

KABD210020402023



**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC
AT AURAD (B).**

Dated this the 11th day of August 2026.

::PRESENT::

Sri. HAJIHUSENSAB YADAWAD

B.Com, LL.B,(Spl.),

***Senior Civil Judge & JMFC,
Aurad(B)***

MVC NO. 489/2023

Claimants: **Smt. Fatima Zohra and others**

V/s

Respondents: **Shri. Sharifsab and others**

Parties to I.A.No. VIII

Applicant: **The Manager Chola MS General**
Resp. No.2 **Insurance Co. Ltd., Hubballi.**

(By **Shri. PVM** – Advocate)
V/s

Opponents: **Smt. Fatima Zohra and others**
Claimants

(Claimants By **Shri. RAN** –Advocate)

i	Provision under which the application is filed	U/Ord. 16 Rule 1 and 6 R/w. Sec. 151 of CPC
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ii	Relief sought for	To summon the Mallikarju. C. Ikkalki CPI i.e. IO and give evidence.
iii	The date on which the application is filed	05.08.2026
iv	Number of the application	IA No. VIII
v	The date on which the objections are filed by different opponents	Objections by counsel for claimants on 05.08.2026
vi	The date orders passed on the said application	11.08.2026

**Senior Civil Judge & JMFC.,
Aurad (B)**

ORDERS ON I.A. No. VIII

The counsel for respondent No.2 has filed present application U/Ord. 16 Rule 1 and 6 R/w. Sec. 151 of CPC to issue witness summons to the IO i.e. Mr. Mallikarjun C. Ikkalki, the then CPI of Aurad-B PS to present before this court to give his evidence with respect to Santhpur PS Cr. No. 134/2022 dated 27.12.2022.

2. The said application is accompanied with memo of facts, wherein the counsel for respondent No.2 submitted that the

proposed witness CPI Aurad has received the complaint and registered the FIR and falsely filed the charge sheet on vehicle bearing Reg. No. KA38/X-9434. Therefore, the evidence of investigating officer is very much necessary. On these grounds, he prayed to allow the application.

3. On the contrary, counsel for claimants filed objections and stated that the application is not maintainable either in law or on facts. Further it is stated that the IO has rightly filed charge sheet against the offending vehicles. The application is filed at belated stage. There are no cogent or justifiable grounds as to why the evidence of IO was not sought during the extensive trial stage when both parties adduced their respective evidence. Summoning the IO at the advanced stage, after the closure of evidence on both sides, is an attempt to fill up lacuna in their defense, which is impermissible under law. Therefore, the evidence of IO is unwarranted and not necessary. On these grounds the he prayed to dismiss the application.

4. Heard both sides on IA No. VIII. Perused records.
5. The points for consideration of this Court are as follows;

1. Whether there are grounds available to issue witness summons as prayed for?

2. What order?

6. My Findings to the above points are here under:

Point No.1 : In the **Negative**.

Point No.2 : As per the final order
for the following;

REASONS

7. **POINT No.1:-** At the outset present claim petition is filed for the compensation with respect to death of deceased Mohammad Sajid s/o. Mohammad Iqbal who lost his life in road traffic accident occurred on 27.12.2022.

8. The said application has been filed by the counsel for respondent No.2 to summon the investigating officer to give his evidence with respect to registration of case and filing of

charge sheet against the offending vehicle i.e. motor cycle bearing Reg. No. KA38/X-9434. On perusal of application and memo of facts nothing clear has been stated as to why the evidence of IO is necessary.

9. But the counsel for respondent No.2 has submitted his arguments stating that though the offending vehicle bearing Reg. No. TS16/EU-4206 has not touched the vehicle of respondent No.1 i.e. motor cycle bearing Reg. No. KA38/X-9434, the IO has shown the negligence of rider of motor cycle bearing Reg. No. KA38/X-9434. But there was no negligence on the part of rider of motor cycle bearing Reg. No. KA38/X-9434. Hence, to submit the clarification as to on what basis the said IO has involved the rider of motor cycle bearing Reg. No. KA38/X-9434, the evidence of IO is necessary.

10. However, it is pertinent to note that, the charge sheet submitted by the IO has not been challenged by any body in before any forum of law. Further one more interesting thing is that, as per the contentions of counsel for respondent No.2,

both riders of offending motor cycles i.e. motor cycle bearing Reg. No. KA38/X-9434 rider of motor cycle bearing Reg. No. KA38/X-9434 have been shown by the IO as an accused persons. Further more nothing has been stated by the IO about touching or collision of both above motor cycles each other.

11. On the contrary, the claimants have filed present petition seeking compensation against both the owners of motor cycles i.e. owner of motor cycle bearing Reg. No. KA38/X-9434 and the owner of motor cycle bearing Reg. No. KA38/X-9434. Hence, the contention of respondent No.2 as taken in memo of facts annexed to IA would not get much significance. Therefore, no purpose would survive by calling IO to this court to lead his evidence. There are no proper grounds to allow the application. Hence, **Point No.1** is answered **in the Negative**.

12. Point No.2 :- Having discussed in detail, this Court pass the following :

ORDER

The I. A. No. VIII filed by Respondent No.2 U/Ord. 16 Rule 1 and 6 R/w. Sec. 151 of CPC to issue witness summons to IO i.e. CPI Mallikarjun C. Ikkalaki to give evidence is hereby dismissed.

No order as to costs.

(Typed by me directly on computer, revised, corrected and then pronounced by me in open Court, on this 11th day of August 2026)

**(HAJIHUSENSAB YADAWAD)
Senior Civil Judge & JMFC.,
Aurad(B).**