

**IN THE COURT OF SENIOR CIVIL JUDGE &
J.M.F.C., CHANNAPATTANA.**

M.V.C. No.575/2014

Petitioner : Nagaraju.

- V/s -

Respondents : Athmanantha.H.M. and anr.

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I.A. No.IV

Applicant : New India Assurance Co. Ltd.,
(Res.No.2)

- V/s -

Opponent : Nagaraju (Petitioner)

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ORDERS

1. This is an application filed under Order 6 Rule 17 r/w Section 151 of C.P.C. for amendment of the written statement filed by the 2nd respondent.

2. The officer of the 2nd respondent company has sworn to the affidavit annexed to this application that the case is posted for respondent evidence after receipt of the some of the documents at this stage and also at the time of approval of the written statement some of the documents were not available on their record, hence some of the defence was not taken at the time of filing the written

statement. That it is necessary to amend the written statement as prayed in the application. Hence, the application for amendment of the written statement.

3. The opponent/petitioner has filed objections to the above application contending that, the application filed by the respondent No.2 is not maintainable in law and facts and liable to be dismissed in limine. That the application is filed with the malafide intention to escape from liability. That the police after due investigation have filed charge sheet against the rider of the motor cycle bearing Reg. No.KA42-J-4545. That the 2nd respondent has admitted the accident and the evidence of the petitioner is closed and the case has been posted the evidence of 2nd respondent at this stage, the 2nd respondent with the intention to drag on the proceedings has come up with this application. That the 2nd respondent has produced the policy copy which is valid as on the date of filing the suit. That the DL of the rider of the insurer of the vehicle is also valid. That in order to escape from the liability the respondent No.2 has filed this application. Hence, prays prays to dismiss the application.

4. I have heard the arguments.

5. The following points arise for my consideration.

(1) Whether the application filed by the 2nd respondent under order 6 Rule 17 r/w sec.151 of CPC deserves to be allowed ?

2. What order ?

6. My findings on the above points are as follows for the following reasons.

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 this petition against the respondents for compensation amount of Rs.30,00,000/- for the injuries sustained by him in an RTA occurred on 31.07.2014 at about 2.00 p.m. in front of Meat Shop, Chikkamalur, B.M.Road, Channapatna. The case has been posted for evidence of respondents side and the 2nd respondent has come-up with this application seeking to amend the written statement. The 2nd respondent is contending that after receipt of the some of the documents at this stage and also at the time of approval of the written statement some of the documents were not available on their record, hence some of the defence was not taken at the time of filing the written statement. That the said fact has to be pleaded to prove the same. If this application is allowed, the petitioner will

not be prejudiced as he will be given every opportunity to contest the case. But if the application is rejected, the 2nd respondent will lose an opportunity to put-forth its defence properly. Hence in order to effectively adjudicate the matter in issue and to conduct fair trial and to avoid multiplicity of proceedings in the interest of justice and equity, **I answer this point in the Affirmative.**

8. Point No. 2 : For the reasons discussed herein above, I proceed to pass the following orders.

ORDER

I.A.No.IV filed by the 2nd respondent under Order 6 Rule 17 r/w Section 151 of C.P.C. is hereby allowed. No order as to cost.

To carry out amendment and file amended written statement.

By 04.10.2018.

(J. P. ARCHANA)
Senior Civil Judge & JMFC,
Channapattana.