

KAMS080019672024



**IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR  
CIVIL JUDGE & M.A.C.T. AT MYSURU.**

**Presided Over by SRI AFTHAB.K**

**M.V.C./1024/2024**

**Dated this the 7<sup>th</sup> day of March, 2026**

**Plaintiff/s:**

- 1) Smt. Devamani W/o. Basavaraju,  
Age: 50 years, R/at Ahalya village,  
Rampura post, Chatra hobli,  
Nanjangud taluk.
- 2) Smt. Bhagya C/o. Malingappa,  
Age: 35 years, R/at No.58, Chavadi Beedhi,  
Varuna hobli, Yandahalli, Mysuru.
- 3) Smt. Lalitha W/o. Ningannaswamy,  
Age: 34 years, R/at Ahalya village,  
Rampura post, Chatra hobli,  
Nanjangud taluk.
- 4) Smt. Nirmala W/o. D.M. Suresh,  
Age: 30 years, R/at Duggahalli village,  
Hullahalli hobli, Nanjangud taluk,  
Mysuru district.

5) Smt. Shwetha B W/o. K.B. Chandrashekar,  
Age: 28 years, No.180, Kurihundi village,  
Hullahalli hobli, Nanjangud taluk.

**(By Sri. D. Jagadeesh, Advocate)**

Vs.

**Defendant/s :**

1) Sri. Somashekar Murthi S/o. Late Chinnaswami,  
Age: 44 years, R/at Heggavadi village,  
Bendaravadi post, Harave hobli, Chamarajanagar.

2) The Managing Director,  
KSRTC Chamarajanagar section, Chamarajanagara.

**(R1 – Sri. N.M. Mahesh, Advocate)**

**(R2 – Smt. R. Kiran, Advocate)**

**-: Parties to IA :-**

The Managing Director, KSRTC

**Applicant**

V/s

Smt. Devamani and others

**Opponents**

\* \* \* \*

**ORDERS ON IA U/O III RULE 10(2) READ WITH 151 OF CPC**

The application under consideration is filed by respondent seeking impleadment of the opponent as respondent No.2 in interest of justice and equity.

2. In support of the application, the divisional controller, KSRTC Mysuru City Transport Division has filed his affidavit contending that the petitioner has filed the petition seeking compensation without arraying the

owner and insurer of the motorcycle involved in the accident as a parties to the petition. Furthermore, according to the driver of the KSRTC bus, the accident did not occur due to negligence on the part of the said driver, instead it was the rider of the two wheeler who was rash or negligent, as such, it is necessary to implead the opponent as parties to the petition.

3. This tribunal issued notice to the opponent. Heard the learned counsel for the applicant on IA-III.

4. The points that arise for the consideration of this Court are:

*(1) Whether the opponent is a necessary and proper party to the petition in whose absence this court cannot effectually and completely adjudicate upon and settle all the questions involved in the petition?*

*(2) What order?*

5. On careful perusal of the affidavit filed in support of I.A. and having scrutinized the records, the above raised points for consideration are answered as under:

*Point No.1 : In the Negative*

*Point No.2 : As per the final orders  
for the following*

### **REASONS**

#### **POINT No.1:**

6. Before plunging to appreciate the application on merits, it is necessary to assert that when an application for impleading a party in a petition filed under M.V.Act for compensation, is filed, the main aspect that this tribunal needs to consider is whether the party who is sought to be impleaded is a

necessary party to the petition, in whose absence the petition cannot be disposed of completely and the dispute cannot be determined conclusively. It is with these basic principles in mind that the application needs to be considered by this court.

7. Now the obvious question that needs to be answered by this tribunal is *whether this court can adjudicate the dispute effectually and completely in the absence of the opponent or not?* For the purpose of answering this first and foremost aspect to be considered is what is the nature of the petition. This is because principles which are applicable in comprehensive civil suits cannot be applied to an injunction suit. Similarly in a petition seeking compensation filed under section 166 of M.V.Act, which is a summary proceeding, the scope of the petition is limited to the questions regarding involvement of vehicle, negligence of the insured or his driver and liability of the insurer of the offending vehicle. When such being the legal position, this tribunal must be overtly cautious while dealing with an application for impleadment of a party.

8. Furthermore a very important aspect, which cannot be brushed aside lightly is, the application under consideration is filed, not by the petitioner, instead by the respondent. To put it differently, it is the respondent who is seeking impleadment of the opponent as parties on the ground that the other vehicle involved in the accident belonged and was manned by the opponent. The reason why this tribunal has emphasized on this aspect is, in every proceeding, may it be a suit or a petition for compensation, it is petitioner who are the *dominus litis* i.e., masters of their case. Needless to state, it is the petitioner who is running risk by not impleading the owner and driver of motorcycle, because if this tribunal comes to the conclusion

that the rider of the motorcycle had contributed to the accident or that the negligence was entirely on the part of rider of the motorcycle, then the petitioner would not be entitled for compensation to the extent of percentage of contributory negligence of the rider of the motorcycle or for any compensation respectively, as the case may be. But by no stretch of imagination, the respondent can seek impleadment of a party as an opponent on the ground that the opponent are the owner and driver of the other vehicle involved in the accident.

9. Furthermore let alone demonstrating it, the respondent has not even averred in its application as to in what manner the opponent would assist the tribunal in adjudication of the matter; and this tribunal has no iota of doubt in its mind to hold that the petition can, certainly, be *effectually, completely, fully and finally* adjudicated in the absence of the opponent. This is because, according to the petitioner, it is the respondent which is liable to pay compensation and if the petitioner fail to prove the same, the petition fails, as such this tribunal cannot fathom any situation where the owner and driver of the motorcycle become necessary parties. Perhaps the opponent' presence might not, in any manner, assist this tribunal in adjudicating the dispute completely and effectively, moreso where the petitioner has not chosen to make any claim against the opponent. The view taken by this tribunal is fortified by the decision of the Hon'ble Apex Court in *Khenyei Vs. New India Assurance Company Limited and others* reported in *2015 AIR SCW 3169*.

10. To sum up the discussion, no doubt the opponent have not filed their objections to IA, but considering the fact that the application seeking impleadment of opponent in a summary proceedings, is filed by

respondent and not by the petitioner, supported by the fact the respondent has failed to aver as to how opponent's presence would assist this tribunal in effectively and completely adjudicate the dispute; and keeping in mind the scope of this case and also the fact that this is a summary proceedings, this court finds no hesitation in holding that the opponent are neither necessary parties nor a proper parties to the petition and the petition can be effectively and completely disposed of even in the absence of the opponent. Wherefore *Point for consideration No.1 is held in the negative.*

11. **Point No.II:**

In view of the fact that point No.1 is held in the negative, this court passes the following:

**ORDER**

*"The IA-III filed by the respondent under Order I Rule 10(2) of C.P.C. is hereby rejected without costs.*

*Parties to bear their own costs."*

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 7<sup>th</sup> day of March, 2026)

**(AFTHAB.K.)**

Prl. Judge, Court of Small Causes  
& MACT., Mysuru.