

IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE & J.M.F.C.,
AT: SRIRANGAPATNA.

:Present:

SMT. ROOPA M .D
B.A (L) L.L.B.
PRL. SENIOR CIVIL JUDGE & JMFC
SRIRANGAPATNA.

MVC.No.678/2018

Dated on this the 15th day of February 2023

Petitioner/s: **Sri. Boregowda,**
S/o Govindappa,
Aged about 56 years,
R/o Chikkapura Honasigere,
Tumkur Taluk,
Tumkur District.
(By Sri.G.N.Manju-Adv.)

V/s

Respondent/s: **1. S.M.T.Transport,**
Prop: Narayana.M,
No.947, Hoodi village,
White Filed Rajapalya,
Bengaluru-560048.
(R.C.Owner of Lorry bearing
Reg.No.HR-38-K-7022)
(-Exparte-)

2. The Manager,

New India Assurance
Company Limited,
J.L.B.Road,
Chamundipuram,
Mysuru.

(Insurer of Lorry bearing

Reg.No.HR-38-K-7022)

Policy No.67040331160200002629

Policy Period 27.10.2016 to 26.10.2017

(By Sri.S.Charankumar-Adv.)

I.A.No.II

**APPLICANT/S: Sri. Boregowda,
PETITIONER**

/Vs./

**OPPONENT/S: S.M.T.Transport and another
RESPONDENTS**

ORDERS ON I.A.NO.I

The petitioner has filed I.A No.II U/o 1 rule 10(2)
of CPC to implead one Manjunath C.B and his insurer
i.e.,

- 1. Sri.Manjunatha.C.B,**
S/o Nandini.L.R,
No.2789, 14th Main, 8th cross,
Attiguppe, R.P.C.Layout,

Vijaya Nagara,
Bengaluru.

(R.C. owner of duke No.KA-05-JF-8554)

2. The Manager,

H.D.F.C.General Insurance Company Limited,
1st Floor, H.M.Jeenava House No.14,
Cunningham Road,
Bengaluru.

(Insurer of duke No.KA-05-JF-8554)

Policy No.2312201390553100000

Policy period: 06.05.2016 to 05-05-2017

as parties to the present petition.

2. Allowing the said application is objected by the proposed respondents by filing objection. It is contended by the 2nd proposed respondent that the present application is not maintainable as the policy alleged to have issued is not forthcoming, in absence of the details, the proposed respondents are not necessary parties, therefore the present application is liable to be dismissed. Proposed respondent No.1 has not filed objection to the present application.

3. Heard the petitioner and the 2nd proposed respondent counsel has not addressed arguments. The below mentioned point arise for my consideration.

POINT NO.1: *Whether the proposed respondents are necessary or proper parties to the present petition?*

4. I answer the above point is affirmative for the following:

REASONS

5.**POINT NO.1:** In the accompanying memorandum of facts to IA No.2, it is stated by the counsel for the petitioner that the present petition filed by the petitioner seeking compensation for the road traffic accident of his son. The accident involves bike bearing No.KA-05-JF-8554-KTM and hence, the owner of the bike and insurer are necessary party.

6. Pursuant to notice the proposed respondent No.1 has not filed objection and the 2nd proposed respondent has filed objection contending that the present application is not maintainable as the policy alleged to have issued is not forthcoming, in absence of the details the proposed respondents are not necessary parties, there fore the present application is liable to be dismissed.

7. On perusal of the material on record, it is observed

that the petitioner alleges that his son was driving the bike bearing No. KA-05-JF-8554-KTM which belongs to his brother and at that time, the driver of the lorry bearing No.HR-38-K-7022 had driven the said lorry in a rash and negligent manner has caused the death of his son. Therefore, the present petition came to be filed.

8. During the pendency of the case, the present application has been filed. It is pertinent to note that the petitioner alleges collision between the bike and lorry. On perusal of the FIR, it is observed that the police have filed abated charge sheet against the petitioner's son. In such circumstances, the owner and the insurer of the bike would be necessary parties to determine the issues. The contention of the petitioner that the policy is not coming forth cannot be a ground to reject the present application. Whether the policy was valid at the time of accident and whether the insurer of the bike is liable to pay compensation are all matter of trial. As such, this court is of the opinion at this point of time, it appears that the proposed respondents are necessary parties to the present litigation and hence, the petitioner can be permitted to implead them.

Therefore, I answer the point No.1 in the affirmative and proceed to pass the following:

ORDER

I.A.No.2 filed by the petitioner U/O 1 rule 10(2) of CPC is hereby allowed.

The Petitioner is permitted to implead the proposed respondents as respondent No.3 and 4.

For amendment and amended petition.

(Dictated to the Stenographer on computer, typed by her, printout taken thereof, corrected by me and then pronounced it in open court this the 15th day of February 2023)

(ROOPA.M.D)
PRL. SENIOR CIVIL JUDGE & JMFC.
SRIRANGAPATNA.

