

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., ADDL. M.A.C.T., BHATKAL**

**PRESENT : SMT. ROOPASHRI., B.Com., LL.B.,
SENIOR CIVIL JUDGE AND JMFC.,
ADDL. M.A.C.T., BHATKAL**

**MVC No.318/2021
DATED ON THIS 19TH DAY OF JUNE, 2026**

BETWEEN:

Mustaq Ahammed Abdul Majeed Mulla
..... **Petitioner**

V/s

Vasudev Malla Naik and another
..... **Respondents**

PARTIES IN IA NO.I

BETWEEN:

Mustaq Ahammed Abdul Majeed Mulla
..... **Applicant/Petitioner**

V/s

Vasudev Malla Naik and another
..... **Opponents/Respondents**

ORDER ON IA NO.I

The learned counsel for petitioner filed IA No.I Under Order 6 Rule 17 CPC seeking permission to amend the petition from Section 166 MV Act to section 164 of MV Act.

02. The learned counsel for respondent No.2 has filed objections.

03. Heard the learned respective counsels and perused the materials on record.

04. The point that would arise for the consideration of the court is,

(a) Whether the application filed Under Order 6 Rule 17 CPC deserves to be allowed?

05. My answer to the above point is in the **Affirmative** for the following:

REASONS

06. The petitioners stated to be the victim of the accident has filed claim petition U/Sec.166 of the MV.Act claiming compensation from the respondents stating that the accident in question has occurred due to the rash and negligent driving of the offending vehicle of which respondent No.1 is the owner and respondent No.2 is the insurer.

07. The respondent No.2 in the written statement has categorically stated that the accident in question has occurred due to the rash and negligent act on the part of the deceased, hence only charge sheet has been filed against the petitioner.

08. If the charge sheet is perused, it is against the petitioner, charge sheet has been filed. It is further relevant to state that the petitioner herein as an accused in the criminal case has admitted his guilty and deposited the fine amount. In spite of that the petitioner has filed petition U/Sec.166 of M.V. Act. If petitioner is filed under Sec. 166 of M.V. Act, the petitioner has to prove the rash and negligent driving of the offending vehicle as the cause for the accident and in a petition U/Sec. 166 of MV Act if it is proved that accident was due to the rash and negligent act of petitioner then he being the tortfeasor will not get compensation. But under Sec. 163-A (now 164) the petitioner need not plead or establish the wrongful act, neglect or default of the driver/owner of the offending vehicle.

09. It was vehemently argued by the learned counsel for respondent No.2 by opposing the application that, the petitioner in his petition and in his evidence on oath has stated that his income is Rs. 18,000/- p.m. and that if the annual income of the petitioner is more than 40,000/- the petition U/Sec. 164 of M.V.Act will not sustain. It was further argued that when petitioner himself now admits that accident was due to his fault under such circumstance he has to claim compensation from the insurer of his vehicle but not from the respondents. But this court is of the opinion that when petitioner sought permission to file the

petition U/Sec. 164 MV Act by way of amendment, U/s. 164 of the MV.Act, liability is determined on a no-fault basis. Claimant need not to prove the negligent or the wrongful act of any specific driver. He can file a claims petition against the insurer of either or both the vehicles involved in the accident.

10. So far as the income of the petitioner stated in the petition is concerned, it is subject to proof. Hence when charge sheet is filed against the petitioner himself it is just to permit the petitioner to convert the petition from Sec.166 of MV Act to petition U/Sec. 163-A (164) of MV Act.

11. As observed supra, the petitioner has filed amendment application to amend the petitioner from Sec. 166 to 164 of MV Act. It is relevant to state here that accident in question has occurred on 19-10-2017. The 2019 amendment that substituted section 163-A with section 164. The 2019 amendment that substituted section 163-A with sec.164 operates prospectively and does not apply to accidents that took place prior to the amendment. The right to compensation crystallizes on the date of the accident. Because the accident occurred in 2017 it predates the 2019 MV amendment Act. Hence if petitioner intends to convert the petition from 166 MV Act to petition under no fault liability he has to file petition U/S 163-A MV Act but not U/S. 164 MV Act. Hence to meet the ends of justice above

point is answered in the affirmative. As petitioner has quoted wrong provision of law, permitted to amend the petition from Sec.166 MV Act to Sec.163-A of MV Act. Accordingly proceeds to pass the following:

:ORDER:

IA No.I filed under Order rule 17 is allowed.

Petitioner is permitted to carry out proposed amendment.

Sd/-

**(ROOPASHRI)
SENIOR CIVIL JUDGE AND A.M.A.C.T.,
BHATKAL.**