

ORDERS ON I.A No.V

The advocate for the Petitioner has filed I.A.No.V u/O VI R.17 of CPC., in order permit the Petitioner to amend the petition as detailed in the the application.

2. The application is supported by the affidavit of the Petitioner, wherein he contended that he has spent a sum of Rs.1,02,675/- towards repair of his Maruti Omni vehicle which was involved in the accident. He has the bills which evidences the same and same should be reflected in the pleadings. Due to oversight and in advertence the same could not be incorporated in the petition. The proposed amendment is essential for proper adjuration of the matter and it will not change the nature of the petition. It will bring new cause of action and same is to assist the court for proper adjudication. Accordingly, prayed to allow the application in the ends of justice.

3. On the other hand, Respondent No.3 filed objections stating that, the evidence of Petitioner is already commenced and for that reason the Petitioner cannot file application to amend the petition at this juncture. The proposed amendment will change the nature of the petition. The alleged accident occurred on 22.7.2022, in view of the amendment of provision of Sec. 166 of MV Act, the Petitioner shall file the petition within 6 months from the accident, however, I.A is filed on 21.09.2024 by seeking permission to amend by claiming the cost of vehicle damages. If the I.A is allowed, the effect of proposed amendment revert back to the date of original petition. Therefore, relief claimed in the amendment is barred by law of limitation. Moreover, the Petitioner cannot claim time

barred relief in the Motor Vehicles case. Accordingly, prayed to reject the application in the ends of justice.

4. Heard both sides.

5. No doubt, the petition itself has been filed after 6 months and I.A.No.I has been filed by the Petitioner in this regard. That I.A has been allowed by this court by its order dated 31.10.2023. However, this application has been filed to insert some paras in the petition for claiming the compensation for the damages sustained to his vehicle. The Petitioner contended that he has bills to that effect.

6. No doubt, why at the time of filing the petition the Petitioner has not added the same.

7. Order VI Rule 17 of CPC., deals with the amendment of pleadings. The general rule is that, only pre-trial amendments are allowed. Here, even though the trial has begun, it was not completed. Further, when the case is posted for further chief examination of PW-1, the Petitioner came up with this application.

8. Whenever an application has been filed u/O VI R.17 of CPC., the court has to look into at what stage it was filed, whether it will introduce a new cause of action, whether it will change entire cause of action which was pleaded earlier. In the application the Petitioner has sought only the additional compensation for the damages sustained to his vehicle. No doubt, by adding that relief to the petition will not introduce a new cause of action or it will not change the entire nature of the case. Moreover, the stage of the case is

for further chief examination of PW-1 only. Therefore, no much harm will be caused to the Respondent if the application is allowed. Therefore, I pass the following.

ORDER

I.A. filed u/O VI R.17 of CPC is hereby allowed.

For amendment and amended petition,
Call on : 20-01-2025.

Sd/-xxx

**I Addl.District & Sessions Judge,
Kodagu, Madikeri.**