

M.A.C.C. No. 10/2023

CNR No. WBCB01-000837-2023

Present :- Sri Rudra Prasad Ray, Judge Claims Tribunal, FTC,
In-charge-of the Court of ADJ 3rd Court, Cooch Behar.

Order No. 16

Dated 10.07.2025

Parties are present by filing hazira through their Ld. Advocates.

Today is fixed for hearing of the petition under Order I, Rule 10(2) read with Section 151 of the C.P. Code filed by the OP No. 3 praying for striking out their name from the cause title of the case.

The petition under Order I, Rule 10(2) read with Section 151 of the C.P. Code filed by the OP No. 3 is now taken up for hearing.

Perused the petition and other materials in the record.

Heard Both sides. Considered.

The OP No. 3, by filing this instant petition, has prayed for an order of striking out their name from the cause title of the case on the ground that when OP No. 3 verified the insurance policy with their office records in compliance with section 64 VB of Insurance Act, 1938, it came to light that at the relevant point of time, the offending vehicle was insured by the Oriental Insurance Company Ltd. and not by the OP No. 3. OP No. 3 has come into the picture as insurer of the offending vehicle for the period from 24.10.2022 to 23.10.2023 and before that the vehicle was insured by the Oriental Insurance Company Ltd. which is clearly mentioned in the insurance policy certificate issued by the OP No. 3. in view of such revelation, they have prayed for an order striking out their name from the cause title of this case.

The Ld. Advocate for the petitioners, on the other hand, submits that

on 04.10.2024, the OP No. 3 had filed an identical petition with the same prayer on the same ground which has been rejected by the Ld. Judge MAC Tribunal-Cum-District Judge, Cooch Behar and hence this petition is also liable to be dismissed. According to Ld. Advocate for the petitioners, if the liability of Oriental Insurance Company Ltd. is discovered at the later stage, the petitioners will face the consequences and at this stage there is no necessity to strike out the OP No. 3 and the petition is liable to be rejected.

Record reveals that the accident had occurred on 01.07.2022 and photocopy of the insurance policy submitted by Ld. Advocate for the OP No. 3 clearly reveals that the policy was valid for the period from 24.10.2022 to 23.10.2023 and on the second page, previous Policy Number is mentioned as 322395/31/2022/80 and the name of the previous insurer mentioned as Oriental Insurance Company Ltd. Cooch Behar. From the plain reading of that document, the involvement of Oriental Insurance Company Ltd. cannot be ruled out and though I am of the opinion that striking out the name of OP No. 3 might cause prejudice to the petitioners, Oriental Insurance Company Ltd. appears to be a necessary party in this case and hence, petitioners are directed to issue notice upon the Oriental Insurance Company Ltd. fixing 05-08-2025 for S/R and appearance.

Whether or not the OP No. 3 is a necessary party in this case will be decided during trial. It appears from the record that the OP No. 3 has not filed any WS yet and hence they are directed to file WS on the next date.

The petition is kept with the case record and will be decided with the Judgement of this case.

Typed by me.

Sd/-
Judge,
MACC Tribunal
3rd Court
Cooch Behar.

Sd/-
Judge,
MACC Tribunal
3rd Court, In-Charge
Cooch Behar.
JO Code: WB00899