

ORDER ON IA No.V

The Respondent No.3 counsel has filed IA No.5 U/Order 16 Rule 1 and 2 of CPC R/w Rule 237 of KMV Rules 1989 and Sec 169 of Motor Vehicles Act 1988 praying this Court to issue summons to Superintendent, VIMS Hospital, Ballari to produce MLC Register Extract/Injury Register Extract dated:12.10.2021 pertaining to petitioner and to give evidence.

2. Respondent No.3 counsel has filed memorandum of facts stating that, the respondent has filed written statement denying its liability to pay on the count that the petitioner has not sustained any injury on account of RTA as alleged in claim petition and the defense of company is that, injury is on account of self fall from Motor Cycle. Further the petitioner with malafide intention to claim compensation filed false complaint against first respondent at Hirehal Traffic Police Station after lapse of 7 years from the date of alleged accident dated:12.10.2021 and the petitioner has not chosen to file MLC Register Extract and said document is necessary to ascertain the genuineness of claim made and hence pray the court to allow said application.

3. Petitioner counsel has filed objection to said IA No.5 stating that, the cross examination of petitioner is completed and above case is posted for cross examination of respondent No.3 and Respondent No.3 is postponing cross examination from last 4

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hearing dates and said IA is not maintainable. Further the petitioner sustained injuries in Road Traffic Accident and preferred immediate medical treatment and hence the delay was caused in filing police complaint. The document sought by respondent No.3 is not vital document to determine and to properly adjudicate and respondent No.3 did not provide sufficient grounds to justify the necessity of the documents and absence of document do not invalidate the claim. In fact the complainant reported VIMS Hospital, Ballari and chose to take treatment at Sparsh Hospital, Bangalore based on severity of injuries sustained and petitioner has submitted all the relevant documents pertaining to the treatment underwent by him and present application is filed only to drag the matter and hence pray the Court to dismiss the present application.

4. Heard both the counsels and perused the materials on record.

5. On perusal of materials on record, the following points arise for my consideration;

Point No.1: Whether the Respondent No.3 has made out the ground to allow IA No.5 ?

Point No.2: What order?

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6. On perusal of materials on record and after hearing the arguments canvassed by both, my findings for above points are hereunder;

Point No.1: In Affirmative

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

REASONS

7. Point No.1; Respondent No.3 has filed present application to issue summons to Superintendent, VIMS Hospital, Ballari to produce MLC Register Extract of the petitioner and to give evidence and in the memorandum of fact it is stated that, in the written statement respondent No.3 has denied its liability to pay on the account that, the petitioner has not sustained any injury due to RTA and the injury is by self fall and the false complaint is filed after lapse of 7 years from the date of alleged accident dated: 12.10.2021 and thereby to ascertain genuineness of the claim it is necessary. On perusal of written statement of Respondent No.3 it appears that, the respondent No.3 has denied the accident by rash and negligent driving of car bearing Reg No.KA-41/MC-7789 and has contended that, the petitioner fell on his own and thereby to ascertain said aspect it is needful to call for MLC Extract of petitioner. Further Petitioner in the objection has not denied the

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delay in filing police complaint and has given reason that, the delay was caused in filing police complaint as the petitioner was severally injured in road traffic accident and preferred immediate medical treatment. Further in the objection though it is stated that, the present application is filed at the stage of cross examination of Respondent No.3, no prejudice is seen to be caused to the petitioner if said application is allowed on cost and on the other hand if said application is rejected, respondent No.3 would be precluded in proving his defense and this would go against the principles of natural justice. Hence considering discussion made above, Point No.1 is answered in Affirmative.

8. Point No.2; In view of discussion of made above, I proceed to pass the following;

ORDER

IA No.5 filed by the Respondent No.3 U/Order 16 Rule 1 and 2 of CPC R/w Rule 237 of KMV Rules 1989 and Sec 169 of Motor Vehicle Act 1988 is hereby allowed on cost of Rs.300/-.

Issue S.S to Superintendent, VIMS Hospital, Ballari as per IA No.V, if complied. Call on 03.07.2025.

Date:02.06.2025
Place:Ballari

II Additional Senior Civil Judge,
Ballari.

