

(CNR NO-MHSNO40010232022)
ORDER BELOW EXH.18 IN M.A.C.P NO.70 OF 2022
(Shri. Jalindar Anna Patil, etc. Vs. Dinkar Jagannath Maske, etc.)

The applicant has moved this application under Order 1, Rule 10 and Order 6 Rule 17 of the Code of Civil Procedure for impleadment of necessary party and amendment in the claim petition.

02. The respondent has not filed say, hence application proceeded without say.

03. Heard Ld. Advocate for applicant. Perused the record.

04. In the application it is stated that initially FIR regarding accident was registered against respondent No.2 Pratik Dinkar Maske in the capacity as driver of offending vehicle. However after completion of investigation the charge-sheet in case S.C.C. No.45/2023 came to be filed against Santosh Tanaji Maske as driver of offending vehicle. Therefore, considering this technical issue it is necessary to add Santosh Tanaji Maske as respondent No.3 in the claim petition. Furthermore, the claim petition having reference to the driver of offending vehicle at different places also needs to be amended in view of impleadment of new party i.e. vehicle driver respondent No.3. Hence, applicant prayed that respondent No.3 Santosh Tanaji Maske may be impleaded as respondent No.3 in the claim petition and necessary amendment may be made in said claim.

05. It transpires from the record that along with this application the applicant has produced copy of charge-sheet filed in S.C.C. No.45/2023. The proposed respondent No.3 Santosh Tanaji Maske is arrayed as accused in the capacity of driver of offending vehicle in the charge-sheet. The motor accident claim usually came to be filed against the owner, driver and insurance company of offending vehicle. So the driver of offending vehicle is a necessary party in the claim petition.

According to the claimant/applicant respondent Santosh Tanaji Maske is now facing trial for the offence of accident and negligent driving regarding which the claim is filed by him. Therefore, Santosh Maske needs to be arrayed as respondent in the present matter.

06. To my mind, the aforesaid submission is justified for impleadment of proposed respondent No.3 Santosh Tanaji Maske in the claim petition. At present juncture, it is not made clear by the applicant as who was the driver of offending vehicle at the relevant time of accident. The same will be decided on merit. At present juncture, it is visible that the charge-sheet is filed against Santosh Tanaji Maske alleging that at the time of alleged accident, the offending vehicle was driven by him. Hence, looking to said circumstances, I hold that impleadment of Santosh Tanaji Maske as respondent No.3 in the claim petition is justified with consequential amendment in the claim petition.

07. Moreover, the respondent will get necessary opportunity to contest claim on the point of impleadment of proposed respondent No.3. No prejudice would be caused to any one, if respondent No.3 is impleaded in the claim petition. Per contra, it will help the Court to decide the controversy on merit. Hence, looking to said circumstances, I hold that the application deserves to be allowed.

08. Hence, for doing justice completely, following order is passed:-

ORDER

1. The application is allowed.
2. The claimant is permitted to add proposed party Santosh Tanaji Maske as respondent No.3 in the claim petition as prayed.
3. The claimant is further permitted to carry out necessary amendment as described in the application.

4. Claimant to carry out necessary amendment on or before next date.
5. Issue Notice to the newly added respondent No.3 as per rules.

Date :- 10/10/2024

(A. H. Kashikar)
Adhoc District Judge-1 &
Member, M.A.C.T., Islampur.

Certificate

I affirm that, the contents of this PD.F file order are same, word to word, as per the original order.

Name of Stenographer : J. R. More [Grade-1]

Court : Adhoc-District Judge-1, Islampur

Date : 10/10/2024

Order signed by the

Presiding Officer : 10/10/2024

Order uploaded on : 14/10/2024