

GJMH150015462024



Received on : 17-10-2024
Registered on : 17-10-2024
Decided on : 11-08-2026
Duration : Ys.Ms.Ds
01-09-25

**BEFORE
THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(AUXILIARY-III), VISNAGAR.
(PRESIDED OVER BY MR.P.J.CHAUDHARY)**

MACMA NO. 241 OF 2024

Exh. No. :- 7

APPLICANT / CLAIMANT :-

Chauhan Somsinh Vijaysinh Hajursinh,
Aged about 44 years, Occupation : Animal husbandry &
Agriculture,
Residing at Jaindharmashala valovas, village Timba,
Ta. Satlasana, Dist. Mahesana.

VERSUS

OPPONENTS :-

1. Driver of Motorcycle No.GJ-08-CQ-3330 :-
Thakor Sureshji Popatji,
Residing at Thakorvas, village Ranol,
Ta. Danta, Dist. Banaskantha.
2. Owner of Motorcycle No.GJ-08-CQ-3330 :-
Thakor Upendra Popatji,
Residing at Thakorvas, village Ranol,
Ta. Danta, Dist. Banaskantha.
3. Insurance company of Motorcycle No.GJ-08-CQ-3330 :-
Magma HDI General Insurance Co. Ltd.,

S-1, 2nd Floor, Sigma Oasis, Near HDFC Bank,
Near Rajkamal Petrol Pump,
Mahesana.

4. Insurance company of Motorcycle No.GJ-02-DN-8384 :-
Tata A.I.G. General Insurance Co. Ltd.,
Shop No.29, 2nd Floor, Rajendra Estate,
Opp. Gaytri Temple, Highway,
Mahesana.

**APPLICATION UNDER SECTION - 5 OF THE
LIMITATION ACT.**

Mr. K.A.Patel, Learned Advocate for the claimant.
Mr. N.R.Bhavsar, Learned Advocate for the opponent No.4.

-:: JUDGMENT ::-

1. The claimant has filed present application seeking condonation of delay of 10 months days occurred in filing claim petition.
2. Notice duly served to the opponents. The opponent No.4 appeared through learned advocate Mr.N.R.Bhavsar and has filed reply vide Exh.6 and submitted that when legislature has fixed the period for filing the claim petition, the same cannot be condoned by this Tribunal and provision of law has to be construed strictly while deciding present application. He has further submitted that the present claim petition is filed on dtd.17.10.2024 whereas the accident happened on dtd.26.06.2023 and, therefore, it is an undisputed fact that the said petition is being filed with an inordinate delay of almost 9 months and 22 days after prescribed limitation period of six months as to seek

compensation. He has therefore, prayed to reject present application.

3. L.A. for the claimant has submitted that the claimant was badly ridden on account of injury received in vehicular accident and on account of unawareness of provisions of law, he could not contact advocate for filing claim petition immediately after an accident. L.A. for the claimant has therefore, prayed to condone the delay occurred in filing the claim petition.
4. Having heard L.A. for the claimant and opponent, it is required to be noted that M.A.C.P. is benevolent provisions meant to provide relief to victim of accident. Moreover, amendment in the M.V. Act providing specific time period for filing the claim petition is to prevent any false or frivolous claim and to provide immediate relief to the victim of accident. Thus, same cannot be construed as absolute bar for claimants for filing the claim petition after the passing of period of limitation provided in the M.V. Act by amendment. In this regard, it is profitable to take into consideration the judgment of Hon'ble High Court of Gujarat in the case of **Bajaj Allianz General Insurance Co. Ltd. v. Virsinh Muljibhai Khadiya & Ors.** in **R/Special Civil Application No.12247 of 2024 judgment dtd. 02.01.2025** wherein it is held in para - 37 as under:-

" 37. Another aspect which could be noted that learned advocate appearing for the Insurance Co. has failed to point out that by amending Section 166, Legislature has excluded the operation of Limitation Act, 1963, Learned advocate appearing for the Insurance Co. argued that since limitation has been specified in the special law being Motor Vehicle Act, the general law being Limitation Act would not be operative. To exclude operation of the Limitation Act, 1963, there must exist

a specific exclusion clause, in view of Section 29(2) of the Limitation Act. Notably, in amended Act the Legislature has not put any clause for relaxing the time limit specified in Section 166(3). In absence of clause permitting Court to relax time stated in Section 166(3), it would be incorrect to say that provisions of the Limitation Act are not applicable.”

5. Hence, this Tribunal is of the view that time limit provided in the M.V. Act for filing the claim petition has to be construed liberally, if reasonable cause is shown so as to achieve the object of provision of law.
6. Hence, this Tribunal is of the view that claim petition filed by claimant is maintainable and, therefore, having considered the cause shown in the application for condonation of delay, this Court deems it proper to allow application filed by the claimant for condonation of delay occurred in filing the claim petition. Thus, following order is passed.

ORDER

- Present application is allowed with no order as to costs.
- Delay of 10 months occurred in filing the claim petition is hereby condoned.
- Registry is directed to register the Motor Accident Claim Petition and proceed in accordance with law.

Signed and pronounced in the open Court today on this 11th day of August, 2026 at Visnagar.

[PRAVINBHAI JOITABHAI CHAUDHARY]
MOTOR ACCIDENT CLAIMS TRIBUNAL (AUXI.-III),
MAHESANA AT VISNAGAR.
(UIC NO.GJ00661)