

KAMS010003492023



**IN THE COURT OF THE III ADDITIONAL DISTRICT
JUDGE AND MACT, MYSURU**

**PRESENT: Sri Gururaj Somakkalavar, M.A.,LL.B.,
III ADDL.DISTRICT JUDGE & MACT,
MYSURU.**

M.V.C./157/2023

Dated this the 28th day of January, 2026

Petitioner: Sachin.C

V/s

Respondents: M/s Zoom Car India Pvt.,
Ltd., and another

**ORDERS ON I.A FILED U/O.6 RULE 17 R/W SEC.151 OF
CPC.**

The applicant/respondent No.2 i.e., New India Assurance Co., Ltd., has filed this I.A., under Order 6 Rule 17 R/w. Sec.151 of CPC praying this court to permit him to add para No.1(A) in his written statement in the interest of justice and equity.

2. The I.A accompanied with an affidavit, duly sworn by the applicant, it is stated that, the petitioner has filed this petition claiming compensation for the personal

injuries he sustained, in an accident dated 22.01.2022. It is contended by the petitioner that, he is was traveling in car bearing registration No.KA-03-AG-5789 and when the said car reached near Maramanti Kavalu Village, Halli Mysuru Hobli, Holenarasipura Taluk, the vehicle toppled, due to the impact he sustained injuries. The alleged accident was due to the negligence of the driver of the said vehicle and the jurisdictional police have filed a charge sheet against him for his negligence. They denied the said accident was due to the negligence of the driver of the said vehicle. There is misrepresentation of facts by the petitioner. The petitioner was actually driving the vehicle, at that time of the alleged accident and same was due to his negligence. In order to prefer a claim and to cover up his negligence there is driver swapping, misrepresentation of facts by collusion to somehow prefer a claim form their company. This fact came to our knowledge after filing of their written statement and as such this contention was not incorporated in the written statement. Hence, the amendment is necessary for the proper adjudication of the case. Hence, prays to allow the application.

3. On the other hand, the petitioner has filed objection to the said application and submitted that the application at this stage filed by the applicant is not maintainable either in law or on facts, hence the same is liable to be dismissed. Further stated that, already Evidence of the

Petitioner, RMO was already completed. The above case was posted for Evidence of the Respondents on the previous date of hearing. The Hallimysuru Police have registered a case against a person by name Chandan who is the driver of the vehicle Car belongs to Respondent vide bearing Reg. No. KA 03 AG 5789 and after investigation the police have filed Charge Sheet before the Senior Civil Judge and JMFC at Holenarasipura in CC No. 543/2022. In the said case the Driver of the Car Chandan was filed an application before the Court and plead guilty for the offence under Section 279 and 338 of IPC. It shows that the Petitioner was not driving the Car at the time alleged accident. The Doctor who was treated one Sachin i.e. the Petition personally was not known to the name and address of the Driver of the Car. The proposed amendment is not required at this stage. If, the application is allowed the cause of action and nature of the petition will be changed and it will lead multiplicity of proceedings. Hence, prays to dismiss the application.

4. Heard arguments and perused the materials available before the court.

5. The following points arise for my consideration.

1) Whether applicant proves that the proposed amendment is necessary to determine the real question and controversy between the parties ?

2) What order ?

6. Upon hearing of the arguments and on perusal of record 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 petitioner has filed present petition seeking compensation in road traffic accident on 22.01.2022. He is claiming compensation against respondent No.1 and 2. After filing of the petition respondent No.1 appeared in the petition but respondent No.1 remained absent. Respondent No.2 has filed objection/written statement to the petition. After that issues framed. The matter is posted for petitioner evidence . Petitioner lead evidence as PW.1 and marked Ex.P.1 to 10. He was subjected to cross examination by the counsel for the respondent No.2. Respondent No.2 has filed application under section 170 of IMV Act. The matter is posted for further evidence. The petitioner examined Dr.Praramesh as PW.2 and marked Ex.P.11 to 13. Matter is posted for respondent evidence.

8. Respondent No.2 filed application to summon the witnesses. On the application summons issued to CMO of Aishwarya Hospital by name Dr.Mohan K. He is examined as RW.1 and Ex.R.1 to 3 are marked. Respondent 2 seek

for further evidence. When matter is stood thus, the respondent No.2 files the present application seeking amendment to written statement.

9. The respondent No.2 seeks to amend the petition and seeks to put forth facts that the offending vehicle was being driven by petitioner himself but subsequently driver has been implicated in the case. There is misrepresentation of facts those have to be brought before the court. The petitioner strongly contended the application that there is no necessary to amend the petition as already the matter is at the fag end. Further, the police documents and other related documents speaks that the driver was driving the vehicle.

10. Though, the petitioner strongly object the said application. But, it is seriously disputed by the respondent No.2 that, the petitioner himself driving the vehicle and the said fact is very relevant and need to be address in the present case. Even, then the respondent No.2 has to be given opportunity to substantiate his case. Otherwise its amounts to denial of the opportunity to the respondent No.2. Hence, considering the facts and circumstances this court is of the view that, the present application deserves to be allowed.

11. Moreover it is well settled principle of law that, while considering the application filed under Order 6 Rule 17 the court should not discuss the merits of the amendment sought for. By considering the facts and circumstances I am of the considered opinion that the proposed amendment is very much necessary in order to determine the real question and controversy between the parties. The application is here allowed. Hence, point no.1 answered in the **Affirmative**.

POINT No.2:-

12. For the foregoing reasons I proceed to pass the following:-

O R D E R

Application filed by the respondent No.2 under Order 6 Rule 17 R/w Section 151 of C.P.C., is hereby **allowed**.

The respondent No.2 is permitted to amend the written statement.

(Dictated to the stenographer on computer corrected and then pronounced by me in the Open Court, on this the **28th day of January, 2026**)

[Gururaj Somakkalavar]
III ADJ and MACT,
Mysuru.