, it is submitted by the counsel for the petitioners that once the application filed by the insurance company for examination of Ramdas, Investigating Officer, was allowed and as the insurance company had decided not to examine Ramdas, Investigating Officer, then, the Claims Tribunal should have allowed the application filed by the petitioners and should have permitted the petitioners to examine Ramdas, Investigating officer, as their witness.

Heard learned counsel for the parties.

During the course of arguments, it is fairly conceded by the counsel for the petitioners that the petitioners had never filed any application for examining Ramdas, Investigating Officer and even Ramdas, Investigating Officer, was never cited as their witness. At the time when the petitioners had closed their evidence, they were not aware of the fact that the insurance company may examine Ramdas, Investigating Officer. Thus, this Court is of the considered opinion that when the petitioners at the time of their evidence had not prayed

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for examining Ramdas, Investigating Officer, as their witness and only after the insurance company decided not to examine Ramdas, Investigating Officer, as its witness, then the application filed by the petitioners for examination of Ramdas, Investigating Officer, on the ground that the insurance company has dishonestly not examined Ramdas, Investigating Officer, cannot be allowed. The petitioners have not given any explanation as to why they had not initially cited Ramdas, Investigating Officer, as their witness and why they had not filed any application for summoning Ramdas, Investigating Officer, as their witness. Once the Claims Tribunal had fixed the case for final arguments, this Court is of the considered opinion that the belated application was filed by the petitioners without assigning any good reason.

Accordingly, this petition fails and is hereby **dismissed**.

**Arun\*****(G.S. Ahluwalia)  
Judge**