

**ORDER ON INTERIM APPLICATION No.II FILED BY THE RESPONDENT
No.2 UNDER ORDER I RULE 10(2) OF CIVIL PROCEDURE CODE, 1908**

1. This is an interlocutory application filed by the Respondent No.2 to strike out the name of respondent No.2 from the present petition as the vehicle is not insured with the respondent No.2 company as on the date of the accident.

2. The application is accompanied with affidavit sworn by the legal manager of respondent No.2 company wherein he has stated that the petitioner has filed claim petition seeking compensation for the injuries in road traffic accident dated.27-03-2021 alleging that the said accident occurred due to the rash and negligent driving of driver of Tractor bearing Reg. No. KA 32 TA3351 and Trailer bearing No.KA 32 TA2063. It is stated by the petitioner that the said vehicle is insured with the respondent No.2 company. The accident occurred on 27-03-2021. The Tractor bearing Reg. No. KA 32 TA3351 is not insured with the respondent No.2 company but the petitioner is claiming compensation against Tractor bearing Reg. No. KA 32 TA3351 as in the date of petition as it was insured from 28-03-2021 to 27-03-2022 but accident occurred on 27-03-2021. Hence the petition against the respondent No.2 company is not maintainable. Thus he prayed to allow the application.

3. The Counsel for the petitioner filed objections to the present application contending that the present application is not maintainable. It is contended that the owner of the vehicle has insured his vehicle on 27-03-2021 and same will be commenced on the date of insurance and as such the insurance will commence on 21-08-2021. Thus on the date of the accident i.e., 27-03-2021 date of accident the vehicle was insured. Thus the respondent No.2 company is liable to pay the compensation. It is contended that the motor cycle is insured with the respondent

No.2 company. Hence prayed to reject the application.

4. Heard arguments of learned counsel for the petitioner and counsel for the respondent. Perused the materials.

5. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the respondent No.2 has made out reasonable grounds to allow I.A.No.II filed U/order 1 Rule 10 (2) R/w Sec.151 of CPC?
- 2) What order?

6. My findings on the above points are as under:

Point No:1 : In the Affirmative.

Point No.2: As per final order for the following:

REASONS

7. **Point No.1:-** The respondent No.2 company has stated that the accident occurred on 27-03-2021. The Tractor bearing Reg. No. KA 32 TA3351 is not insured with the respondent No.2 company. The police have filed charge sheet of the investigation against the driver of the lorry for offence punishable U/s 279, 337,338,304(a) of IPC and Section 187,196 of IMV Act. But when the respondent No.2 company has specifically denied that Tractor bearing Reg. No. KA 32 TA3351 was not insured with the respondent No.2 company, then the petitioner ought to have produced such documents to show that as on the date of accident, the Tractor bearing Reg. No. KA 32 TA3351 was insured with the respondent No.2 company.

Even the petitioner in his objections has not stated about the period of policy for the alleged vehicle. Hence the petition against the respondent No.2 company is not maintainable. Even the charge sheet shows that the offending vehicle was an uninsured vehicle. If the offending vehicle was insured on 27-03-2021 then the petitioner ought to have produced necessary documents to that effect. Hence as the petitioner has not produced any documents and as the charge sheet shows that the offending vehicle was an uninsured vehicle, application filed by the respondent No.2 deserves to be allowed. In the light of above reasons I answer Point No.1 in the Affirmative.

8. Point No.2:- As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-II Under order 1 Rule 10 (2) R/w Sec.151 of CPC filed by the respondents No. 2 is hereby allowed.

The name of the respondent No.2 company is strike out from the claim petition as the petition against the respondent No.2 company is not maintainable.

For Evidence.

Call on 25-10-2024.

**Senior Civil Judge & JMFC,
Chincholi.**