

**IN THE COURT OF THE SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T.GANESH, B.A., B.L.,
Subordinate Judge,
Maduranthakam**

**Tuesday, the 04th day of August 2026
I.A.No. 2/2025
in
M.C.O.P No. 89/2019
(CNR No. TNCG13- 000332-2019)**

The Managing Director,
S.E.T.C Ltd.,
Pallavan Salai, Chennai.

... Petitioner/Respondent

..Vs..

1. Senthilkumar .
2. Ravichandiran (Owner of the Vehicle) .

...1st Respondent/Petitioner

...2nd Respondent/Proposed

2nd Respondent

This petition coming up for final hearing on 08.07.2026 in the presence of Mr.E.Elango, counsel for the Petitioner/Respondent and Mr.K.Ganesan, counsel for the 1st respondent/petitioner, Mr.S.Rajkamal, 2nd Respondent/Proposed 2nd Respondent and having heard the arguments on both sides and having perused the records, having stood over for the consideration of this court till date, this court delivered the following;

ORDER

This petition is filed by the petitioner under Order I Rule 10 of Civil Procedure Code to implead the 2nd respondent/proposed 2nd respondent as 2nd respondent in the Original Petition.

2. Petition in brief:

On 12.10.2018, the SETC bus bearing registration No: TN 01 N 7591 started its trip from Trichy to Chennai driven by its driver slowly, carefully, observing all traffic rules and regulations. At about 22.45 hrs when this petitioner's/respondent's bus was proceeding in the NH 45 road towards Chennai, while nearing Karunguzhi junction, the petitioner's driver blow sound horn and taking observation to the side roads and drove the bus at a moderate speed to cross the junction keeping right side lane. In the mean time one motorcyclist bearing registration number TN 22 CT 6896 emerged from the right side center median opening of the road at over speed, rash and negligent manner with out any warning or indication, violating the traffic rules and regulations and suddenly entered the land in which the bus was going and unexpected the sudden entry of the motorcycle in front of the petitioner's bus during the night time, the petitioner's driver with his best efforts applied sudden brake and stopped the bus to avert any impact with the motorcyclist. But in spite of the best efforts the bus slightly touched the motorcycle. This is how the accident took place. Therefore there was no negligence or rash driving on the part of the driver of the petitioner.

Petitioner's driver was not rash at the time of accident as alleged in the claim application. He drove the bus in his own path/lane after proper warning of sound horn. As soon as when the driver notice the motor cyclist entering the road in front of the bus, he stopped the bus. But the motorcyclist who road the motorcycle in an unconsciousness manner or in an inebriated state being under influence of alcohol, dashed against the bus. The motorcyclist and the pillion rider were consuming alcohol in the function party before the accident and it is proved that both were under

the influence of alcohol at the time of alleged accident through the accident register issued by the Chengalpattu Medical college Hospital.

The alleged accident had happened only due to the wrongful act of the motorcyclist with the registration number TN 22 CT 6896. The rider, owner and insurer of the motor cycle bearing registration number TN 22 CT 6896 are necessary parties to the claim application. Since, it is a case of contributory negligence the impleadment of the rider, owner and insurer of the above said accident vehicles are obviously required for this court to adjudicate and pass an effective decree granting relief of the claimants.

The joinder of the insurance company is very necessary in this case as per the decision of Madras High court on dated 12.12.2019 in the case between The Oriental Insurance company Vs/Thirugnanasambandam in CMA.No: 2309/2018. Here the court has directed all Tribunals within the state of Tamilnadu and Puducherry not to entertain any of the claim petitions without impleading the other vehicle which was involved in the accident.

The rider, owner and the insurer of the motor cycle bearing registration number TN 22 CT 6896 are necessary parties from whom the relief has to be claimed. But the claimants herein filed the above main petition against this petitioner without impleading the owner of the above vehicle which involved in the alleged accident. .

Hence the petitioner files this petition to implead the 2nd respondent/proposed 2nd respondent as 2nd respondent in the Original Petition.

3. Counter of 1st respondent/petitioner in brief:

The 1st respondent denies the allegations set out in the affidavit. Accident was occurred due to the negligence of the driver of the bus alone. Hence the proposed respondent's Vehicle is no way liable for the accident and they are unnecessary party in the present case. The petitioner/respondent is only liable for pay compensation to the respondent/petitioner to and to escape is liability by way of filing this present

petition. The petitioner/respondent has filed his detailed counter in main O.P, but not stated any averments or defense stated in the present petition.

The present petition filed by the petitioner with ulterior motives and malafide intentions to drag on the proceedings and thereby harass the respondent/Petitioner. Petitioner has filed the present petition without any merits and as such the petition deserves to be dismissed with exemplary costs.

In the above facts and circumstances of the case, it is humbly prayed that this Court may be pleased to dismiss the petition with exemplary costs under section 35A of the Civil Procedure Code and thus render justice. Hence the petitioner files this petition is liable to be dismissed.

4. Counter of 2nd respondent/proposed 2nd respondent in brief:

The 2nd respondent denies the allegations set out in the affidavit. Accident was occurred only due to the negligent driving of driver of the transport bus. This respondent is unnecessary party in the present case. The petitioner/Respondent is only liable to pay compensation to the respondent/petitioner. The present petition filed by the petitioner with ulterior motives and malafide intentions to drag on the proceedings and thereby harass this respondent. Petitioner has filed the present petition without any merits and as such the petition deserves to be dismissed with exemplary costs. Hence this petition is liable to be dismissed with exemplary costs under section 35A of the Civil Procedure Code.

5. No oral and documentary evidence adduced by both sides.

6. Heard both sides and perused the records.

7. Point:

“Whether the petition can be allowed?”

The present petition has been filed under Order I Rule 10 of the Civil Procedure Code seeking to implead the proposed 2nd respondent as the 2nd respondent in the main claim petition.

The petitioner/Transport Corporation contends that the accident occurred solely due to the rash and negligent riding of the motorcycle bearing Registration No. TN 22 CT 6896 and hence the owner of the same is necessary party to the claim petition. Hence the sole respondent came up with this application.

Per contra the 1st respondent/claimant and the 2nd respondent/proposed 2nd respondent defends that the negligence was solely upon the driver of the bus alone and this application is liable to be dismissed.

At the outset it is pertinent to note that the 1st respondent who is petition in main petition is dominus litus. So, it is the choice of the claimant to choose against whom he claim compensation. Petitioner/respondent cannot dictate terms to the claimant to implead parties. On this short ground itself this application was liable to be rejected.

Next the petitioner relief upon a decision of our Hon'ble High Court in ***Oriental Insurance company Vs Thirugnasamandham, CMA 2309/2018*** and argued that it is just and necessary for the petitioners in claim petition to implead all the owners and insurers of the vehicle involved in the accident. No doubt that as per the said decision the owner and the rider ought to be impleaded. But subsequently our Hon'ble High Court in ***K.Kannaki and others Vs Jalaludeen, in CMA 681/2021***, held that,

*“It is pertinent to mention that the judgment of the Hon'ble Supreme Court in **Khenyei's** case was not brought to the notice of the Division Bench, while deciding the appeal in the CMA.No.2309 of 2018. No doubt, if all the parties, the owner and insurer of both the vehicles involved in the accident are parties to the claim petition, then it will be convenient for all and also for the Tribunal to decide the liability. But, the claimant, **being the dominus litus cannot be compelled to add other parties**, who are not impleaded earlier and it is for the claimants to decide and in case, if the case*

put forth by the claimants as against the impleaded parties is not true, then they have to suffer the dismissal of the petition.”

Though the decision relied by the petitioner was that of Hon’ble Division Bench, the above said decision would show that it is per incuriam. In the said decision in para 14,

“Considering the above, since judgment of the Hon'ble the Division Bench of this Court in CMA.No.2309 of 2018, has not referred the judgment of the Supreme Court in Khenyei’s case, the judgment can only be considered as per incuriam.”

So, as per the said decision, the petitioner herein cannot compel the claimants to implead the respondents 2 and 3 as parties to the claim petition. On this short ground this application is liable to be dismissed.

In summation, if at all the claimant has failed to implead necessary parties, then he would suffer for the same. So, when the claimant is dominus litus, the petitioner/respondent cannot direct him to implead parties. Hence this application is liable to be dismissed and this point is decided accordingly.

8. Result:-

In the result this application is dismissed as devoid of merits. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 04th day of August 2026.

Subordinate Judge,
Madurantakam.

I. Petitioner side evidence and Exhibits : Nil.

II. Respondents side Evidence and Exhibits : Nil.

Subordinate Judge,
Madurantakam.

FAIR/DRAFT ORDER
I.A No. 2/2025
in
M.C.O.P No. 89/2019
D.D: 04.08.2026
SUB COURT,
MADURANTAKAM