



C.M.P.(MD)No.7947 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 06.07.2026

DELIVERED ON : 17.07.2026

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.7947 of 2026

in

C.M.A.(MD)No.1027 of 2024

Dinesh

: Petitioner/Appellant

Vs.

1.Sethurani
2.Padmavathi
3.Bhavani
4.Sasikala

: Respondents 1 to 4/Respondents 1 to 4

5.K.Raja

: Proposed 5th Respondent/
5th Respondent

PRAYER in C.M.P(MD)No.7947 of 2026: Criminal Miscellaneous Petition filed under Order 1 Rule 10(2) of the Civil Procedure Code to implead the 5th proposed respondent herein and rank him as 5th respondent in the above C.M.A.(MD)No.1027 of 2024.



C.M.P.(MD)No.7947 of 2026

PRAYER in C.M.A.(MD)No.1027 of 2024: Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree passed in M.C.O.P.No.746 of 2021, on the file of the Motor Accident Claims Tribunal, Special District Court, Thanjavur, dated 18.12.2023.

For Petitioner : Mr.A.Saravanan

For Respondents : No Appearance

ORDER

The above petition has been filed under Order 1 Rule 10(2) C.P.C., seeking orders to implead the proposed 5th respondent as 5th respondent in the appeal in C.M.A.(MD)No.1027 of 2024, pending on the file of this Court.

2. The petitioner filed the main appeal challenging the award made in M.C.O.P.N.746 of 2021, dated 18.12.2023, on the file of the Motor Accident Claims Tribunal / Special District Court to deal with MCOP cases, Tanjore.



C.M.P.(MD)No.7947 of 2026

WEB COPY

3. The petitioner/appellant who is the owner of the offending vehicle is now sought to implead the proposed party on the ground that he had sold the offending two wheeler on 12.10.2018 nearly three years prior to the date of accident and had delivered the possession of the vehicle to the proposed party, that the delivery note had already been produced before the Tribunal and that in the light of the judgment of the Hon'ble supreme Court in *Vaibhav Jain Vs. Hindustan Motors Pvt. Ltd.*, reported in **2024(2) TN MAC 406(SC)**, the proposed party is a necessary party to the appeal.

4. The learned Counsel for the respondents 1 to 3/claimants would submit that the petitioner/appellant admittedly continued to be the registered owner of the two wheeler on the date of accident, that the plea regarding the alleged sale and delivery of possession of the vehicle had already been raised before the Tribunal and the Tribunal, after considering the evidence available on record fastened the liability on the petitioner/appellant and that therefore, the correctness of the said finding has to be considered in the main appeal and as such, the proposed party is



C.M.P.(MD)No.7947 of 2026

neither a necessary party nor a proper party for deciding the issues involved in the appeal.

5. It is pertinent to note that admittedly the petitioner/appellant was the registered owner of the offending two wheeler on the date of accident. According to the learned Counsel for the petitioner/appellant, they have taken a defence in their counter statement before the Tribunal about the sale of the offending vehicle to the proposed party and they have also produced the delivery note evidencing the alleged transfer before the Tribunal. If that be so, as rightly contended by the learned Counsel for the claimants, the plea regarding the transfer of the vehicle prior to the date of accident was very much available before the Tribunal and the correctness of the finding rendered by the Tribunal on the said issue has to be considered in the main appeal, on the basis of pleadings and evidence already available on record.

6. It is pertinent to note that the question as to whether the petitioner/appellant had effectively transferred the vehicle prior to the accident and the legal consequences flowing therefrom are the matters



C.M.P.(MD)No.7947 of 2026

touching the merits of the appeal and can be decided without the presence of the proposed party. As rightly contended by the learned Counsel for the claimants, merely because the petitioner/appellant reliance upon the alleged delivery note, it does not follow that the proposed purchaser should necessarily be impleaded in the appeal. As already pointed out, the learned Counsel for the petitioner/appellant placed reliance on the judgment of the Hon'ble Supreme Court referred above, but the reliance placed on the said decision is misplaced.

7. In the above decision case, the vehicle continued to stand in the name of Hindustan Motors and at the time of accident, it was being driven by the Service Engineer of the said Hindustan Motors, while the deceased was the territorial Manager of the manufacturer and they had taken the vehicle for a test drive. The Hon'ble Apex Court has held that the dealer was neither the registered owner nor in command or control of the vehicle at the time of accident. The Hon'ble Supreme Court observed that though Section 2(30) of the Motor Vehicles Act defines “owner”, in an appropriate case, the person who had command or control over the vehicle may also be treated as the owner on the basis of fastening tortuous liability.



C.M.P.(MD)No.7947 of 2026

In the present case, the petitioner/appellant admittedly continued to be the registered owner of the vehicle. Hence, the said decision is squarely distinguishable on facts and does not advance the case of the appellant.

8. Considering the above, this Court is of the clear view that the proposed party (5th respondent) is neither a necessary nor a proper party to the present appeal. Consequently, this Court concludes that the impleading petition which is devoid of merits, is liable to be dismissed.

9. In the result, the Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

17.07.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

SSL



WEB COPY



C.M.P.(MD)No.7947 of 2026

K.MURALI SHANKAR,J.

SSL

Pre-delivery order made in

C.M.P.(MD)No.7947 of 2026

in

C.M.A.(MD)No.1027 of 2024

17.07.2026