

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.518/2023

Dated this the 09th day of April, 2026

Petitioner : Bakibai W/o Koya Yamakar
since deceased by her Lrs.

.Vs.

Respondent : Shri. Khajamainoddin S/o
Abdulgani Attar and others.

PARTIES TO I.A. No.V AND VII

Applicant/s : Bakibai W/o Koya Yamakar
since deceased by her Lrs.

.Vs.

Opponent/s : Shri. Khajamainoddin S/o
Abdulgani Attar and others.

- i. Provision under which : I.A. No.V – under Order XVIII
application is filed Rule 17 R/w Sec.151 of CPC
I.A. No.VII – under Order VII
Rule 14 R/w Sec.151 of CPC.
- ii. Relief sought for : Seeking to recall the P.W.1
for the purpose of further
evidence and permit the
petitioner to produce the

documents mentioned in the list, in the interest of justice and equity.

- iii. The date on which : 11.12.2025 application is filed*
- iv. Number of the : V & VII application*
- v. The date on which : 17.01.2026 (by R.5) objections are filed by different opponents*
- vi. The date on which : 09.04.2026 orders were passed on the said application*

COMMON ORDERS ON I.A No.V AND VII

The counsel for the petitioner has filed I.A. No.V and VII under Order XVIII Rule 17 R/w Sec.151 of CPC and under Order VII Rule 14 R/w Sec.151 of CPC, seeking to recall the P.W.1 for the purpose of further evidence and permit the petitioner to produce the documents mentioned in the list, in the interest of justice and equity.

2. The respondent No.5 has filed separate objections to I.A. No.V and VII.

3. Heard arguments.

4. The points for consideration are:

- 1. Whether the reliefs sought by the petitioner in the applications, can be granted ?*

2. What order ?

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

REASONS

6. **Point No.1:** In the annexed affidavit the petitioner No.1(d) averred that, his mother was filed this petition to seek compensation for injuries caused to her in the course of accident on 08.09.2020. During the pending of this petition his mother was died. That adducing his further evidence is very material on and it is very necessary for adjudication of the case. If the application is allowed there is no loss or hardship would be caused to respondents on the contrary if the application is not allowed they would be put to untold loss or hardship would be caused. Hence, prayed to allow the applications.

7. On the otherhand, the counsel for the respondent No.5 filed objections and contending that the present application is filed at belated stage only to delay the proceedings and so also the petition itself is barred by limitation. No valid reasons, exceptional or compelling circumstances are assigned in the accompanying affidavits. The applicant failed to set out reasons why the witnesses recall at this belated stage.

It is further contended that the applicant sought for production of documents, are the documents which are created and concocted for the purpose of this petition and these documents are not relevant and not produced at initial stage with an intention to divagate the proceedings. Hence, prayed to dismiss the applications.

8. *On perusal of the entire materials available on record it is noticed to the Court that admittedly this is the petition for compensation, when the matter has been set down for cross of R.W.1, the petitioners came up with these applications seeking above said relief. As per their contention the during the pending of this petition his mother was died. That adducing his further evidence is very material on and it is very necessary for adjudication of the case. Admittedly, since 13.02.2025 matter was set down for cross of P.W.1 by closing the further chief of P.W.1. But, now when the matter has been set down for cross of R.W.1 the petitioner came up with these applications seeking the above said reliefs. Anyhow, the delay in production of document is not a criteria to dismiss the application. Moreover, marking is difference from admissibility of the document. On the otherhand, the respondent had an opportunity to putforth is defence at the time of cross examination. Hence, This court is of the opinion that the applications deserves to be allowed on cost in order to compensate*

the delay to otherside. Hence, I answer the **point No.1 in affirmative.**

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

ORDER

The I.A. No.V and VII filed by the petitioners under Order 18 Rule 17 R/w Sec.151 of C.P.C. and under Order VII Rule 14 R/w Sec.151 of CPC are hereby allowed on payment of cost of Rs.500/-.

The documents are received on record subject to proof and relevancy.

Resultantly, P.W.1 is recalled for the purpose of further chief, subject to payment of cost on next date of hearing without fail.

For further chief of P.W.1.

Call on 05.05.2026.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **09th day of April, 2026**)

sd/-

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