

KAUK720000102025



**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL.
JMFC AND ADDL. M.A.C.T., KUMTA, AT: KUMTA,
UTTARA KANNADA.**

Dated this the 23rd day of July, 2026

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

MVC. No.16/2025

BETWEEN:

Mamata W/o. Ramachandra Patagar

...Petitioner

(Rep.by Sri. V.S.P.-Advocate)

V/s.

AND:

Somanath Jatti Mukri and another

...Respondents.

(Rep.by R1-Sri. R.G.N,-Advocate)

(Rep.by R3-Sri. S.M.B,-Advocate)

(R2- Exparte)

IA.NO.III

BETWEEN:

Mamata W/o. Ramachandra Patagar

...Applicant/petitioner.

V/s.

AND:

Somanath Jatti Mukri and another

...Respondents/Opponents.

Provision	U/s. XVI rule 1 and 2 of CPC
Relief sought for	Issuing summons to witness to produce documents
Application dated	29-04-2026
Application No.	VII
Objection filed on	01-06-2026
Order passed on	23-07-2026

Orders on I.A.No.VI

The present application filed by petitioner U/Order XVI Rules 1 and 2 of CPC with an prayer to issue summons Srinivas Institute of Medical science and Research Center Mangalore to produce the discharge summary of petitioner.

2. I.A. supported with Memo of facts, stated that, the petitioner has filed this case against the respondents seeking compensation for the injury sustained by her in road traffic accident.

3. The petitioner did not produced the discharge summary related to her treatment at the time of filing this

case because it was lost. The discharge summary is very much necessary to mark as exhibit. This interim application has been filed seeking a direction from the Court to the authorized officer of the hospital to produce the documents. If the application is not allowed hardship caused to the petitioner. On the other hand if this application is allowed, no hardship caused to the other side. Hence, prayed to allow the application.

4. I.A.No.VI opposed by respondent No.3 insurance company by filing written objection contending that the present application filed on behalf of the petitioner at this stage is not tenable either on law or on facts of the case. The contents of the application and the memo of facts filed along with the present application is not true and correct.

5. The petitioner has not filed any affidavit in support of the contention taken and the present application filed on behalf of the petitioner without sworn affidavit is not maintainable and liable to be dismissed.

6. The petitioner has filed this petition against the

Respondents for compensation the Respondent No-2 is the Insured and this Respondent is the Insurer of vehicle involved as alleged in the petition. The petitioner has to prove each and every aspect of the petition and the burden is always upon the petitioner to prove her case and the petitioner cannot file this type of application before the Court to prove her case.

7. The petitioner has been examined as P.W-1 and she produced treatment records and the medical bills in support of her case and the case is now posted for further chief examination of petitioner and she has filed present application at this belated stage seeking direction to the Hospital authorities to produce the discharge summary belongs to the petitioner. The petitioner has not produced any documents to shows that she has filed any application before Hospital authorities to provide the documents sought in the application and also not produced any documents to shows that the Hospital authorities have rejected the application. The petitioner cannot file this type of application directly to the Court and wasting the precious

time of the Court. If the concerned authorities have rejected the application filed by the petitioner then only she can file the application before the Court to summon the concerned authorities to produce the documents. Hence the present application is not maintainable and liable to be dismissed.

8. The documents mentioned in the application are not material documents for the just decision of the case and the petitioner has filed present application with an ulterior motive to cause delay in trial and not with good intention. If the present application is allowed, then the Respondent Insurance Company will be put to great loss, injustice and inconvenience and on the other hand no injustice or inconvenience will be caused to the petitioner if the present application is not allowed. Hence, prayed to reject the said application.

9. Heard both respective counsels on I.A.No.VI. Perused application, annexed memo of facts, objections and other material on record.

10. The points that arise for my consideration are as follows;

1. Whether the petitioner made out grounds to allow I.A.No.VI?

2. What order?

11. My answer to the above points are as under;

Point No.1 : In the Affirmative

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

REASONS

12. **Point No.1** : The present petition filed by the petitioner claiming compensation against the respondents for the injury sustained by her in the road traffic accident took place on 29.06.2024. Now the case is posted for cross of PW1. At this stage the petitioner file this application. The petitioner stated that she took treatment at Srinivas Institute of Medical science and Research Center Mangalore from 01-07-2024 to 04-07-2024. But she lost the discharge summary, and it is very necessary document to prove that she took treatment as inpatient.

13. But the learned counsel for third respondent company in objections contended that, the burden is on petitioner to prove her case and the petitioner cannot file this type of application before the Court to prove her case.

The petitioner cannot file this type of application directly to the Court and wasting the precious time of the Court. If the concerned authorities have rejected the application filed by the petitioner then only she can file the application before the Court to summon the concerned authorities to produce the documents. Hence the present application is not maintainable, hence prays to dismiss the application.

14. No doubt in the present case the burden is on petitioner to prove her case by oral and documentary evidence. Petitioner in her application has contended that she took treatment in the above said hospital, but she lost the discharge summary, the said discharge summary is very much necessary to prove her case, hence it is necessary to call for discharge summary from the concern hospital. Admittedly the petitioner of this present case not followed the said procedure and she directly filed this present application prays to issue summons to hospital authority to produce the discharge summary. It is the contention of petitioner that the said discharge summary is not available with her, and the said discharge summary is necessary to

prove her case, hence a innocent party should not be penalized or made to suffer for her mistake for not complying the procedure, and moreover issuing summons witness help the court to deciding case on merits if application rejected then it nothing but punishing a litigant for procedural lapses, court has to protect injured, who acted in good faith. Hence if the application is allowed no hardship will be caused to respondents. If the accompanying application is allowed then no injustice or inconvenience will be caused to the other side, as they have every liberty to object for marking of document and cross examine the witness. Hence, if application is not allowed the petitioner cannot prove her case, hence if the application is allowed there is no hardship caused to the respondents, if the application is not allowed hardship caused to the petitioner. Hence application filed by the petitioner is deserves to be allowed. Hence **point no.1 answered in the Affirmative.**

15. **Point No.2:** In view of the discussions made above this court proceeds to pass the following:

ORDER

I.A.No.VI filed by the applicant/
petitioner Under Order XVI Rules 1 and 2
R/w.151 of CPC is hereby allowed.

Issue summons to witness to
produce the document sought in I.A.No.VI
if PF paid.

(Directly dictated to the Stenographer to the computer, corrected and
then pronounced by me in the open court on this date the 23rd day of July,
2026)

(B.S.Rayannawar)
Senior Civil Judge & Prl. JMFC &
AMACT, Kumta.