

**IN THE COURT OF 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 08TH DAY OF DECEMBER 2025

ECA No.19/2024

Sri. Dyamappa S/o Mariyappa Karepnavar

...Petitioner/s

-Versus -

Asha Feeds, R/by its Managing Partner,
Sri. Faiz Arshad Mulla

.....Respondent/s

:: IA.No.III ::

Sri. Dyamappa S/o Mariyappa Karepnavar

Applicant /Ptr.

-V/s -

Asha Feeds, R/by its Managing Partner,
Sri. Faiz Arshad Mulla

Opponent/Respt.

ORDERS ON IA No.III FILED UNDER ORDER 1 RULE 10(2)
OF THE CPC

The present I.A. is filed by the counsel for the petitioner under Order I Rule 10(2) of CPC to implead the proposed respondent No.2 as respondent No.2 in the present petition.

2. In the affidavit accompanying the I.A, the petitioner has sworn that he had filed above petition for grant of compensation against the respondent. That he came to know that the respondent No.1 has insured him with the proposed respondent No. 2. Hence, the proposed respondent No. 2 is necessary and proper party to adjudicate the above petition effectively. Therefore, it is just and necessary to accord permission for him to implead the proposed respondent as respondent No.2 as prayed for in the application, as otherwise again that will leads multifarious of proceedings and thereby he will be put much loss and injustice and on the contrary no loss prejudice will be caused

to the proposed defendants and also respondent who are already on record. Hence, prayed to allow the IA.

3. The counsel for the proposed respondent No.2 has filed objections to the present I.A. contending that there is no proper and genuine grounds mentioned in the application to implead the proposed respondent No.2 hence the application deserves to be dismissed. That the petitioner is covered under ESI Act and he is insured person under ESI Act. That the accident arose out of and in the course of employment, which is already obliged by proposed respondent No.2 according to ESI provisions and also released the permanent disablement benefit for sum of Rs.214.80 per day against loss of earning capacity for 60% disability as decided by medical board on 06-12-2024 and granted vide letter dated 28-02-2025 and petitioner is taking monthly pension on daily rate of Rs.214.80 regularly w.e.f. 02-04-2024 duly paid by the proposed respondent No.2. Hence the petitioner is not legally entitled to any more additional benefits as per the

provisions of ESI Act 1948, therefore the question of impleading proposed respondent No.2 does not arise at all. As per section 53 of ESI Act an insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under Workmen Compensation Act or any other law for the time being in force or otherwise in respect of an employment injury sustained by the insured person as an employee under this Act as it is barred by resjudicata. The proposed respondent No.2 is not liable to pay any compensation as per section 53 of ESI Act as the ESI corporation has already given medical benefit, cash benefit and disability benefit are also already paid by the proposed respondent No 2 as stated in para No. 3 above. Hence the petitioner is wasting precious time of the Hon'ble court as well as this proposed respondent No.2 by filing unnecessary applications and confusing the court to get unlawful financial benefits which is not permissible in law.

That only on the ground that the respondent No 1 has insured the petitioner with the proposed respondent No 2, it does not give legal right to the petitioner to claim against this proposed respondent No.2, moreover as said in para No 3 above all the benefits entitled to the petitioners are already granted. Hence, prayed to reject the application.

4. Based on above, the points that arise for my consideration is as under :

1. Whether the proposed respondent No.2 is necessary to decide the controversy?
2. What Order?
5. Heard arguments from both side counsels .
6. My findings on the above points is as follows :-
Point No.1 : In the Negative
Point No.2 : As per final order
for the following;-

REASONS

7. **POINT NO.1:-** the present application is filed by the counsel for the petitioner to implead

proposed respondent no.2 on the ground that it is necessary and proper party for the adjudication of the present petition effectively. The present IA is resisted by the proposed respondent No.2 on the ground that, petitioner is insured with ESI Corporation and the said corporation has made payment in respect of permanent disability benefit of Rs.214.80 per day and petitioner is also taking monthly pension on daily rate of Rs. 214.80 with effect from 02.04.2024. Admittedly the present petition is filed by the petitioner claiming compensation of Rs.20,00,000/- from the respondent on the ground that he sustained injuries in the course of employment under the respondent. Admittedly the present petition being filed under Section 22 of Employees' Compensation Act, the petitioner has to mainly establish the relationship of employer and employee and also to establish the fact that the accident occurred in the course of employment. The

ESI Corporation has nothing to do with the employer employee relationship or whether the accident occurred in the course of employment. In the objections filed to the present application by the proposed respondent it is stated that compensation has been received by the petitioner under ESI Act. Under such circumstances, if at all any details are required above payment made to the petitioner or not, same can be received by summoning the proposed respondent No.2. Therefore the proposed respondent is necessary nor proper party to the petition in order to adjudicate the matter effectively. Moreover in the affidavit annexed to the IA nowhere it is mentioned how the proposed respondent No.2 is necessary party. As such no grounds have been made out by the petitioner to implead proposed respondent No.2. As such the present application deserves to be rejected. Accordingly above point is answered in the **Negative**.

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

ORDER

I.A.No.III filed by the counsel for petitioner under Order 1 Rule 10(2) of CPC hereby rejected.

(Dictated on AI Adalth, corrected by stenographer, verified by me, and then pronounced in the open court on this the 08th day of December 2025.)

Sd/-

(Smt. Deepa G Manerkar)

II Addl. Senior Civil Judge and JMFC
Hubballi