

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.365/2023

Dated this the 06th day of May, 2026

Petitioner/s : Meenakshi W/o Prakash
Sannamani and others.

.Vs.

Respondent/s : Shekappa S/o Rudrappa Jawayi
and another.

PARTIES TO I.A. No.VI

Applicant/s : Shekappa S/o Rudrappa
Jawayi and another.

.Vs.

Opponent/s : Meenakshi W/o Prakash
Sannamani and others.

- i. Provision under : Under Order XVI Rule 1 and
which application is 2 R/w Sec.151 of CPC.
filed
- ii. Relief sought for : Seeking an order to issue
witness summons to the
Investigation Officer Sri.
Maruti Gullari to produce
the documents.

- iii. The date on which : 05.02.2026
application is filed
- iv. Number of the : VI
application
- v. The date on which : 13.02.2026
objections are filed
by different
opponents
- vi. The date on which : 06.05.2026
orders were passed
on the said
application

ORDERS ON I.A. No.VI

The counsel for respondent No.1 has filed an I.A. No.VI under Order XVI Rule 1 and 2 R/w Sec.151 of CPC, seeking an order to issue witness summons to the Investigation Officer Sri. Maruti Gullari to produce the documents.

2. The petitioners have filed objections to the said application.

3. Heard arguments.

4. The following point is arises for disposal off the application :

“Whether the reliefs sought by the respondents in the application, can be granted?”

5. My finding to the above point in the Negative, for forgoing;

REASONS

6. In the annexed affidavit the respondent No.1 averred that, the petitioner was examined as P.W.1 in this case and deceased by name Prakash S/o Gadigeppa Sannamani is the husband of the petitioner. The said petitioner cross examined by the respondent counsel, int eh said cross examination petitioner admitted that the alleged date of incident her husband was drove the motor cycle, and also her husband is the owner of the motor cycle and also is having valid license. In this regard, the respondent No.1 has already filed application before this Court called the driving license of the deceased Prakash. The said application the counsel for the petitioner filed the objection on 14.11.2025 in that objection taken contention that, the concerned police station authority have taken the deceased driving license at time of accident, so as per the objection of the petitioner the driving license of deceased in the possession of the investigation officer. Further, it is the specific contention and defense that, due to the rash and negligence manner of the deceased the accident was occurred at the time of accident deceased was not having valid driving license. And after perusing the charge sheet driving license of the deceased not enclosed. And further to prove the innocence of the respondents, the driving license of the deceased is very

much necessary. Because the investigation officer is also colluded with petitioners and suppress the facts in the charge sheet and not taken any legal steps against the deceased Prakash. Hence, prayed to allow the application.

7. The objections of the petitioners is that, the petitioners filed petition for grant of third party compensation and said I.A. witness is not necessary for this case and this is compensation case, criminal case witness is not mandatory. The respondents only intention to harass the petitioners and escape from liability and well know about this witness is not necessary in this case by law. Hence, prayed to dismiss the application.

8. On perusal of the materials available on record it is noticed to the court that, In a claim under Section 166 MV Act, what the Tribunal must primarily determine is rash and negligent act of the offending vehicle. The issue of whether the deceased possessed a valid driving license is not decisive for fixing negligence. Especially in a third party claim, at best, it may have a limited bearing on contributory negligence. But, Only if there is foundational pleading and material which appears absent here. Admittedly, the charge sheet is only against respondent No.1 and 2, with no allegation against the deceased. There is no reference to absence of DL in the charge sheet. The application is

based merely on a suggestion and an admission elicited in cross-examination. No specific defence of contributory negligence supported by material is shown. So summoning the IO merely to produce DL becomes irrelevant and unnecessary and risks delaying proceedings.

9. The respondents filed the present application under Order XVI Rule 1 and 2 r/w Section 151 of CPC, seeking issuance of witness summons to the investigation officer to produce the driving license of deceased Prakash, contending that the deceased was not holding a valid driving license at the time of accident. Per contra, the petitioner has opposed the application, contending that the present petition is a third party claim under Section 166 of the Motor Vehicles Act and the question of the deceased not possessing a driving license is not relevant for adjudication of negligence. It is further contended that the charge sheet filed by the police does not attribute any negligence to the deceased. And no such plea is substantiated by material on record.

10. On perusal of records, it is evident that the charge sheet has been filed against respondent no. 1 and 2 and there is no whisper therein regarding absence of driving licence of the deceased or any negligence on his part. The primary issue in a petition under Section 166 of ME Act is that Is to assert a rash

and negligent driving of the offending vehicle. Mere absence of a driving licence, even if assumed by itself, would not be a determining factor to fix negligence, unless supported by cause and material indicating contributory negligence. In the present case, except a bald contention, no material is placed to show that the deceased contributed to the accident. Summoning the Investigation Officer for production of a driving licence, in the absence of foundational facts, appears to be unnecessary and not essential for just adjudication of the case. Therefore, this Tribunal is of the opinion that the application lacks merit and is liable to be rejected. Hence, I answer **point No.1 in the negative.**

11. **Point No.2:** For the above said reasons, I proceed to pass the following :

ORDER

I.A. No.VI filed by the learned counsel for the Respondents under order 16 Rule 1 and 2 R/w Sec.151 of CPC is 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 **06th day of May, 2026**)

sd/-

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