

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Monday, the 24th day of March 2025

I.A.No.2/2024

in

MCOP.No.10/2024

R. Nallathangal Petitioner/Petitioner

// Vs //

1. M. Sabari

2. The New India Assurance Company

Limited, CMTS Bhavan, 70 feet Road,

Ellis Nagar, Madurai – 625 016.

..... Respondents/ Respondents

This petition coming up for final hearing before me on 10.03.2025 in the presence of Advocate.Thiru.M.Jeyaraman, Advocate for the Petitioner and Advocate.Thiru.A.Balamurugan , advocate for 2nd Respondent and 1st respondent called absent set exparte on 28.06.2024 in main petition and upon hearing enquiry on the both sides and on

perusal of the records and having stood over for consideration till this day, this court delivers the following:-

ORDERS

This petition has been filed Under Order 6 Rule 17 and Section 151 of CPC pass an order to permit the petitioner to amend the petition mentioned details in the main original petition.

1. Brief averments of the petition :-

The petitioner herein is the Petitioner in the original Petition. The petitioner have filed the Main Petition for compensation for the accident sustained to herself. The original petition is posted for filing counter. In the mean time her counsel has noticed that offending Vehicle Two wheeler Registration Number was inadvertently mentioned as TN 59 BZ 2432 instead of TN 59 DZ 2432 and the same was unfortunately happened due to oversight error and the same was not done willfully.

The above said mistake a simple and curable defect one and the no prejudice will be caused to the Respondents/Respondents as correct Registration Number of the offending Two Wheeler mentioned in the FIR and other related documents, which is part and parcel of main original petition. Hence, the suitable Amendment has to be carried out in the original main claim Petition as to registration number of offending two wheeler. The petitioner prays to permit the petitioner to amend the petition mentioned details in the main original petition. Hence this petition has to be allowed.

2. The 2nd Respondent/2nd Plaintiff filed Counter refuting the averments of the petition and affidavit:-

The 2nd Respondent is the Assistant Manager. Without prejudice to the defense of the respondent in main petition that it cannot be held liable for the claim. This petitioner's claim as against this respondent is unsustainable both law and on facts. Save and except the averments expressly admitted, hereunder all other averments in the petition are here by denied as false and the petitioners will have to prove every one of them. According to the F.I.R the date of accident on 01-11-2023 at about 13.00 hours and the F.I.R was registered in the vehicle as mentioned bearing registration number is TN 59 DZ 2432 and the main claim petition vehicle bearing Reg No: TN 59 BZ 2432. The petitioner is put to strict proof of the same by oral and documentary evidence and according to the Motor Vehicle Act to the policy condition the 1st Respondent must send a communication to this 2nd Respondents regarding the accident. The 1st Respondent had not done so. It is clear sign of violation or policy condition by the 1 Respondent. The petitioner is called upon to prove his alleged age, avocation, income, AR copy, medical expenses with acceptable documentary evidence. This Respondent reserves his right to file the main statement of objections, later on. Hence this petition has to be dismissed with costs.

3. The point for consideration aroused is that:-

Whether the petition has to be allowed or not ?

4. Point :-

Both sides heard. Records perused. This petition has been filed to rectify the vehicle's registration number as "TN 59 DZ 2432".

On perusal of records, the F.I.R in Crime No:- 728/2023 Melur Police Station dated 02.11.2023 mentioned the offending bike number as TN 59 DZ 2432. Hence it is just and necessary to rectify the vehicle's number.

Hence in order to give an opportunity to the petitioner to rectify the offending bike's registration number "TN 59 DZ 2432" in the petition and trial has not yet commenced, this court inclines to pass an order in favour of the petitioner.

5. Result:-

In the result, this petition is allowed. No costs.

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 24th day of March 2025.

**Sub Judge,
Melur.**

Petitioner's side Exhibits and witnesses :- Nil

Respondent's side Exhibits and witnesses:- Nil

**Sub Judge,
Melur.**

Draft/Fair Order
in
IA.No.2/2024
in
M.C.O.P.No.10/2024
Dt : 24.03.2025
Sub Court, Melur.