

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE,
GOKAK

Present: Sri. Mahadev Kanatti, B.Com.,LL.B.
I Addl. Senior Civil Judge, Gokak

Dated, this the 19th day of SEPTEMBER-2025

ECA.No.3/2022

Petitioners : 1. Smt. Laxmibai W/o Yallappa Tukare
and others.

V/s

Respondents : 1. Shri. Shekhar S/o Adivappa Shikkeri
@ Hanakunti and others.

PARTIES TO I.A. No.XVI

Applicant/
respondent No.2 : 1. Yamanappa S/o Dattu Mang
Age: 50 years, Occ: Agriculture,
R/o: Durga Nagar, Bavachi,
Tal: Raibag, Dist: Belagavi.

(R/by Smt. S.K.M., Advocate)

V/s

Opponents/Original
Petitioners : 1. Smt. Laxmibai W/o Yallappa Tukare
Age:36 years, Occ: Nil,

2. Kumari. Sevanti D/o Yallappa Tukare
Age:17 years,

3. Kumari. Shridevi D/o Yallappa Tukare
Age:14 years,

4. Kumar. Anand S/o Yallappa Tukare
Age:12 years,
5. Kumari. Radika D/o Yallappa Tukare
Age:10 years,

(Petitioners No.2 to 5 are minors r/by
their m/g n/m petitioner No.1)

All are R/o: Ganeshwadi,
Tal: Gokak.

(By Sri.S.S.M., Advocate)

i.	Provision under which the application is filed	U/Order I Rule 10(2) R/w 151 of CPC
ii.	Relief sought for	Impleading the party
iii.	The date on which the application is filed	10.10.2024
iv.	Number of the application	I.A.No.XVI
v.	The date on which the objections are filed by different opponents	Opponents filed objection on 23.10.2024
vi	The date on which the orders were passed on the said application	19.09.2025

ORDER ON IA NO.XVI

The instant application is filed by the respondent No.2 under Order I Rule 10(2) CPC for impleading the proposed respondents as the necessary parties to the suit on the count that, the petitioners have filed the present petition claiming compensation on the account of death of Yallappa S/o Rudrappa Tukare who died

during the course and employment of respondent No.1. At the time of accident the respondent No.2 was not owner of the Tractor bearing Reg.No.KA-24/TA-0115 and the said tractor was sold out to proposed respondent No.5 by name Yakub Kutubuddin Dhange by executing Bond paper. At the same time the proposed respondent No.5 has got the signature to all necessary documents such as bond papers, T.O form and kept in his custody, from that the said tractor was in possession of the respondent No.5. It is further submitted that, at the time of accident the respondent No.2 was under impression that, the respondent No.5 get transfer the tractor in his name and documents will be changed, but however, he was not got transferred the vehicle in his name.

2. It is further submitted that, after the accident the respondent No.5 transferred the vehicle in the name of the proposed respondent No.6 by name Shivaji Naik without the knowledge of the respondent No.2 by taking undue advantage of transfer of ownership forms which were signed by the respondent No.2. Hence on the date of the accident the proposed respondent No.6 was the owner. Hence, the respondent No.2 falsely impleaded in the case even though the petitioner has well aware about the said fact with the respondent No.2 was not a owner of the tractor. It is further

submitted that, insurance company of the alleged Tractor is also not made party to the present petition. It is further submitted that, due to family financial crisis the respondent No.2 has sold the tractor to the proposed respondent No.5. Hence, as on the date of the petition he is not the owner nor not having the possession of the alleged tractor. Hence, the respondent No.2 is not necessary party to the proceedings and proposed respondents are necessary parties to the petition. On these grounds prays to allow the application.

3. On the other hand the application is opposed by the petitioners denying the averments of the affidavit contending that, the deceased was working under the employment with the respondent No.1 and not with respondent No.2. Further the respondent No.7 was driver at the time of accident and he is not possessed any DL. Hence, the alleged insurer of Tractor is not necessary party and the petitioners are claiming compensation from the respondent No.1. Hence, it is not necessary to implead the alleged insurance company as a party to the present petition. It is further contended that, the respondent No.2 has no locus-standi to file the application to implead the third parties in this case. The respondent No.2 has only remedy to take a defence regarding non-

joinder of necessary parties. On these grounds the application is not maintainable. It is further contended that, as on the date of the accident the respondent No.2 was owner of the tractor and after the accident the father of the deceased Yallappa S/o Ramappa Tukare has filed a complaint before the Harugeri Police station and same is registered under Cr.No.54/2019. In the said case the respondent No.2 appeared in Police station and got released his vehicle by executing necessary documents. Hence it is made clear that on the date of accident respondent No.2 was owner of the tractor involved in the case. On these grounds prays to reject the application.

4. Heard both sides.

5. The following points that arise for consideration of the Court are;

1. Whether the proposed respondent are necessary or proper parties to the petition in order to enable the Court to adjudicate the matter effectively and completely and settle the all the questions involved in the petition ?

2. What Order?

6. Findings of this Court on the above points are:

Point No.1: **Partly in the Affirmative**

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

REASONS

7. POINT NO.1: The present petition is filed by the petitioners by claiming compensation U/Section 22 of the Employees (Workman's) Compensation Act., on the account of death of one Yallappa S/o Ramappa Tukare during the employment of the respondent No.1. In the said accident the offending vehicle tractor bearing i.e., KA-24/TA-0115 is involved and on the negligent driving of the driver of the tractor the alleged incident took place. In the said accident the Yallappa was died due to the fatal injuries. The respondent No.2 is registered owner of the alleged offending tractor as on the date of the accident, hence he has made party to the proceedings. The respondent No.3 to 6 are the legal heirs of the owner of the trailers which was attached to the tractor at the time of the accident and the respondent No.7 is the driver of the offending tractor trailer. Now the respondent No.2 has come up with the present application that, at the time of the accident he has not having the possession of the tractor and he has sold to proposed respondent No.5 and which was in his possession and he has executed all the documents to get transfer in his name. But

the proposed respondent No.5 instead of transferring the same in his name got transferred in the name of the respondent No.6 and insurance company of the tractor is also not made as a party to the petition.

8. Upon perusal of the materials on record as on the date of the accident, the respondent No.2 was the registered owner and the driver of the alleged offending tractor was not having driving licence which was forth-coming from the police papers. Hence, the petitioners have rightly made all the necessary parties to the petition. But at the time of the accident the alleged offending tractor insured but the petitioners have not made insurance company as parties to the petition even though the policy is in force. The accident is occurred on 24.04.2019 and insurance policy was inforce till 06.06.2019. Hence, the insurance company is necessary party to the present petition. Whether the driver of the offending tractor has DL at the time of the accident is not material. However, the subsequent transferees are not necessary parties to the present petition. It is the responsibility of the registered owner to have change the records of registration certificate in the name of the transferee. Hence, the subsequent

transferee is not necessary party. Hence, the application needs to allowed partly. Being that the opinion the point No.1 is answered partly in the affirmative.

9. POINT No.2:- In view of the findings arrived on the point No.1, this Court proceed to pass the following:

ORDER

IA No.16 filed by the respondent No.2
U/O. I Rule 10(2) of CPC is hereby partly
allowed.

The petitioners directed to implead the
proposed respondent i.e., insurance
company as a respondent No.8.

The counsel for petitioners directed the
amend the cause title and furnish the
amended petition on next date.

No order as to costs.

(Dictated to the stenographer directly on computer, revised, corrected and then pronounced by me in the open Court on this the 19th day of September, 2025)

Sd/-
(Mahadev Kanatti)
I Addl. Senior Civil Judge,
Gokak.