



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC., AT
MUDIGERE**

Dated this the 29th day of September 2025

**Present :: Sri.Prakash P.M, M.B.A, LL.B.,
Senior Civil Judge & JMFC.,
Mudigere**

MVC No.366/2020

Petitioner : Sri. K. Dayananda

- V/s -

Respondents: Sri. Sandeep S and another

Parties to IA No.VII

<u>Applicant</u>	Manager IFCO TOKIO
<u>Respondent No.2</u>	General Insurance company, Bengaluru.

Vs.

Opponent: Sri. K. Dayananda
Petitioner:

ORDERS ON IA NO.VII

This IA.No.VII is filed by respondent No. 2 under order 1 rule 10(2) read with section 151 of CPC, praying to remove respondent No.2 insurance company from the petition.



2. In the memo of facts accompanying with IA, the counsel for the respondent No.2 stated that, the respondent No.2 insurance company is an unnecessary party, as on the date of accident i.e., 01.12.2019 there was no insurance policy in their company. Thus the 2nd respondent insurance company has been inadvertently included in the present suit. Thus if the 2nd respondent is not removed from the case, the insurance company will suffer loss. Hence, prays to allow the application.

3. On the other hand the petitioner has filed objection contending that, the offending vehicle was having valid policy as on the date of accident. That on 29.11.2019 the respondent has paid insurance premium amount to the respondent No.2 during the office hours and the insurance authorities have inspected the vehicle on 30.11.2019. That on 01.12.2019 was holiday for the office of the respondent No.2. Hence, the policy has been issued on the next day i.e., on 02.12.2019. Hence, respondent No.2 is liable to pay compensation. The application is filed to drag the proceedings and cause loss the petitioner. Hence, prays to dismiss the application.



4. The respondent No.1 in his objection contended that, as on the date of accident i.e., 01.12.2019, the offending vehicle was duly insured with 2nd respondent company and Ex.R3 is the insurance policy issued by 2nd respondent insurance company and online payment premium was paid on the said policy. The respondent No.2 has ample opportunity to raise its contentions during the trial by adducing necessary evidence. At this stage the application is unwarranted. Hence, prays to dismiss the application.

5. Heard both the sides and perused the records.

6. Based on the above contention and rival contentions the following points arise for my consideration.

1. Whether the respondent No.2 prove that it is unnecessary party to the petition to adjudicate the matter effectively?

2. What order?

7. My answer to the above points are as follows:

Point No.1: In the Negative.

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



REASONS

8. Point No.1: The present petition is filed by the petitioner claiming compensation towards the injuries sustained by him in the road traffic accident that occurred on 01.12.2019 at 4.15 PM near Bargal cross in front of JMJ Nursery Kelaguru, Chikkamagaluru District. Now the case is posted for evidence of respondent No.2. At this juncture the respondent No.2 has come up with this application.

9. According to the petitioner, on 01.12.2019 at about 4.15 PM, he was proceedings in a motor cycle bearing Reg. No. KA-46-H-9341 towards Chikkamagaluru to Mudigere, at that time first respondent being the driver of Car bearing Reg. No. KA-05-K-4626 drove the said vehicle in a rash and negligent manner and dashed to the motor cycle in which petitioner traveling and due to the said accident the petitioner sustained injuries. According to the petitioner, the respondent No.1 is the driver of the offending Car bearing Reg. No. KA-05-K-4626 and respondent No.2 is the insurer of the said vehicle. Hence, he contended that respondent No.1 and 2 are jointly and severally liable to pay the compensation.



10. Now it is the contention of the respondent No.2 that, as on the date of accident i.e., on 01.12.2019 there was no insurance policy in their company and it has been inadvertently included in the present case. Thus, it is unnecessary party to the petition. Hence, prays to remove it from the petition. On the other hand, the petitioner and respondent No.1 specifically contended that, the offending vehicle was having valid policy as on the date of accident. That on 29.11.2019 the respondent No.1 has paid insurance premium amount to the respondent No.2 during the office hours and the insurance authorities have inspected the vehicle on 30.11.2019. That on 01.12.2019 was holiday for the office of the respondent No.2. Hence, the policy has been issued on the next day i.e., on 02.12.2019. Hence, respondent No.2 is liable to pay compensation. In support of above contention the respondent No.2 has placed Ex.R4 insurance proposal form and Ex.R5 receipt for payment of premium amount. Therefore, now the case is for respondent No.2 evidence i.e., the case is at the fag end at this stage, this court cannot arrive at a conclusion that as on the date of accident there was no insurance policy to the offending vehicle. The said contention and rival contention taken by both the sides can be decided



by this tribunal only after completion of trial and after appreciation of evidence adduced by both the sides. Therefore, at this stage deleting the respondent No.2 from the case does not arise. Wherefore, respondent No.2 has failed to make out sufficient grounds to show that it is unnecessary party to the petition and accordingly I answer **point No.1 in the Negative.**

11. Point No.2: In view of the above observation, I proceed to pass the following:

ORDER

The IA.No.VII filed by the respondent No.2 Under Order 1 rule 10(2) R/w Section 151 of CPC is hereby rejected.

No order as to costs.

(Dictated to stenographer directly on computer typed by her, revised, corrected, signed and then pronounced by me in the open court on this the 29th day of September 2025)

(Prakash P.M.)
Sr. Civil Judge & JMFC
Mudigere