

**IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C. HUBBALLI**

Present:- Smt.Deepa G Manerkar,
B.Com. L.L.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 22nd day of December 2025

MVC No.832/2024

Sumitra W/o Maruti Sanshi
and another

...Petitioner/s

-Versus -

Gurusiddappa S/o Sangappa Hongal and other

.....Respondent/s

IA.No.IV

Sumitra W/o Maruti Sanshi and another

APPLICANT/ PETITIONER

Versus -

Gurusiddappa S/o Sangappa Hongal and other

OPPONENT/ RESPONDENTS.

ORDERS ON I.A.NO.IV FILED UNDER ORDER 16 RULE 1, 2
AND 6 R/W SEC.151 OF CPC

The present I.A. is filed by the counsel for the respondent No.2 seeking permission to summon one Imamhussain Mohammed Hanif Ainapuri, Driver of Lorry bearing Reg. No.KA-25/B-5234, R/o: Sadasofa Kolekar Plot, Old Hubballi, Hubballi. to give evidence.

2. In the memo of facts annexed to the present I.A. it is stated that, the said case is posted for respondents evidence. There is no eye witness and as per complaint and FIR shows that unknown vehicle and unknown accused. The vehicle number and name of the accused not at mentioned and also in Crime Details Form also shows that only the deceased Motor cycle bearing No.KA-63/U-6519. At the time of charge sheet only the police authority has mentioned Lorry bearing No.KA-25/B-5234 and also accused name mentioned as Imam Hussain Ainapuri. That the deceased name also

mentioned as accused No.2 in the charge sheet. evidence of said witness is very necessary in the said case to fair adjudicate the case. If the application is not allowed the respondent No.2 company will be put to great inconvenience and hardship and on the other hand no prejudice would be caused to other side. Hence, prayed to allow the application.

3. The counsel for petitioner has filed objection to the present I.A. contending that, the application is misconceived and the application is not maintainable on the facts of the case and grounds of application or in law. The respondent No.2 has filed I.A. for the dragging of the matter and harass the petitioner . That, the I.A. No.4 filed by the respondent No.2 has to be taken at the time of Judgment. The respondent Insurance company set up to presumption mind with imaginary concept to escape from liability or to give compensation to the petitioner unnecessarily

postponing the case on one or the other reasons. The respondent No.2 already cross examined the petitioner entire cover in the cross examination whatever ask document to the petitioner in the cross already produced that, the memo of facts is not a proper reason and not procedural aspect kindly dismiss said I.A.

4. That respondent No.2 filled I.A. without obtaining proper information from the police act and accused already given his statement before 10 and crime details shows only spot of the accident after that found the vehicle and seized conducted vehicle panchanama is clearly mentioned in the same. The respondent No.2 insurance company not collected proper information and document from the Police station. MVC case is compensation case only summery proceeding case not strict to prove the present. Hence prayed to reject the application.

5. On the basis of rival contentions the points that would arise for my consideration is:

1. Whether the present application deserves to be allowed?
2. What order ?

6. My findings to the aforesaid points is as under :

Point No.1 : In the Affirmative.

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

REASONS

7. **Point No.1:-** On going through the present I.A. the respondent No.2 has sought for issuing witness summons to one Imamhussain Mohammed Hanif Ainapuri, Driver of Lorry bearing Reg. No.KA-25/B-5234, on the ground that the name of driver and vehicle number is not mentioned in the charge sheet and only the motorcycle of the deceased has been registered details are found in the complaint

and at the time of filing charge sheet, the police authority has mentioned Lorry bearing No. No.KA-25/B-5234. As such, it is necessary to summon the driver of said lorry to give evidence about the accident. On going through the Ex.P.1, there is no mention about the name of said lorry driver or the registration number of lorry which caused the accident. It is only mentioned that when the deceased was going on with motorcycle, one lorry came and dashed against him because of which he fell down and sustained injuries. It is mentioned in the complaint that photo of said vehicle was taken. But it is also stated that the touch screen of said mobile could not be opened and number will submitted in a meantime. However, since there is no mention of any name of driver or vehicle number in the complaint, it appears that summoning of the witness mentioned in the present I.A. is very much necessary for proving the defence taken up by the respondent No.2 company. As

such the present application deserves to be allowed.
According the above point is answered in the
affirmative.

8. **Point No.2** : In view of the findings and
answer to point No.1, this court proceeds to pass the
following:-

ORDER

I.A.No.IV filed by the respondent No.2
under Order XVI Rules 1, 2 and 6 R/w
Sec.151 of CPC is hereby allowed.

Issue witness summons to witness
mentioned in I.A.No.4 if complied.

(Directly dictated to the stenographer on computer, typed by her, corrected by me, and then pronounced in the open court on this the 22nd day of December 2025.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senor Civil Judge and JMFC
Hubballi.