

MAC Case No. 04 of 2008 (1893 of 2015)

Order No. 100

09.07.2026

Both parties are present by filing hajira.

Today, the case is fixed for hearing of the application under Order 22 Rule 1 and 2 of CPC filed by the petitioners.

Heard both sides. Perused the application, written objection and affidavit. Considered.

It appears from the instant application that the petitioners have stated on affidavit that one of the claimants, namely, Angura Bibi, the mother of the deceased, died on 18.01.2020. Original Death Certificate is lying with the record, from which it transpires that Anwara Mallick died on 18.01.2020. The petitioner has stated on affidavit that there is no legal heirs and legal representatives of Angura Mallick, mother of the victim. It is also stated that her spouse, son, daughter, brother, sister, parents or any other persons are not alive.

The Ld. Advocate for the insurance company, by filing writing objection, has raised objection, stating that the petitioners have knowledge of the death of said petitioner number 4 but did not utter anything while pending pending the case. Without the copy of the Death Certificate, the said application is required to be rejected.

On hearing both the parties and on perusal of the case-records, it is seen that the instant case was disposed of earlier on 16.01.2010 and thereafter, a Misc. Case under Section 174 of MV Act was started and during the pendency of the said Misc. Case, this petitioner Angura Bibi had expired on 18.01.2020. In the circumstances, her name could not be expunged in the present case unless the case has been revived on as per the Order of Hon'ble High Court dated 04.07.2019 and disposal of the Misc. Case on 23.07.2025. Therefore, there is no bar to expunge the name of the petitioner. The original Death Certificate stands in the name of Anwara Mallick and in this support, a certificate from Pradhan of Bhunri Gram Panchayat, where the Pradhan has certified Anwara Mallick and Angura Bibi, both wife of Idrish Mallick is same identical person.

Considering the fact, the instant application filed by the petitioners is hereby allowed on contest without cost.

Let the name and description of mother of the deceased Angura Bibi be deleted from the Cause Title of the claim application.

Now, the application under Order 6 Rule 17 read with Section 151 of CPC is taken up for hearing.

Heard both sides. Perused the application, its written objection and affidavit. Considered.

It is stated in the instant application for amendment that Sahamon Mallick died in motor accident on 25.11.2007 for which the instant application for compensation has been

filed. At the time of filing this case, due to inadvertence, the petitioners have wrongly stated the date of death of Sahamon Mallick as 26.11.2007 in place of 25.11.2007 in paragraph number 8 and 23 of the original application. Therefore, prayed for amendment of the application.

The point of objection on behalf of OP No. 2 is that the amendment of Code of Civil Procedure on and from 01.07.2002 creates an embargo into the matter of post-trial amendment and the party proposes amendment is required to prove that in spite of due diligence, he could not bring the fact and the same was not within his knowledge. It is also stated that if the proposed amendment is allowed, then the entire case of the petitioner would be changed. Therefore, denying other allegations, the OP No. 2 prays for rejection of the petition for amendment.

After hearing the parties, I have gone through the record, from where it appears that earlier the instant case was allowed on contest in favour of the petitioners and an appeal was preferred before the Hon'ble High Court at Calcutta and the Hon'ble Court was pleased to set aside the award and the matter was sent on remand before the Tribunal for fresh consideration. The record also speaks that during the time, a Misc. Case under Section 174 of MV Act has been filed and in the said case, on hearing both the parties, this court had allowed the application under Order 6 Rule 17 of the CP Code in favour of the petitioners where the same amendment had been sought for.

On careful perusal of the proposed amendment application, it is seen that the amendment sought for is formal in nature and it will not change the nature and character of the suit. The date of death of the deceased has not been denied in the objection application by the OP. Rather, it has been stated that as per FIR, the alleged incident took place on 26.11.2007 but the Postmortem Report reveals that the death of the victim was 25.11.2007 and the claimants have stated that the date of death as 26.11.2007.

In the circumstances, I find no impediment to allow the application. Hence, the instant application under Order 6 Rule 17 read with Section 151 of CPC is hereby allowed on contest without cost. Let the claim-application be amended accordingly. The OP No. 2 is at liberty to file additional WS, if any.

To 06.10.2026 for filing amended copy of claim application by the petitioners and additional written statement, if any, by the OP No. 2.

Dictated & Corrected by me.

Additional District Judge, 3rd Court,
Burdwan

Additional District Judge, 3rd Court,
Burdwan