

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

Dated this 14th day of July 2026

PRESENT :

SRI. R.MAHESHA. B.A.L, LL.B.
Prl. Senior Civil Judge & JMFC, Pandavapura.

O.S.No.1458/2022

Petitioner : Vijaykumar

V/s

Respondent : Shivakumar and others.

PARTIES IN I.A.No.VII AND I.A.No.VIII

Applicant : Cholamandala General Ins. Co., Ltd.,

... Respondent No.2

V/s

Opponent : Vijaykumar ... Petitioner

Provision under which the application is filed	1. Under Section 151 of CPC.
Relief sought for	Recall and reopen case for 2 nd respondent evidence.
The date on which the application is filed	06.07.2026
Number of the application	2

The date on which the objections are filed by different opponents	07.07.2026
The date on which the orders passed on the said applications	14.07.2026

**COMMON ORDERS ON I.A.No.VII AND VIII FILED BY
RESPONDENT NO.2 UNDER SECTION 151 OF CPC (2 IN NUMBERS)**

The present applications have filed by respondent No.2 I.A.No.VII and I.A.No.VIII seeking leave of this court to recall and reopen case for lead respondent No.2 side evidence in the interest of justice and equity.

2. In support of I.A.No.VII and I.A.No.VIII, the Counsel for respondent No.2 stated in the accompanying memorandum of facts that, the above case is posted for judgment on 06.07.2026. When the matter posted for respondent evidence, the said documents not received from our company investigator. Now, received the documents after posted matter for judgment. As per available documents, the driver of motorcycle bearing No.KA-09-HU-5720 was not holding driving license at the time of accident. This case the driver of motorcycle was drive without driving license at the time of accident. Hence, he want to lead his evidence. Hence, the present applications filed by respondent No.2 for reopen the above case. Further he stated in his memorandum of facts that, his absence at the time when the case was called is bonafide and not intentional. But, for the reasons stated above, respondent No.2 has a very good case on merits. If the applications allowed, no harm or injury would caused to other side, if not allowed, it will cause great loss, injury to respondent No.2. Therefore, he sought for consider I.A.No.VII and VIII in the interest of justice and equity.

3. The petitioner resisted I.A.No.VII and VIII by filing objections and contended, that, the said applications are not maintainable either in law or on facts. Therefore, the said applications liable to be dismissed in limine. Further petitioner stated in his objections that the entire facts narrated in his memorandum of facts are totally false and created for the purpose of filing these applications. The above applications are filed just drag the case proceedings. Further he stated in his objections that the above petition filed for the relief of compensation due to the accident occurred on 22.02.2022 and petitioner get grievous injuries in RTA. Further he stated in his objections that, the respondent No.2 Counsel himself orally submitted before this Tribunal. He has not any evidence on behalf of respondent No.2. So, in view of submission made by respondent No.2 Counsel, this Hon'ble Court taken respondent evidence as nil. This Tribunal already heard oral arguments of petitioner and 2nd respondent filed his written arguments and today i.e., on 06.07.2026, matter stood for pronouncement of final judgment. Meantime, the present applications filed by respondent No.2 and intending to produce evidence. Now case stood for judgment, therefore at this stage cannot entertain any applications filed by both parties. Therefore, he sought for dismissal of I.A.No.VII and VIII with exemplary cost.

4. Heard learned Counsel for both sides on the applications. Perused the materials available on record.

5. The following points that has been arisen for my consideration;

1. Whether the respondent No.2 has made out good grounds to consider I.A.No.VII and I.A.No.VIII?

2. What order?

6. My answer to the above points are as below;

Point No.1 : In the

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

REASONS

7. **Point No.1**:- Perused the entire records, it indicates that the above petition filed by the petitioner for motor accident compensation against respondents before the Court of Hon'ble Prl. District and Sessions Judge, Mandya on 20.10.2022. The said case made over to this Tribunal on 31.10.2022. After receipt of entire file, this Tribunal ordered to issue notice against respondents. In pursuance of notice issued against respondent No.1 and 2, they not yet appeared before this Tribunal. Therefore, they place exparte on 20.12.2022. Further it can seen from order sheet that, on 14.02.2023, respondent No.1 and 2 appeared through their Counsel and filed proper application and sought for set aside exparte order passed against them. Both applications allowed on same day and permitted both respondents to contest this case on merits in accordance with law. Despite provided sufficient time or adjournments from 14.02.2023 till 07.11.2023, respondents have not opted to file their written statement. Therefore, respondents' written statement taken as not filed on 07.11.2023. Petitioner filed his evidence affidavit in lieu of examination-in-chief on 13.02.2024 and examined him as PW1. Further this Tribunal provided adjournments for the purpose of further chief of PW1 i.e., on 26.03.2024, 28.05.2024, 02.07.2024, 13.08.2024. Further it can seen from order sheet that on 01.10.2024, respondent No.2 Counsel filed his written statement along I.A.No.III and seeking permission to file written statement of respondent No.2. After heard both side, I.A.III allowed on cost of Rs.200/- and this Tribunal framed issues on same day and matter posted for petitioner evidence on 07.10.2024. Further it can seen from order sheet

that, the Counsel for petitioner produced some other documents along with I.A.IV and further chief of PW1 recorded and documents got marked as Ex.P1 to Ex.P8. The Counsel for respondent No.2 fully cross-examined PW1 on same day. Further it can be seen from order sheet that matter posted for petitioner further evidence and petitioner Counsel took adjournments for the purpose of lead petitioner further evidence on 25.02.2025, 01.04.2025, 20.05.2025, 24.06.2025. Later, the petitioner Counsel filed I.A.VI under Order XXVI Rule 4 R/w Section 151 of CPC and seeking lieu of this Court to appoint one K.S.Bhaskar, Advocate, Pandavapura Bar Association to record evidence of one Dr.Jayavardhan Y.B., Orthopaedic, Apollo Multi-speciality Hospital, Mysuru. After heard both side, said application allowed and this Court issued commissioner warrant as per order dated 24.06.2025. The commissioner filed his report before this Tribunal on 27.01.2026. Commissioner has produced 5 documents and chief and cross-examination of doctor Jayavardhan. The said documents marked before this Tribunal as Ex.P11 to Ex.P15 and the said witness evidence treated before this Tribunal as PW2. Petitioner side evidence closed and matter posted for respondent evidence. This Tribunal provided adjournments on 27.02.2026, 17.03.2026. Despite provided two adjournments, respondents have not yet led their evidence. Therefore, on 17.03.2026, respondents evidence taken as nil and matter posted for arguments on 08.04.2026. The Counsel for petitioner sought adjournments for submit his arguments. Hence, matter posted on 28.04.2026. The Counsel for petitioner submit his arguments on 28.04.2026. The Counsel for respondent No.1 and 2 absent before this Tribunal though this Tribunal by suo motto granted adjournments on 28.04.2026 and 02.06.2026. Further it can be seen from order sheet that, on 16.06.2026, the Counsel for respondent No.2 filed his written arguments. Copy served to leaned

Counsel for petitioner. Heard reply arguments of learned Counsel for petitioner on same day. Matter posted for judgment on 06.07.2026. When matter stand for pronouncement of judgment, the Counsel for respondent No.2 prebound this case on 05.07.2026 and present applications moved by respondent No.2. Admittedly, the respondent No.2 has not produced any documents along proper application. But, he simply filed these applications stating that, he has received investigator report from insurance company. The driver of offending vehicle did not possess any valid driving license to drove the offending vehicle. Therefore, he seeking recall order dated 17.03.2026. To the contrary, the Counsel for petitioner filed true copy of driving license of one T.Nanjundaswamy S/o Late Thimmegowda, No.226, T.Narasipura Taluk, Mysuru District, Kolatthur. Admittedly, as rightly pointed out by counsel for petitioner, there is no valid reasons assigned by respondent No.2 in his applications to recall and reopen of this case. The main reasons assigned by the respondent No.2 is that, recently he received investigator report from insurance company. Hence, he intending to examine insurance company officials or lead respondent No.2 evidence. In order to substantiate his oral arguments, the respondent No.2 has not taken any contentions in his written statement. Moreover, the insurance company not yet questioned challan submitted by I.O. of this case or jurisdiction SHO. Already this case took more than 3 years to conclude trial or evidence. This is an old case on this court. Just he filed bald applications without stated proper reasons. In this background this court meticulously perused present facts case on hand and it is wrathful to refer decesion of Rabiya Bi Kassim.M. V/s Countryvide consumer financial Service limited. In this case, Hon'ble High Court of Karnataka held that, **"once case is reserved for judgment, reopened evidence is not allowed to ensure finality. Further it is relevant to**

refer and relied decision of Hon'ble Apex Court in case between **Arjun Singh V/s Mahendar Kumar AIR 1964 SC 993**, it is a landmark judgment and ruled that, **"once a matter is finally heard, and posted for judgment the court should only pronounce judgment."** Further it is relevant to refer and relied another decision of Hon'ble Apex Court in case between **Shubhakarn Singh V/s State of M.P.**, the Apex Court held that, **"the power to recall a witness u/o 18 Rule 17 is to be used by the court for clarification not by parties to fill gaps. It must be used sparingly."** It is relevant to refer and relied decision of Hon'ble High Court of Karnataka, Bengaluru in case between **Savithramma V/s Hanumappa**, Hon'ble High Court of Karnataka quashed a trial court order that, had allowed such application, it held that, **"once final arguments heard and the matter is posted for judgment, no further evidence can be entertained. Allowing this would defeat the objective of a speedy trial."** So, it is trite law in above decisions, that, a civil case that has been heard and posted for judgment, generally cannot be recalled, reopened or re-argued except in extraordinary circumstances, the courts emphasized the finality of judicial proceedings and aims to prevent parties from filing evidentiary gaps (lacuna) after realising weaknesses in their case. In this background, the present case facts are analysed, it goes to show that, the present case is of the year 2022, though suit summons duly served on respondent No.2, he appeared before this Tribunal and filed his written statement at belated stage, the respondent No.2 himself filed his written arguments on main petition and matter stands for pronouncement of final judgment. The present applications filed by respondent No.2 Counsel by prepone this case. This case already took more than 4 years. Despite that, it is not possible to decide fact in issue on merits. The sole intention of respondent No.2 is that, he prolong matter just to avoid final decision of

this case. If respondent No.2 is vigilant in conducting this case, it is not a took the said much of time to produce investigator's report of insurance company. The present matter stood for pronouncement of judgment. At this stage, the respondent No.2 has filed I.A.No.VII and VIII. The affidavit averments are not supported by cogent and believable documents. In view of the settled principle of law by the Apex Court, "**once matter reserved for judgment, the court should pronounce judgment, no question of recall, reopen or reheard.**" So, in view of guided by the Apex Court decision, this court came to conclusion that, this court already provided sufficient time to adduce their evidence. Despite that, they not properly utilized provided time at the fag end trial, the present applications moved by respondent No.2 just protract or prolong the present case proceedings. The only intention of respondent No.2 is that, to avoid final decision of this case. Further it is relevant to note that, from this court view, the respondent No.2 has failed to made out consider I.A.No.VII and VIII and affidavit averments. Therefore, this court answered above point in the **Negative**.

8. **Point No.2:** For the above discussed reasons, this court proceed to pass the following ;

ORDER

The I.A.No.VII and I.A.No.VIII filed by respondent No.2 Under Section 151 of CPC are hereby rejected.

Accordingly, these I.A's. is disposed off.

(Dictated to the Stenographer directly on line computer, typed by her, printout taken, corrected and the same is pronounced by me in the open court on 14.07.2026)

(R.MAHESHA)
Pri. Senior Civil Judge & JMFC,
Pandavapura.