

ORDERS ON I.A.NO.XV

The learned counsel for Respondent No.2 filed application under Order 11 Rule 14 R/w Sec.151 of CPC, seeking issuance of direction to the respondent No.3 to produce survey report such as spot survey and final survey pertaining to Car bearing No.KA-63 M 7923 and Discharge Voucher executed by the owner of the vehicle in the ends of justice and equity.

2. In the annexed Memo of facts, the counsel for respondent No.2 averred that, the surveyor being a Technical person and accessed the entire damages with his Technical experience and the owner has received the same towards full and final settlement. Therefore, there is no necessity of giving further claim in the matter to prove the same the documents called for are necessary for perusal of this Court for coming to proper conclusion in the matter. It is further submitted that the respondent No.3 who are the custodian of the above documents. Therefore, the above direction is sought in this application. If the application is allowed no harm whatsoever will be caused to the petitioner or respondent No.3 on the other hand these documents will throw a light for coming to a proper conclusion in the matter.

3. On the other hand, the counsel for respondent No.3 filed objections, taken contention that, the present

applications have been filed only with malafide intentions to protract the proceedings. The documents sought to be produced are not at all relevant for the adjudication of the claim petition. It is further submitted that the petitioner has filed I.A. No.12 seeking permission to produce the documents. The documents sought to be produced are pertaining to the repair of the vehicle. Hence, the present application does not survive for consideration. The claim petition has been filed by the petitioner seeking the indemnification of the damage from the respondent No.2 to the extent of differential amount after adjusting the amount paid by the third respondent to the petitioner. It is burden upon the petitioner to prove with cogent evidence that the amount of compensation received by him. Hence, the respondent No.2 does not have any right to seek the documents from the respondent. Hence, prayed to dismiss the applications.

4. Heard arguments.

5. Respondent no. 2 has filed the present application seeking a direction to respondent no. 3 to produce the documents relating to survey and assessment of damages caused in the accident in question. It is the settled position that proceedings before the Motor Accident Crime Tribunal are summary in nature, but The Tribunal is empowered under Section 169 of the Motor Vehicles Act, 1988 read with the provisions of the CPC to summon witnesses and call for documents which are relevant for effective adjudication of the claim. The right of the respondent to defend includes the right to call for and rely upon documents in the custody of co-respondents.

6. Provided such documents are material to the issues involved. In the present case the survey report and damage assessment are relevant documents which may have a bearing on the question of compensation and liability. Hence the application merits

consideration. Accordingly the application is allowed.

7. Respondent no. 3 is directed to produce the survey/damages assessment documents before this court on or before the next date of hearing for fair adjudication of the matter.

Call on for further chief of P.W.1, by:23.10.2025.

sd/-

*I Addl. Senior Civil Judge and
JMFC, Hubballi*