

KACM200003362022



**IN THE COURT OF SENIOR CIVIL JUDGE
AND MACT, AT: KADUR**

Present:- Sri. IRFAN.
B.A., LL.B.,
Senior Civil Judge & MACT,
Kadur, Chikkamagaluru District.

Dated: this the 28th May - 2025

MVC.No.173/2022

Petitioners:- Sri. Govindappa & another.
(By: Sri H.T., Advocate)

V/s

Respondents.:- Sri. Kirankumar & 3 others.

(Respondent No.1 by: Sri. B.K.Y., Advocate).

(Respondent No.2 by: Sri. M.N., Advocate).

(Respondent No.3 - Exparte).

(Respondent No.4 by: Sri. M.Y.S. Advocate).

RANK OF THE PARTIES ON I.A.NO.II

Applicant/
4th respondent : United India Insurance
Co.Ltd.,

V/s

Opponents/
Petitioners. : Sri. Govindappa & one.



i	<i>Provision under which the application are filed</i>	<i>U/S 151 of CPC.</i>
ii	<i>Relief sought for</i>	<i>Impleading the Manager of M/S Shriram Transport Finance Co., Kadur Town.</i>
iii	<i>The date on which the application is filed</i>	<i>14.07.2023.</i>
iv	<i>Number of the application</i>	<i>II</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>10.08.2023.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>28.05.2025.</i>

ORDERS ON I.A.II.

The applicant / 4th respondent – Insurance Company have filed this IA, U/S 151 of CPC seeking to direct the petitioner to implead the Manager, M/s Shriram Transport Finance Co., Beside Maruthi Nursing Home, Kadur Town stating it to be proper and necessary party.

2. This application is supported by memorandum of facts filed by the learned counsel for 4th respondent, wherein it is contended that the 2nd respondent who is the RC owner of a car bearing Reg.No.KA-18/B-9713 in his objections statement filed on 20.10.2022 disclosed that the said vehicle was financed by M/s Shriram Transport Finance Co. Kadur



and since 2nd respondent had committed default in repayment of loan, the said vehicle was seized by the said Financier on 14.12.2019 i.e., about four months prior to the date of accident and the said Finance had handed over the said car to the 1st respondent, who has caused the alleged accident. As on the date of accident, the said Financier stepped into the shoes of the owner of the car and therefore, it is contended that the application schedule Financier is necessary party for the effective adjudication. Accordingly, sought to allow the application.

3. The learned counsel for the petitioner filed objection denying all the applications averments as false and frivolous. It is specifically asserted that as on the date of accident, the 2nd respondent was the RC owner of the car bearing Reg.No.KA-18/B-9713 and the ownership was continued with the 2nd respondent as on the date of accident and as per the contentions the aforesaid car was purchased by the 2nd respondent with the financial assistance of M/s Shriram Transport Financial Co., Kadur and even though the said vehicle was seized by the said firm, but the ownership continued with the 2nd respondent. The said vehicle was insured with the 3rd respondent and under such



circumstances, impleading of the application schedule Finance is unnecessary and accordingly, sought to dismiss the application.

4. Heard on both sides.

5. The Points arise for my consideration is as follows;

1. Whether the applicant / 4th respondent proves that the presence of proposed party is necessary for the effective adjudication of the case on hand?

2. What order?

6. My answer on the above points are as follows:-

Point No.1 - In the Negative;

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

REASONS

7. **Point No.1:** The petitioners have filed this petition U/S 166 of Motor Vehicles Act, 1989 claiming compensation for the death of Smt. Chikkamma W/o Govindappa. As per the petition averments, the 2nd respondent is the RC owner of a car bearing Reg.No.KA-



18/B-9713 as on the date of accident. It is a matter of record that the 2nd respondent in his objections has disclosed that he had availed financial assistance from M/s Shriram Transport Finance Co., Kadur and due to financial difficulties he could not repay the loan amount, which resulted in seizure of the aforesaid car by the aforesaid Finance and they have taken possession of the same on 14.12.2019 i.e., much prior to the date of accident and since the said date, the aforesaid vehicle was in possession of M/s Shriram Transport Finance Company, Kadur and since then the 2nd respondent has no obligation towards the said car. Thus, he has disputed his liability to pay the compensation and has taken a specific defence that this petition is bad for mis-joinder of necessary parties. Though the 2nd respondent has taken such a specific defence, but there are no documentary evidence made available on record by the 2nd respondent to that effect. The 1st respondent in his objections also does not disclose any thing to that effect. The police notice under Ex.P-1 discloses that as on the date of accident, the 2nd respondent was the RC owner of the car bearing Reg.No.KA-18/B-9713 and the said car was insured with the 3rd respondent. Since, no materials are



available to prima-facie believe the version of the 2nd respondent, at this stage, it is found difficult to allow this application.

8. The petitioners have also not produced the charge-sheet so as to ascertain the true facts, which could have thrown light upon the contentions raised by the 2nd respondent in his objections. Therefore, in the absence of materials to substantiate the contentions raised by the 2nd respondent, the application filed by the 4th respondent seeking to direct the petitioner to implead M/s Shriram Transport Finance Company, Kadur as one of the respondents is not maintainable at this juncture. However, liberty is extended to both the parties to this petition to file similar application if warranted to meet the ends of justice. Accordingly, the point under consideration is answered in the affirmative.

9. Point No.2: In view of the above findings on point No.1, the following;

ORDER

I.A.No.II, filed by the applicant /
4th respondent, U/S 151 of CPC is
dismissed.



Liberty is extended to the parties
to move the similar application, if
supported by documentary evidence.

(Dictated to the Stenographer directly on computer, typed by him,
printout taken, corrected and then pronounced by me in the open court on
this the 28th day of May – 2025)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.