

**ORDER ON I.A. No III**

1. The instant application has been filed by the learned Counsel for the respondent no.1 under Order I Rule 10(2) of the Code of Civil Procedure seeking to implead the proposed respondent no.2 in the petition.
  
2. In response to the notice on I.A.No.III, the proposed respondent no.2 has entered appearance before the Court through his counsel and filed the objections to the said application.
  
3. I have heard the learned Counsel for the respondent no.1 and the proposed respondent no.2.
  
4. After perusal of the records of the case, the following point would emerge for my consideration:
  1. Whether the proposed respondent no.2 is a proper and necessary party?
  
  2. To what order?
  
5. My findings to the above points are as under:

Point No.1: In the negative.

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

**REASONS**

6. **Point No.1:** In an affidavit appended to the application, it is stated by the respondent no.1 that the petitioner has filed the petition for compensation from the respondent no.1 and he has further stated that the petitioner has not made the proposed respondent no.2 as the party to the petition and he has further stated that the petitioner has stated in the petition that the petitioner was tried to overtake the alleged accident has taken place and on the same terms the proposed respondent no.2 has also filed the complaint in which he has stated that the rider of the motor cycle was overtaking the alleged accident has taken place. Hence, the proposed respondent no.2 is the necessary party to the petition and accordingly, he has requested to allow the application.

7. The learned counsel for the proposed respondent no.2 has contended that the application filed by the respondent no.1 is not maintainable either under law or facts of the case. He has contended that the alleged accident has not taken place due to his fault and he is not the necessary party to the petition and accordingly among other grounds he has prayed to reject the application with costs.

8. In view of rival contentions put forth by the both the parties, now, let me see as to whether the presence of proposed respondent No.2 is necessary for the just adjudication of the case. It is pertinent to note that the complaint has been filed by the proposed respondent no.2 against the respondent no.1 and he has stated in the complaint that the alleged accident has taken place due to the

rash and negligent driving of the respondent no.1. It is pertinent to note that when the FIR and complaint disclose that the alleged accident has taken place due to the rash and negligent driving of the respondent no.1, impleading the proposed respondent no.2 does not arise at all. Therefore, the presence of proposed respondent no.2 is not necessary for the just adjudication of the case. Accordingly, I answer this point in the negative.

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

**ORDER**

I.A.No. III filed by the respondent no.1 under Order I Rule 10 of Code of Civil Procedure is hereby rejected.

There is no order as to costs.

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