

ORDER ON I.A. NO.III TO V

1. I.A. No. III under Order 22 Rule 4 of CPC,
I.A.No.IV under Order 22 Rule 9 of CPC,
I.A.No.V under Sec.5 of Limitation Act to
bring the LR's of the deceased petitioner.
2. The learned Counsel for the respondent no.2 has filed his
statement of objections to the said application.
3. Heard both Counsel.
4. After perusal of the records of the case, the following points
would arise for my consideration:
 - 1). Whether the applications filed by the LR's of the
petitioner is deserves to be allowed?
 - 2). To what order?
5. My finding to the above points is as follows:

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 I.A.No.III to V, it is
stated by the mother of the deceased petitioner that the

petitioner has died on 10/08/2024 at Gangur village and she is the legal representative of the deceased petitioner and she wants to come on record and if these applications are not allowed, she will be put to untold hardship which cannot be compensated in terms of money and accordingly, among other grounds she prays to allow the application.

7. Per contra, in the statement of objection to I.A.No.III to V, the learned Counsel for the respondent no.2 has denied the application averments in material aspects and contended that the application filed by the mother of the deceased petitioner is not maintainable either under law or on facts and the same is liable to be dismissed. It is further submitted that the application under Order 22 Rule 2 is not maintainable under the provisions of MV Act and after the death of the petitioner the claim petition related to personal damages came to be closed since personal damages claim right will not succeed to his legal heirs and the applicant has not produced any documentary evidence to show that she is the legal heir to the deceased petitioner and accordingly, among other grounds he prays to reject the application.

8. In view of the rival contentions put forth by both the parties, now, let me see as to whether the applications are deserves to be allowed or not.
9. In the case on hand, the petitioner has expired and the applicant wants to come on record as his legal heir. It is pertinent to note that a motor accident claim petition does not abate even after the death of the injured claimant. The right to sue survives to his heirs and legal representatives in so far as loss to the estate is concerned. Hence, the applicant has to be permitted to come on record and right to sue survives to the applicant and accordingly, the contention of the respondent no.2 does not survive for consideration. 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.III to V filed by the applicant under Order 22 Rule 4, Order 22 Rule 5 and Under Sec.5 of the Limitation Act are hereby allowed.

The applicant is permitted to come on record and the delay in filing the application is condoned

and the learned Counsel for the applicant is permitted to amend the petition and furnish the amended petition to the respondents.

For amendment and amended petition.

Call on

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