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.680/2023

Dated this the 04th day of May, 2026

Petitioner/s	:	*Kailash S/o Vishnu Kademani.*
		.Vs.
Respondent/s	:	*Mr. Vijay S/o Balagouda Patil and others.*

PARTIES TO I.A. No.16

Applicant/s	:	*United India Insurance Co. Ltd.,*
		.Vs.
Opponent/s	:	*Kailash S/o Vishnu Kademani.*

i.	*Provision under which application is filed*	:	*under Order XVIII Rule 17A R/w Sec.151 of CPC.*
ii.	*Relief sought for*	:	*Seeking to recall the R.W.1 for the purpose of cross examination in the interest and justice and equity.*
iii.	*The date on which application is filed*	:	*08.01.2026*
iv.	*Number of the application*	:	*16*

v. The date on which objections are filed by different opponents	:	*29.01.2026 (by R.3)*
vi. The date on which orders were passed on the said application	:	*04.05.2026*

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ORDERS ON I.A No.16

The counsel for the respondent No.2 has filed I.A. No.16 under Order XVIII Rule 17A R/w Sec.151 of CPC, seeking to recall the R.W.1 for the purpose of cross examination in the interest and justice and equity.

2. The respondent No.3 has filed objections to this I.A.

3. Heard arguments.

4. The points for consideration are:

1. *Whether the reliefs sought by the respondent No.2 in the application, 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 learned counsel for the respondent No.2 averred* *that, the respondent No.3 has adduced witness before this Court as R.W.1 on 08.04.2025. In view of delay in filing the objections the respondent No.2 was not able to cross examine on that day. Further, after cross examination of the petitioners the respondent No.2 filed I.A. No.XV for production of documents as survey report, discharge voucher, but the said documents are not produced. It is further submitted that in view of the said defense of respondent No.2 the examination of R.W.1 is very much necessary to reveal the true facts. Therefore, the present application is filed and prayed to allow the application.*

7. The objections of the respondent No.3 is that the present petition has been filed by the petitioner seeking compensation towards third party property damage (TPPD) exclusively against respondent No.2. No relief of any nature has been sought against respondent No.3. It is an admitted fact that respondent No.3 has already settled the petitioner's own damage (OD) claim under the first party contract of insurance. The scope of adjudication in this petition is therefore confirmed to the statutory third party liability of respondent No.2 alone. It is further contended that the respondent No.2 has no right in law to question, scrutinize, or seek discovery regarding the OD claim settled by respondent No.3, as the OD claim arises out of an entirely separate *contractual relationship and is irrelevant to the determination of third party liability under the Motor Vehicles Act, 1988. In absence of any pleadings, prayer, or statutory basis enabling respondent No.2 to examine respondent No.3's OD settlement, the application filed by respondent No.2 is wholly misconceived, amounts to a roving enquiry and is liable to be rejected at the threshold.*

8. It is further contended that, R.W.1 was present before this Tribunal on 08.04.2025, however, respondent No.2 despite having due opportunity, chose not to cross examine the said witness on that day. It is further submitted that respondent No.3 is only a formal party to the present proceedings, and the Lis is essentially between the petitioner and respondent No.2. Hence, the present application filed by the respondent No.2 is devoid of merit and liable to be rejected. The petitioner has already produced the Bank Receipt Voucher dated:25.03.2023, which has been duly marked as Exhibit P.10. The said document clearly records that respondent No.2 has paid the own damage (OD) claim, and therefore the payment particulars are already part of the evidence on record. In these circumstances, there is absolutely no necessity to summon any witness once again merely to reiterate the very same information already proved through Ex.P.10.

Entertaining such a request would serve no purpose and would only result in unnecessary wastage of the valuable time of this Court. Hence, prayed to dismiss the application.

9. On perusal of the entire material available on record it is noticed to the Court that this is the petition filed by the petitioner against the respondents seeking compensation is concerned. The respondent No.2 has filed the present application seeking permission to cross examine the R.W.1. The contention of respondent No.2 is that due to non-filing of objections to the main petition at the relevant point of time, he could not effectively cross-examine RW1. It is further contented that certain documents Namely, the survey report and discharge voucher have not been produced and therefore cross-examination of RW1 is necessary for proper verification of the matter.

10. Per contra, respondent No.3 has opposed the application, contending that RW1 has already deposed with regard to settlement of the petitioner's own damage claim under a first party insurance contract. It is argued that the present proceedings are confined to determination of statutory third party liability under the Motor Vehicles Act. And the issues relating to own damage claim arise out of a separate contractual relationship, which is not germane to the present *petition. Hence it is contented that Respondent No.2 has no legal right to seek recall of RW 1 on such grounds.*

11. It is also pertinent to note that the petitioner has not filed any objections to the present application. It is an admitted position that the present petition pertains to adjudication of third party liability under the Motor Vehicles Act. The defence now sought to be raised by respondent No.2 relates to non-production of survey report and discharge voucher concerning the own damage claimed, which is purely contractual in nature between the insured and insurer.

12. It is well settled that proceedings under the Motor Vehicles Act are summary in nature and confined to determining compensation payable to third parties. The issues relating to settlement of own damage claims fall outside the scope of such proceedings. Further, respondent No.2 has not demonstrated as to how the proposed cross-examination of RW 1 on the aspects of claim would have a direct bearing on the adjudication of third party liability. mere non-filing of objections at an earlier stage cannot by itself be a ground to recall a witness, in the absence of showing due diligence and relevance of the proposed cross-examination.

13. Moreover, it is to be noted that respondent No.2 had sufficient opportunity to cross examine RW1 at the appropriate stage but failed to avail the same. The *present application appears to be an attempt to reopen the matter without justifiable cause which cannot be permitted. In so far as non production of documents is concerned, Appropriate adverse inference, if any, can be drawn at the stage of final adjudication, and the same does not necessitate recall of PW1. Accordingly, this Court is of the considered opinion that the application lacks merits and is not maintainable. Hence, the application filed by respondent No.2 is deserves to be rejected. Hence, I answer the point No.1 in the negative.*

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

O R D E R

The I.A. No.16 filed by the respondent No.2 under Order 18 Rule 17 R/w Sec.151 of C.P.C. is hereby rejected.

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 ***04th day of May, 2026****)*

sd/-

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