

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

MVC No.221/2024

Dated this the 24th day of July, 2026

Petitioner : Kiran S/o Manoharsa Jituri.

.Vs.

Respondent : Premanath S/o Kashappa
Chikkatumbal and another.

PARTIES TO I.A. No.14 AND 15

Applicant/s : National Insurance Company
(Respondent Ltd.,
No.2)

.Vs.

Opponent/s : Kiran S/o Manoharsa Jituri.
(Petitioner)

- i. Provision under which application is filed : I.A. No.14 – under Order XVI Rule 1 & 2 R/w Sec.151 of CPC.
I.A. No.15 – under Order XI Rule 14 R/w Sec.134 © of MV Act, 1988.
- ii. Relief sought for : I.A. No.14 - Seeking to direct the driver of the offending vehicle bearing

No.KA-25/AB-3405 i.e.,
Mr. Abdulrazak S/o
Kashimsab @ Kashimkhan
Ajamatkhan, Near
Hanuman Temple, Hosur,
Hubli-580 021 to produce
his valid driving license as
on the date of accident.

I.A. No.15 - seeking to
direct the respondent No.1
to produce the effective
and valid DL of the driver
of the vehicle bearing
No.KA-25/AB-3405 on the
date of accident, in the
interest of justice and
equity.

- iii. The date on which : 18.06.2026
application is filed
- iv. Number of the : 14 & 15
application
- v. The date on which : 09.07.2026 (by Petitioner)
objections are filed by 09.07.2026 (by R.1)
different opponents
- vi. The date on which : 24.07.2026
orders were passed on
the said application

COMMON ORDERS ON I.A No.14 AND 15

The counsel for the respondent No.2 has filed I.A. No.14 under Order XVI Rule 1 and 2 R/w Sec.151 of CPC, seeking to direct the driver of the offending vehicle bearing No.KA-25/AB-3405 i.e., Mr. Abdulrazak S/o Kashimsab @ Kashimkhan Ajamatkhan, Near Hanuman Temple, Hosur, Hubli-580 021 to produce his valid driving license as on the

date of accident and further filed I.A. No.15 under Order XI Rule 14 R/w Sec.134 (C) of MV Act, 1988, seeking to direct the respondent No.1 to produce the effective and valid DL of the driver of the vehicle bearing No.KA-25/AB-3405 on the date of accident, in the interest of justice and equity.

2. The petitioner and respondent No.1 have filed their separate objections to these I.A.s

3. Heard arguments.

4. The points for consideration are:

1. Whether the reliefs sought by the respondent No.2 in the applications, can be granted ?

2. What order ?

5. The above point No.1 is answered in the negative and point No.2 as per final order, for the following:

REASONS

*6. **Point No.1:** In the annexed memo of facts the counsel for the respondent No.2 averred that, the accident has taken place on 28.11.2023. The charge sheet has been filed in Crime No.0120/2023 of North Traffic Hubli PS, Hubli arising out of the accident in which driver of the offending vehicle bearing No.KA-25/AB-3405 is arrayed as accused. The petitioner has not produced the valid DL of the said driver in the trial. The respondent No.1 has adduced his evidence*

on 21.11.2025 and also not produced the DL of the driver of the offending vehicle during the trial. It is the boundan duty of the respondent No.1, the owner of the vehicle, to produce the DL of his driver, who was driving the vehicle on the fateful day to the concerned police station. The respondent No.2 has taken the contention in his objection statement that the driver of the offending vehicle was not holding the valid DL on the date of accident. The burden is upon the respondent No.2 to prove that the driver of the offending vehicle was not holding the valid DL as on the date of accident. If the present application is allowed no harm or injury will be caused to the petitioner and at the same time if the present application is not allowed great harm and injury will be caused to this respondent as they are unable to prove that the driver of the offending vehicle was not holding the valid DL as on the date of accident. Hence, prayed to allow the applications.

7. The objections of the petitioner is that, the applications filed by the respondent No.2 is not maintainable. The respondent No.2 only intention to harass the petitioner. The entire chargesheet against on offending vehicle and there is no Sec.3 against accused. The above said case is third party compensation case not a strict prove of this case and this is not a criminal case to prove the case. Only

summary proceeding case. The respondent No.2 will know about the driving license and this case. All documents received from Insurance Company. Only intention to drag the matter and harass the petitioner. Hence, prayed to dismiss the application.

8. The objections of the respondent No.1 is that, the applications filed by the respondent No.2 is intentional one to give unnecessary trouble to the respondent No.1 and also delay the further proceedings. The respondent No.1 already filed claim petition of petitioner, along with objection produced all vehicle documents along with driving license of the driver of the vehicle bearing No.KA-25/AB-3405. And further the above said case the respondent No.1 is already examined as R.W.1 and along with driving license and other vehicle documents are already marked as exhibits. Hence, the said facts also known to the respondent No.2. the only intention of respondent No.2 escape the clutches of law and drag the matter filed this application, same is deserves to be dismissed. The respondent already number of interim application filed and same are came to be rejected by this Court. Hence, prayed to allow the applications.

9. Application under Order XVI Rule 1 and 2 read with Section 151 CPC seeking to direct the

proposed witness (driver) to produce his driving licence:

Order XVI Rule 1 CPC deals with filing a list of witnesses and summoning them. It is not a provision for directing a witness to produce a particular document unless the witness is summoned in accordance with law.

10. If the respondent contends that the driver had no valid and effective driving licence, the burden to establish breach of the policy condition lies on the insurer. Mere pleading is insufficient.

11. Since the petitioner has already produced a copy of the driving licence, the insurer is at liberty to summon the Licensing Authority or obtain the licence particulars from the Regional Transport Office to prove that the licence was fake, invalid, expired, or not effective on the date of the accident.

12. Application under Order XI Rule 14 CPC read with Section 134 of the Motor Vehicles Act:

Order XI Rule 14 empowers the Court to direct production of documents that are in the possession or power of a party.

13. In the present case, respondent No.1 and the petitioner has specifically stated that a copy of the driving licence has already been produced along with the objections.

Once the document has been produced, the prayer to direct its production becomes infructuous.

Regarding the insurer's contention that only a Xerox copy has been produced:

Merely because the licence produced is a photocopy does not by itself establish that the driver had no valid driving licence.

If the insurer disputes the genuineness or validity of the licence, it must prove the same by summoning the original records from the Licensing Authority or examining the concerned official.

14. The Tribunal cannot draw an adverse inference merely because the original licence has not been produced, particularly in a claim under the Motor Vehicles Act, where proceedings are summary in nature.

15. The Hon'ble Supreme Court has consistently held that the insurer must prove a conscious breach of the policy condition by the insured. Mere absence or non-production of the original driving licence is not sufficient to exonerate the insurer from liability.

16. Therefore, Since petitioner has already produced a copy of the driving licence and the insurer has an independent remedy to summon the original records from the Licensing Authority to establish its

defence, the applications under Order XVI Rule 1 read with Section 151 CPC and Order XI Rule 14 read with Section 134 of the Motor Vehicles Act are not maintainable and have become unnecessary. Accordingly, both applications deserve to be dismissed. Hence, I answer **point No.1 in the negative.**

17. **Point No.2:** In view of findings on point No.1, this court proceeds to pass the following:

ORDER

The I.A. No.14 and 15 filed by the respondent No.2 under Order XVI Rule 1 and 2 R/w Sec.151 of CPC and under Order XI Rule 14 of CPC R/w Sec.134 (C) of MV Act, 1988 are hereby dismissed.

No order as to costs.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **24th day of July, 2026**)

sd/-

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.