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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5185 OF 2025

Iffco Tokio General Insurance Co. Ltd. ... Petitioner

V/s.

The State of Maharashtra ... Respondent

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Mr. Nikhil Mehta i/by KMC Legal Venture for the  
petitioner.

Ms. Tanu N. Bhatia, AGP for respondent-State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 23, 2025

PC.:

1. The present petition emanates from an order passed by the learned Motor Accident Claims Tribunal, whereby the application preferred by the petitioner – the insurance company – under Order I Rule 10 of the Code of Civil Procedure, 1908, came to be rejected. The petitioner sought impleadment of the owners and drivers of four motor vehicles allegedly involved in the motor accident. The principal contention advanced was that the accident was not attributable to the sole negligence of the insured vehicle, but was a result of contributory negligence on the part of other vehicles also, and hence, unless the owners and drivers of the said vehicles are arrayed as parties to the claim proceedings, the insurance company would be deprived of an effective opportunity

to raise and establish a valid defense of contributory negligence.

2. The foundational principle underlying Order I Rule 10 of the Code is that the impleadment of a party is permissible only if the presence of such a person is necessary for a complete and effectual adjudication of the issues in controversy. The provision is intended to ensure that no decision is rendered in the absence of a party whose rights are likely to be affected or whose presence is necessary to avoid multiplicity of proceedings. The test, as judicially evolved, is whether in the absence of such person, an effective decree can be passed by the Tribunal. If the answer is in the negative, then such a party is a necessary party and ought to be impleaded. If the answer is in the affirmative, then the Court must further assess whether the said party is a proper party, i.e., a person whose presence would facilitate complete adjudication. The discretion conferred on the Tribunal must be exercised with circumspection and guided by established legal principles.

3. In the present case, it is not the case of the insurance company that any positive relief is sought against the owners or drivers of the other three vehicles. It is also not the case that the claimant has failed to array any party without whom the claim itself would be rendered infructuous or incomplete. On the contrary, the impleadment is sought solely to enable the insurance company to project a defense of contributory negligence. The law is well-settled that a party cannot be impleaded merely to facilitate the defense of the opponent unless it is demonstrated that such party is necessary for the effective determination of the lis. The petitioner cannot seek enlargement of its procedural rights under

the garb of impleadment, particularly when it has alternative remedies available to summon such witnesses and elicit necessary evidence in support of its defense.

4. The learned Tribunal, therefore, appears to have rightly exercised its discretion in rejecting the application under Order I Rule 10. I find no perversity, jurisdictional error, or legal infirmity in the impugned order warranting interference under Article 227 of the Constitution of India. The order passed is in consonance with settled judicial principles and does not call for intervention in exercise of the writ jurisdiction of this Court.

5. Nonetheless, it is clarified that the rejection of the application for impleadment shall not preclude the petitioner-insurance company from invoking the procedural avenues available under law for summoning the concerned drivers and owners as witnesses. The Tribunal, upon such request, shall be free to exercise its powers to summon any person whose evidence may assist in the just adjudication of the matter.

6. The writ petition, being devoid of merit, stands dismissed. There shall be no order as to costs.

**(AMIT BORKAR, J.)**