

KAMS080042332024



**IN THE COURT OF PRINCIPAL SMALL CAUSES AND SENIOR
CIVIL JUDGE & MACT, AT MYSURU**

PRESENT

SRI. AFTHAB K

Dated this the 30th day of June, 2025

MVC.2250/2023

Petitioner/s

Sri. Ramesh S/o. Late Lingappa,
Age: 66 years, R/at D No.49,
Srirampura, Mysuru-570008.

Petitioner is in unconscious, not in sound
mind, hence he is represented by his wife
Smt. Lakshmiddevamma W/o. Ramesh,
Age: 60 years, R/at D No.49,
Srirampura, Mysuru-570008.

(By Sri. K. Shankara, Advocate)

Vs.

Respondent/s:

1. Sri. Sujan J.U. S/o. Jayaram K.S.,
Age: 19 years, R/at Hanagodu village,
D No.54, 1st cross, 'B' zone, Koppaluru,
J.P. Nagara, Mysuru-570031.
Driver of the scooter bearing No.KA-09/HC-6693

2. Sri. Jayaram K.S. S/o. Shanmuga Sundaram P.,
R/at D. No.821, 16th cross, 'D' block,
J.P. Nagara, Mysuru-570031.

3. United India Insurance Co. Ltd.,
Divisional Office-I, No.1134,
Prince of Wales road, Chamarajapuram,
Mysuru.

(R1 & 2 – Sri. Punith L., Advocate)

(R3 – Sri. Mohan Kumar S.V., Advocate)

PARTIES TO I.A.

Applicant:

Smt. Lakshmiddevamma and another
Vs.

Opponent:

Sri. Sujan J.U. and others

* * *

ORDERS ON IA I

The application under consideration i.e., IA-I is filed by the legal heirs of deceased petitioner under Order XXII Rule 3 of CPC seeking that the applicants be permitted to bring themselves on record in their capacities as legal heirs of the deceased petitioner

2. In support of the IA No.I, the proposed petitioner No.1(a) and 1(b) has filed affidavit contending that the original petitioner has demised on 01.12.2024 due to injuries sustained in the accident and the applicants are the wife and son of the deceased original petitioner, as such are necessary parties to the petition. Hence the applicants seek that they may be permitted to bring themselves on record in the place of deceased petitioner. Further if the application is rejected the applicant will be put to irreparable loss and injury whereas no such loss or injury would be caused

to the respondents if the application is allowed. On these amongst other grounds it is prayed that the application be allowed as prayed for.

3. Despite receiving the copy of the application, the respondents did not prefer to file any objections to IA-I. Hence the objections to IA-I by respondents is taken as not filed.

4. Heard the learned counsel for the applicants on the application.

5. On careful perusal of application and the affidavit in support of it, and the objections, the following points arise for my consideration:

i. Whether the applicants have made out sufficient grounds to bring themselves on record in their capacities as the LRs of deceased petitioner?

ii. What order?

6. After carefully perusing the records available before it at this stage, this court proceeds to answer the afore raised points for consideration as under:

(a) *Point No. (i)* : *In the affirmative.*
 (b) *Point No. (ii)* : *As per the final orders,*
 for the following

REASONS

POINT No.(i) :

7. At the very outset it is necessary to note that the application is filed seeking that the applicants be impleaded in the place of deceased petitioner. While dealing with an application of this nature, this court

needs to consider whether the application is in time, secondly whether the applicants are indeed the legal heirs of the deceased petitioner; thirdly whether the right to sue survives in favor of the applicants.

8. In this regard in the application it is specifically contended that the original petitioner demised on 01.12.2024 and the application is filed on 25.02.2025 as such it is clear that the application under Order XXII Rule 3 of CPC is filed within the period of limitation. This is so because the application to bring the legal heirs of deceased petitioner should be filed within 90 days if not the petition stands abated as against the deceased party, but the application is filed well within the statutory period of 90 days.

9. The above discussion makes it amply clear that the application under order XXII Rule 3 of CPC is filed within time. As regards the locus standi of the applicants to file the application, firstly they have stated on oath that the original petitioner demised due to injuries sustained in the accident and that they are the only legal heirs of the original petitioner and even this assertion is not objected to by the respondents. Furthermore there should not be any doubt in the mind of this court that because the petition is one for compensation, the right to sue survives in favour of LRs of the original petitioner. As such this court should not have any impediment to hold that the applicants are entitled to be impleaded in the place of deceased original petitioner. For the foregoing reasons, this court finds no hesitation in holding *Point No.1 in the affirmative*.

10. **Point No.2:**

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

ORDER

“The IA-I under Order XXII Rule Rule 3 of CPC filed by the petitioner is hereby allowed.

Consequently applicants are impleaded as petitioner No.1(a) and 1(b) in the place of deceased petitioner.

The petitioner shall carry out the necessary amendment in the cause title of the petition and file amendment plaint in accordance with Order VI Rule 15 of CPC (Karnataka Amendment).“

(Directly typed by stenographer, corrected by me and then pronounced in the open court on this the 30th day of June, 2025)

(AFTHAB.K.)

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