

ORDER ON I.A No.XII

I.A No.XII is filed by the Petitioner Under Order 16 Rule 1 R/w Sec.151 of CPC and issue summons to the witness.

2. In the annexed affidavit the Petitioner has stated that, she met with R.T.A. on 30-01-2022 at 9-45 p.m. near Ashoknagara, Vidyapeeta main road, Bengaluru. The Basvanagudi Traffic Police have registered a criminal case in Cr.No.17/2022 against driver of offending vehicle Auto and submitted "C" report charge sheet. The 2nd respondent is the RC Owner of the Auto rickshaw bearing Reg.NoKA-03/D-3288 and in the FIR, the Investigation officer mentioned the said auto rickshaw bearing Number as KA-03/D-3288, but not properly investigate the case and submitted "C" charge sheet report. She took the photograph of said auto at the time of accident, but police have not investigated the case in proper way. Hence, she challenged the charge sheet and filed the PCR before Hon'ble MMTC -IV Bengaluru and it is pending for consideration. Hence the investigating Officer is competent person to tell about vehicle number or offending vehicle which involved in the accident and prays to allow the application.

3. Per-contra, learned Counsel for the respondent has filed objections contending that the application is not maintainable either in law or on fact of the case. It is contended that the application filed is in belated stage. Further it has contended that it tried to examine the same witness, but not secured before the court inspite of issuance of bailable warrant. Hence, prays to dismiss the application.

4. Heard arguments from both the side.

5. The points that would arise for my consideration are as under:

1. Whether petitioner has made sufficient sufficient grounds to issue summons to witness as sought for?

2. What order?

6. My findings to the above points are as under:

Point No.1 : In the Affirmative

Point No.2 : As per final orders
for the following:

REASONS

7. **Point No.1:** The above claim petition is filed by the petitioner U/sec.166 of M.V. Act claiming compensation of Rs.20,56,250/- against respondents due to injuries sustained by her in R.T.A.

8. Before filing this application stage was for arguments. Now, the petitioner came up with this application seeking permission to lead further evidence by reopening the stage. The petitioner has stated that, the proposed witness is very much necessary to say on offending vehicle.

9. On the other hand the respondent opposed the application contending that the same witness was not secured by it.

10. On perusal of police records it appears that, the petitioner has given complaint on a particular auto rickshaw with registration number. The I.O. has filed "C" report contending that vehicle is mismatched. In this case respondent no.2 has tried to lead evidence of the said witness on its side, but not succeed. Now the applicant / petitioner came up with this application seeking to reopen the stage for further petitioner evidence and permit her to examine I.O in Cr.No.17/2022 Basavanagudi Traffic Police station, Bengaluru. In this matter Respondent has taken contention that its insured vehicle is not involved in the accident, hence, evidence of I.O is very much necessary to adjudicate the matter. Therefore, I am of the opinion that, the petitioner has made out sufficient grounds to allow this application. Accordingly, I have answered Point No.1 in the Affirmative.

11. **Point No.2:** for the foregoing reasons, I proceed to pass the following:

ORDER

I.A No.XII filed by the petitioner
Under Order 16 Rule 1 R/w Sec.151 of
CPC is hereby allowed.

Issue summons to witness cited in
I.A.No.XII by hand and through court, if
PF paid.

Call on 25-07-2025.

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.