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Decided on : 30/03/2026
Duration : YY/MM/DD

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
(AUXI.), BHAVNAGAR.**

Motor Accident Claim Misc. Application No. 583/2024

Ex. _____

Applicant : **Rakeshbhai Samatbhai Jadav,**
Age 29 years, Occ. Labour work /
Watchman,
Originally R/o. Meghvadar.
At present R/o: Nand Party Plot,
Near Railway Gate, Tal. Sihor,
District Bhavnagar.

Versus

Opponents : (1) **Lakshmanbhai Hamirbhai
Khamal,**
Age 45 years, Occ. Driving,
R/o. Kardev via Vartej,
Tal. & District Bhavnagar.

(2) **Reliance General Insurance Co.
Ltd.,**
Address: 3rd Floor,
Zodiac Avenue, Opp. Mayor's
Bungalow, Opp. Law Garden,
Navrangpura,
Ahmedabad – 380009.

(3) **Rajendrabhai Ratansangbhai @
Ratabhai Solanki,**
Age 43 years, Occ. Business,
R/o. Navagam (Kaniwav),
Near Ramapir's Temple,

Tal. Sihor, District Bhavnagar.

- (4) Iffco-Tokio General Insurance Co. Ltd.,
Address: 501 – 503, 5th Floor,
Isckon Artia – 1,
Opp. G.E.B. Training Centre,
Gotri Road, Vadodara – 390021.

Re: - **An application under Section 5 of the Limitation Act for condonation of delay in filing MACP**

Appearance:

Mr. C. D. Bhalani, learned Advocate for the Applicant.

Opponent No.1 – Duly Served, Absent.

Mr. M. M. Lalwani, learned Advocate for the Opponent No.2.

Mr. D. N. Tank, learned Advocate for the Opponent No.3.

Mr. J. U. Thakkar, learned Advocate for the Opponent No.4.

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J U D G M E N T

01. Claimant has preferred present application seeking condonation of delay of **9 months and 18 days**, which has occurred in preferring the claim petition. In the claim petition, the accident had occurred on or after 01.04.2022 i.e. after the introduction of Section 166(3) of the the Motor Vehicles Act, 1988 (hereinafter referred as the M. V. Act). It is averred by the claimant that the alleged accident took place on **27.04.2023** and thereby he sustained grievous injuries and he was admitted as an indoor patient and after discharge from the hospital, he remained bedridden and, therefore, he was unable to collect the documents in time. It is submitted that since the applicant was preoccupied in his ailment, he was unable to

prefer the the petition within the stipulated time and thereby the delay of 9 months and 18 days occurred in preferring the petition. Hence, it is prayed to allow the present application.

02. As per the newly added Section 166(3) of the M. V. Act, the claim petition has to be preferred within six months of the occurrence of the accident. Admittedly, the present claim petition has not been preferred within six months of the occurrence of the accident and, therefore, claimant has preferred the present application seeking condonation of delay which has occurred in preferring the claim petition as the claimant was preoccupied in his ailment.
03. Ld. Advocate for the claimant submitted that the M.V. Act being the beneficial legislation, the provisions contained u/s.166(3) of the amended M.V. Act may be construed sympathetically. He further submitted that though no discretion has been vested with the Tribunal to condone the delay occurred in filing a claim petition, the Tribunal has the inherent powers to condone the delay.
04. Ld. Advocate for the Insurance Company submitted that it is no doubt true that the M.V. Act is a beneficial piece of legislation but the provisions contained u/s.166(3) of the amended M.V. Act may not be construed sympathetically, as the same would violate the provisions of law. He further submitted that since the newly added provision i.e. Section 166(3) of the M.V. Act prescribes the period of limitation

to prefer a claim petition and as such said amendment is procedural in nature, same would apply retrospectively and, therefore, this application for condonation of delay may be rejected. He lastly submitted that since no discretion has been vested with the Tribunal to condone the delay occurred in filing a claim petition, this Tribunal is not empowered to exercise its inherent powers to condone the delay.

05. Though the issue, with respect to the case where the accident has occurred prior to the date on which Section 166(3) came into force i.e 01.04.2022, as to whether in such situation, an application seeking condonation of delay is required to be preferred or not is not required to be answered in this application but as the Ld. Advocate for the Insurance Company has raised an issue with respect to the retrospective applicability of the Amended M.V. Act, this Tribunal finds it appropriate to decide the said issue raised in the present application. Thus, from the above referred rival submission, the short but interesting questions of law which are posed for consideration before this Tribunal are ...

- (1) Whether the provisions of the Motor Vehicles Act (Amendment) Act, 2019 (hereinafter referred as 'the Amended M.V. Act) which came into effect from 01.04.2022 would apply in the case where the alleged motor accident has occurred prior to 01.04.2022, in

other words, whether the provisions contained u/s.166(3) of the Amended M.V. Act would apply retrospectively or prospectively ?

(2) Whether an application for condonation of delay can be entertained, if the claim petition is filed after six months from the date of occurrence ?

06. Opponents No.2 and 4 submitted written objections *vide* **Ex.14 & Ex.22** respectively and submitted that the application is not maintainable either on facts or on law. It has further submitted that the alleged accident has taken place as on **27.04.2023**, whereas the delay application for filing application of compensation is filed on **14.08.2024** i.e. **9 months and 18 days** from the date of occurrence of alleged accident so it is submitted that there is inordinate delay on the part of claimant in filing the claim petition and it has been filed within the time limit as mandated in the provisions under section 166(3) of the MV Act 1988 (amended as in 2019). Hence, the claim filed by the applicant is barred by limitation and therefore, it cannot be entertained and no satisfactory and reasonable reasons are given by applicant with documentary evidences so, this petition is liable to be dismissed and hence, this petition of delay may kindly be dismissed.

00. Opponent No.3 has submitted reply at Ex.____, whereby it is submitted that he has no objection, if the present application is allowed.
07. Heard the learned Advocates appearing on behalf of the respective parties.
08. Before, I proceed to decide the above referred question, let me briefly jot down the brief history of the law relating to the motor vehicle accident case. The Motor Vehicles Act, 1939 (hereinafter referred to as 'the Old M.V. Act, 1939') had been repealed w.e.f. 30.06.1989 and Motor Vehicles Act, 1988 (hereinafter referred to as 'the M.V. Act, 1988') came into force w.e.f. 01.07.1989. The M.V. Act, 1988 has been amended in the year 2019 and the amendment with respect to the period of limitation [(Section 166(3)] came into effect from 01.04.2022 (hereinafter referred to as 'the Amended M.V. Act'). To understand the exact legal quandary involved in this application, a brief survey of the relevant provision of the M.V. Act is necessary.
09. Since, we are discussing about the recently added Section 166(3) of the Amended M.V. Act, which deals with the period of limitation to file a claim petition, therefore, one needs to refer to the similar provisions which were there in Section 110A(3) in the Old M.V. Act, 1939; Section 166(3) in the M.V. Act, 1988 which have been omitted w.e.f. 14.11.1994. Along with these provisions, one also needs to have a glance on the decisions rendered by the Hon'ble

Supreme Court on the point of limitation to prefer a claim petition. The power of the Tribunal to condone the delay can be understood by appositely juxtaposed reading of Section 110A(3) in the Old M.V. Act, 1939; Section 166(3) in the M.V. Act, 1988 which have been omitted w.e.f. 14.11.1994; Section 166(3) of the Amended M.V. Act and ratios laid down by Hon'ble Supreme Court on Section 110A(3) in the Old M.V. Act, 1939 and Section 166(3) in the M.V. Act, 1988.

10. Therefore, in view of the ratios laid down in the above referred cases, in Section 166(3) of the Amended M.V. Act, no peremptory or imperative language has been used and same is not sufficient to displace the applicability of Section 5 of the Limitation Act, 1963. Though no express powers have been given to the courts to condone the delay, Section 5 of the Limitation Act, 1963 shall apply and court can condone the delay, provided Court is satisfied that sufficient cause has been shown for condonation of delay.
11. Therefore, the conspectus of the above referred discussion is, a victim of the motor accident is not required to prefer an application for condonation of delay, if the accident has occurred on or before the Amended M.V. Act came into effect i.e. 01.04.2022; and, in the case where the accident has occurred on or after the Amended M.V. Act came into effect i.e. 01.04.2022, and claim petition is preferred after the six months from date of occurrence of the accident, an application, seeking condonation of delay may be

preferred u/s.5 of the Limitation Act, 1963, which may be decided in accordance with law by the Tribunal.

12. Reverting back to the facts of the present application, there is delay of **9 months and 18 days**. As discussed hereinabove, M.V. Act is the beneficial legislation and provisions contained therein should be construed liberally and when there is an issue as to whether a particular provision of law may be applied in favour of the claimant or the opponents obviously, such provision of law has to be applied in favour of the claimant.
13. It is not in dispute that claimant has sustained permanent disablement and it is not expected from such road accident victim to prefer the claim petition within the short span of time. It is also required to be noted that normally the disability certificate is being issued by the physician only after six months from the date of accident and under such circumstances it would not be possible for the claimant to prefer claim petition within prescribed period of limitation. It is also worthy to note that, if at all the Insurance Company any the driver and owner of the offending vehicle are held jointly and severally liable to pay amount of compensation than they would be directed to pay the amount of compensation along with interest from the date of the filing of an application for condonation of delay and, therefore, same would not be prejudicial to insurance company any the driver and owner of the offending vehicle. Since, the application seeking condonation of

delay has been preferred by the victim and claimant sustained permanent disability, I deem it fit to allow this application seeking condonation of delay and therefore, the following order is passed, in the interest of justice.

:: ORDER ::

- (1) The present **MACMA No.583/2024** for delay condonation occurred in preferring the claim petition is hereby condoned.
- (2) The Registry, MACP Branch is hereby directed to register claim petition accordingly.
- (3) No order as to cost.

Pronounced in the open Court today, on this **30th** Day of **March, 2026** at **Bhavnagar**.

(MS. HETAL SURESHCHANDRA DAVE)
CHAIRPERSON,
MAC TRIBUNAL (AUXI.),
BHAVNAGAR.
UI CODE NO.GJ00693

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