

1	Provision under which the application is filed	Under order 7 rule 11(d) R/w Sec.151 of CPC
2	Relief sought for	For rejection of the petition
3	The date on whcih the application is filed	04/01/2025
4	Number of the application	IA No.3
5	The date on which the objections are filed by different opponents	15/01/2025
6	The date on which the orders were passed on the said application	10.02.2025

**ORDER ON APPLICATION UNDER ORDER 7 RULE
11(d) R /W Sec.151 OF CPC FILED BY RESPONDENT
No.2(IA No.3)**

1. The respondent No.2 has filed affidavit. In the affidavit it is stated that, the petitioners have filed the petition against the respondents for claiming compensation in view of accident. The Respondent No.2 has filed objections. The Respondent No.2 has stated that 28.09.2016 at 9.30AM the accident had taken place and it is due to the negligence act of driving by the petitioner No.1. As the Petitioner No.1 rode his vehicle in a rash and negligent manner and dashed to the vehicle of Respondent No.1 and caused accident wherein the Mahadevamma who was traveling as a pillion rider in the Bike belonging to Petitioner No.1 had fallen down due to accident and as such sustained injuries and in spite of treatment given at Danamma Hospital, Bellary, Mahadevamma did not respond and as such due to failure of treatment died in the hospital. The petitioners by suppressing this fact has filed the present false petition against Respondents. Thus the accident had taken place due to the rash and negligent driving by the Petitioner No.1 and as such the Molakalmuru police have also registered a FIR in Crime.172/2016 for the offence punishable U/Sec.279,337,304A of IPC and as such the

charge sheet is also submitted and the case is registered as CC.112/2018 which is pending before the Molakalumuru Court. Thus the case is registered against Petitioner No.1 . In spite of knowing all the facts the Petitioners in order to give trouble with malafide intention filed this false case. Thus the present petition is not maintainable and as such the Respondents are liable to be discharged from the petition and also to pass an order by not awarding compensation by rejecting the petition . Thus the petition is liable to be rejected. On these allegations sought for allowing the application.

2. *On the other hand the petitioners have filed objections to the application by stating the application is not maintainable in law or facts. The application filed by the respondent No.2 is misconceived one. The allegations made in the affidavit are all false. The Petitioners have stated that the R-1 and 2 have not approached the court with clean hands as they have suppressed the material facts and filed false untenable application only with a malafide intention to escape from paying the liability. Thus if the application is allowed much inconvenience will be caused to the Petitioners and the same unable to assess in any means. The Respondent No.2 filed the application only to drag on the proceedings and to escape*

from the liability. On these contentions sought for dismissal of the application.

3. *Heard on application for both the side.*

4. *The points that arise for my consideration is as follows:*

Point No.1: Whether the application i.e., IA No.3 filed by the respondent No.2 under Order 7 Rule 11(d) R/w Sec.151 of CPC deserves to be allowed?

Point No.2: What order?

5. *My findings to the above points as under*

Point No.1: In the Negative

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

REASONS

6. **Point No.1:** *The respondent No.2 has filed application seeking to reject the petition by stating that petition is not maintainable because the Petitioner No.1 only drove the vehicle and committed accident wherein the Mahadevamma who was sitting on the vehicle of Petitioner No.1 as a pillion rider sustained injuries and died in a road accident and as such the FIR is lodged against the petitioner No.1 and even charge sheet is filed against the Petitioner No.1. Therefore in view of filing the charge sheet against the Petitioner No.1 the petition is not maintainable and sought for allowing the application .*

On the other hand the petitioner has filed objections contending that the application is not maintainable in law or facts, the same is filed only to drag on the proceedings and to waste the precious court time and sought for dismissal of the application.

7. *As the application is filed by respondent No.2 seeking to reject the petition by stating that the petition is not maintainable because the Petitioner No.1 only had committed accident and even charge sheet is submitted against Petitioner No.1 in CC.112/2018 wherein the said case was acquitted and as such in view of filing the case against the petitioner No.1 the petition filed by the Petitioners that too Petitioner No.1 is not maintainable. The application is filed **U/O.7 R 11(D) of CPC**. The provision of Order 7 Rule 7(D) CPC says **When the suit appears from the statement in the plaint to be barred by any law**. The reason stated in the present case for filing the application is that the Petitioner No.1 only had committed accident and even a charge sheet is submitted against the petitioner No.1 . Therefore in view of filing the charge sheet against Petitioner No.1, the petition is barred by law. Mere filing the petition by the Petitioner No.1 do not goes to show that the petition is barred by law. When the case is filed for claiming compensation then in case if the case is filed for*

compensation due to injury then the injured must file the petition and in case if the case is filed in view of death of a person then the LRS must file the petition. However as the petition is filed by the petitioners at this stage it is not possible to say as to whether the petition is maintainable or not in order to know as to whether the petition is maintainable or not the trial is required. Thus the reason urged in the affidavit and arguments canvassed by the counsel for Respondent No.2 is not sustainable and even this ground urged in the affidavit do not goes to show that the Petition is barred by any law. Thus at the first instance the reason mentioned in the affidavit for filing the application do not goes to show that the petition is barred by any law. As the reason stated in the affidavit is not showing that the petition is barred by any law, the question of rejecting the petition do not arise. However no doubt as per Respondent No.2, the Petitioner No.1 may be committed accident but in view of producing the xerox copy of judgment passed in CC.112/2018 it goes to show that the Petitioner No.1/ Accused was acquitted. No doubt even if the judgment passed in CC.112/2018 is not considered and not taken into consideration but whether the Petitioner No.1 is entitle for compensation or not is a matter of trial. Further the partial petition cannot be allowed. Thus at this stage in view of the reasons stated

*in the affidavit it do not goes to show that the petition is not maintainable and as such the arguments canvased by the counsel for Respondent no.2 is not sustainable. Thus in view of above discussion, I answer this point No.1 in the **Negative**.*

8. **Point No.2:** *In view of above discussion, I Proceed to pass the following:*

ORDER

***The application i.e., IA No.3
filed by the respondent No.2
under Order 7 Rule 11 (d) R/w
Sec.151 of CPC is hereby
dismissed.***

No order as to costs.

For Petitioner evidence.

Call on by .06-03-2025

***I A.S.C. Jude & JMFC.,
Chitradurga.***