

ORDER ON I.A. No.VIII

1. The instant application has been filed by the respondent no.1(c) under Sec.151 of CPC seeking to issue direction to the petitioner to implead the insurer of the motor cycle bearing no.KA-29/EF-6962.

2. The learned Counsel for the petitioners has filed the statement of objections to I.A.No.VIII.

3. I have heard the learned Counsel for the respondent no.1(c) and the petitioners.

4. After perusal of the records of the case, the following point would emerge for my consideration:

1. Whether application filed by the respondent no.1(c) is deserves to be allowed?

2. To what order?

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

Point No.1: In the Affirmative

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

REASONS

6. **Point No.1:** In an affidavit appended to the application, it is contended by the respondent no.1(c) that as per the complaint and restatement of the complainant and as per the police records and chief examination of P.W.1, it is very clear that the accident in

question has taken place solely due to rash and negligent riding of the motor cycle by the deceased himself and further he has stated that for proper and effectual adjudication of the matter and to meet the ends of justice it is just and necessary to direct the petitioners to implead the insurance company of the motor cycle bearing no.KA-29/EF-6962 which belongs to the petitioner no.2 as party in this case and the charge sheet is also filed against the deceased rider of the said motor cycle and also the petitioner no.2 is made as the accused no.3 in the said crime and accordingly, he prays to allow the application.

7. The learned Counsel for the petitioners has filed his statement of objections. He has contended that this application is not maintainable in the eye of law and facts of this case. He has contended that the petitioners are not claiming any compensation on the insurer of the motor cycle and accordingly, among other grounds prays to reject the application.

8. In view of contentions put forth by the learned Counsel for the respondent no.1(c) and the petitioners, now, let me see as to whether the direction has to be issued to the petitioners to implead the insurer of the motor cycle bearing no.KA-29/EF-6962.

9. I have perused the charge sheet which has been marked at Ex.P3. In the charge sheet, the deceased was the accused no.2 and the police have filed the charge sheet against the deceased for the offences punishable under Sec.279, 337 and 304(A) of IPC and

Sec.181, 3 of MVC Act. On perusal of the charge sheet, it reveals that even the deceased has driven his motor cycle bearing no.KA-29/EF-6962 in a rash and negligent manner. Hence, it is necessary to implead the insurer of the motor cycle bearing no.KA-29/EF-6962 otherwise the respondents will be put to untold hardship which cannot be compensated in terms of money. Hence, it is necessary to issue direction to the petitioners to implead the insurer of the motor cycle bearing no.KA-29/EF-6962. Accordingly, I answer this point in the Affirmative.

10. **Point No.2:** In view of my discussion made supra, I proceed to pass the following:

ORDER

I.A.No.VIII filed by the respondent no.1(c) under Sec.151 of CPC is hereby allowed.

The petitioners are hereby directed to implead the insurer of the motor cycle bearing no.KA-29/EF-6962 in this petition.

There is no order as to costs.

**(Sri. Hanamantarao R.Kulkarni)
Senior Civil Judge and JMFC.,
Hunagund.**