

KAMS300012832020



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND JMFC AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl. Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 19th day of July, 2025.

MVC No.1109/2020

Petitioner: Pradeepa, S/o Mahadevashetty,
Aged about 13 years,
R/at Hirikyatanahalli Village and Post,
Gavadagere Hobli, Hunsur Taluk,
Mysuru District – 571134.

-Vs-

Respondents: 1. K.Ramesh, S/o Late. Kalashetty,
Aged about 50 years, R/at Subhash
colony, Hunsur Taluk, Mysuru
District – 571105.
(Driver of Car bearing Reg.No.KA-51,
MP-3196)

2. Swamygowda, S/o Late Shivannegowda,
Major, R/at Hosakote Colony, Kasaba
hobli, Hunsur Taluk, Mysuru
District – 571189.
(Owner of Car bearing Reg.No.KA-51, MP-3196)

2(a). Smt.Sumithra, W/o Swamygowda,
Aged about 41 years,

2(b). Sri.Thejas, S/o Swamygowda,
Aged about 23 years,

- 2(c). Kum.Vedhavathi, D/o Swamygowda,
Aged about 20 years, R/at Hosakote
colony, Kasaba Hobli, Hunsur Taluk,
Mysuru District – 571189.

All are R/at Hosakote Colony,
Kasaba Hobli, Hunsur Taluk,
Mysuru District.

(Opponent R2(a) to R2(c) are
the legal heirs of the deceased
2nd respondent).

3. Bajaj Allianz General Insurance
Company Limited,
No.1335/1, 1st floor, Opposite
Gnana Ganga School, Panchamantra
road, Kuvempunagar, Mysuru – 570023.

1.	Provision under which the applications are filed	:	Under Order 1 Rule 10(2) of CPC
2.	Relief sought for	:	To Strike out the 3 rd respondent from the case
3.	The date on which the applications are filed	:	24.03.2023
4.	Number of the applications	:	IA No.IV
5.	The date on which the objection is filed by opponent	:	18.04.2023
6.	The date on which the orders passed on the said applications	:	19.07.2025

ORDERS PASSED ON IA NO.IV

When the case is posted for further evidence of the petitioner, the learned counsel for the 3rd respondent filed IA No.IV under Order 1 Rule 10(2) of CPC to strike out the 3rd respondent from the case.

2. The application is supported with memorandum of facts of the counsel for the 3rd respondent wherein it is stated that, the petitioner filed petition under Section 166 of IMV Act and petitioner has improperly joined the 3rd respondent since the insurance policy details is disclosed in the policy was not in force on the date of accident. The 3rd respondent has issued Certificate Cum Policy Schedule bearing No. OG-20-1934-1805-00005938 valid from 18 October 2019 to 17 October 2020 to the 2nd respondent to cover his Maruti Suzuki Swift Car bearing Reg.No.KA-51/MP-3196. The date of accident was 26.10.2020 and on the date of the accident the policy was lapsed. As such the 3rd respondent is not necessary party to this case and the petitioner is well aware about the same. If the application is allowed no hardship is going to be caused to the other-side, on the other-hand if the same is not allowed the 3rd respondent will be put to great hardship. Hence, prayed to allow the application.

3. After filing of the application the petitioner has opposed the same by filing objection contending that, the application is not maintainable under law or on facts. The insurance policy was issued on 17.10.2019. The period of validity was from 18.10.2019 till 17.10.2020. In view of serious Covid -19 prevailing situation, there was a clear Government notification dated 28.08.2020 in relation to Motor Vehicles Act and Rules wherein the validity period was extended for a period till 31.12.2020. The accident was occurred on 26.10.2020 which was clearly covered as per the Government Order. The Insurance company cannot shirk away from their liability

taking the undue advantage of Covid- 19 situation. The application is very premature for consideration and without leading any evidence by the 3rd respondent Insurance company, this application cannot be entertained at this stage. It is the matter which requires adjudication. Hence, prayed to reject the application.

4. Thereafter, heard arguments addressed by learned counsels for the 3rd respondent and petitioner and perused the case papers and on perusing the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the 3rd respondent has made out sufficient grounds to strike out the 3rd respondent from the petition?
2. What order?
5. The findings of the above points are as hereunder:

Point No.1: In the Negative

Point No.2: As per the final order
for the following:

REASONS

6. **Point No.1:** The petitioner has filed the petition against the respondents under Section 166 of Motor Vehicles Act seeking total compensation of Rs.17,28,000/- from the respondents in respect of injuries sustained to him in a road accident. It is the specific case of the petitioner that, on 26.10.2020 at about 4.15 he was proceeding in his motor bike bearing Reg.No.KA-03/ES-7485 and he was going to Bharath Petrol Bunk, Kattemalavadi Village, Hunsur Taluk and he was

returning to his village on the left side of the road and at that time the car bearing Reg.No.KA-51/MP-3196 came from K.R.Nagara side in a high speed and negligent manner so as to endanger human life and dashed the motorcycle of the petitioner. Due to which he sustained injuries like Comminuted fracture shaft of right femur, right clavicle bone fracture, head injury and left thigh injury. Immediately, he was shifted to Government Hospital, Hunsur and thereafter, he was shifted to C.E.G. Hospital, Mysuru and Nagarajegowda Memorial Hospital, Mysuru wherein he had taken treatment as inpatient and also undergone operations. The 1st respondent is the driver of the offending car, 2nd respondent is the owner of the car and the 3rd respondent is insurance company of the car. As such he has filed the petition seeking compensation.

7. After filing of the petition the court issued notice to the respondents. The respondents No.1 and 2 appeared through their counsel but not chosen to file the objection statement. The 3rd respondent filed objection statement and denied the entire case of the petitioner. The 3rd respondent contended that, the accident had occurred on 26.10.2020 and there is no interest caused upon the insurance company since at the time of the accident the vehicle was not covered by the insurance issued by the 3rd respondent. After filing of the objection statement this court framed the issues. Thereafter, the petitioner stepped into the witness box and examined himself as PW1 and he got marked totally 165 documents as per Ex.P1 to Ex.P165. In order to prove the disability the petitioner also got examined Doctor by name Dr.Karunakar as

PW2. On the other-hand the 1st respondent has been examined as RW1 and there is no documents marked.

8. It is pertinent to note that, at the initial stage itself the 3rd respondent filed the present application. As per the 3rd respondent the insurance was issued by it to the offending vehicle and it was valid from 18.10.2019 till 17.10.2020 and as on the date of accident the offending vehicle was not covered by the policy issued by the 3rd respondent. As such the 3rd respondent sought for striking out it from the petition. It is very important to note that, in the objection the petitioner stated that, the said period is covered by the notification issued by the Government. In support of the same the learned counsel for the petitioner has produced the Circular issued by Karnataka Government dated 28.08.2020 which reads hereunder:

ಮೋಟಾರು ವಾಹನಗಳ ಕಾಯ್ದೆ 1988 ಮತ್ತು ಕೇಂದ್ರ
ಮೋಟಾರು ವಾಹನಗಳ ನಿಯಮಗಳು 1989 ರಡಿಯಲ್ಲಿ
ವಿತರಿಸಿರುವ ಎಲ್ಲಾ ತರಹದ ದಾಖಲಾತಿಗಳ ಪೈಕಿ, ದಿನಾಂಕ
01.02.2020 ರಿಂದ ಸಿಂಧುತ್ವ (Validity)
ಮುಕ್ತಾಯಗೊಂಡಿರುವಂತಹ ದಾಖಲಾತಿಗಳಿಗೆ ಸೀಮಿತಗೊಳಿಸಿ
ಸಿಂಧುತ್ವ ಅವಧಿಯನ್ನು ದಿನಾಂಕ 31.12.2020ರವರೆಗೆ ವಿಸ್ತರಿಸಿ
ಆದೇಶಿಸಿದೆ.

9. In support of the application this notification is filed and it clearly goes to show that, the period of insurance policy was extended by the said notification. Furthermore, the liability of the 3rd respondent to be determine by recording complete evidence and shall be adjudicated at the time of passing judgment. Admittedly, before passing judgment no opinion could be expressed whether the 3rd respondent is liable

to pay compensation to the petitioner or not. Hence, the application filed by the 3rd respondent is not tenable under law. Accordingly, Point No.1 is answered in the Negative.

10. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

IA No.IV filed under Order 1 Rule 10(2)
of CPC by the 3rd respondent is hereby
rejected with costs of Rs.200/-.

(Dictated to the Stenographer, transcribed and computerized
by her on the computer, transcript corrected and pronounced by me
in the open court on this the 19th day of July, 2025.)

(ANITHA)

Prl. Senior Civil Judge and JMFC.,
Hunsur.