

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DEVBHOOMI DWARKA AT DWARKA.**MACMA No. 25 of 2025.****Exh.****Viruben Pethabhai Kanzariya.****Age about : 41 years, Occupation : House-hold,****Residing at Kenedy, Vadi Vistar, Taluka :****Kalyanpur, District : Devbhoomi Dwarka. APPLICANT****V E R S U S****(1) Deepak Om Prakash.****The driver & owner of Vehicle
involved in accident,****Residing at 340, Post Shikohpur,****Tehsil : Manesar Shikohpur (160)****Po. Narsingpur, Gurgaon, Haryana.****(2) Go Digit General Insurance Ltd.****Business Center, 5th Floor, "B" wing,****IFCL Tower, 61, Nehru Place,****New Delhi - 110 019.****(3) The State of Gujarat.****Through :- The District Govt. Pleader,****District : Devbhoomi Dwarka @ Khambhaliya,
at Court Compound, Khambhaliya, Taluka :****Khambhaliya, District : Devbhoomi Dwarka at
Khmabhaliya. OPPONENTS**

**Subject : Application praying for condonation of delay
u/s. 5 of the Limitation Act.**

**Appearance : Mr. K. P. Parmar, Ld. Advocate for applicant.
Mr. B. K. Gosai, Ld. Advocate for opponent no. 1.
Ex-parte against opponent no. 2.
Mr. L. R. Chavda, Ld. DGP for opponent no. 3.**

ORDER

1. The present application is presented by the applicant for condonation of delay.
2. The brief facts of the case are that on ill-fated day i.e. on 11.01.2025, the Husband of present applicant has been died due to injuries sustained in vehicular accident. The applicant has filed the claim petition under Section 166 of the Motor Vehicle Act, 1988 along-with along-with Pauper application seeking permission to file application as indigent person, but since delay has occurred, the present MAC Mis. Application came to be filed for condoning the delay of 3 months 7 days occurred in filing claim petition.
3. The opponents are duly served with the notice and opponent no. 1 is remained present along-with his Ld. Advocate but whereas, though duly served opponent no. 2 has chosen not to remain present before the Court and hence, hearing of present application has been proceeded ex-parte against opponent no. 2.
4. I have heard the Ld. Advocates on behalf of the parties. I have perused the documents produced by the respective parties.
5. The Ld. Advocate on behalf of the applicant would submits that husband of the applicant has been died due to grievous injuries sustained by him in vehicular accident and applicant was mentally broken due to the death of her husband and for that reason, there was delay in getting the documents related to the accident and thereafter due to farming season, the applicant was remain engage working in farm and because of that, applicant could not file the application within the time limit and since the applicant's husband passed away on 11.01.2025, the claim petition is required to be filed within 6 months i.e. but applicant could not file the same within time prescribed by Law. Hence, the claim petition is required to be registered by condoning delay of 3 months & 7 days.

6. Though no reply has been filed on behalf of the opponent no. 1 but on behalf of him Ld. Advocate has vehemently opposed by submitting that Section 166(3) of the Motor Vehicle Act, 1988 amended in 2019 with effect from 01.04.2022 being a special law has fixed the limitation of six months to file claim petition under Section 166 from the date of occurrence of the accident. In the present case, the accident took place on 11.01.2025 and therefore amendment which took place in Motor Vehicle Act would be applicable to the facts of the case. It is further submitted that since specific time limit has been stated in Section 166(3) of the Motor Vehicle Act to file claim petition, Section 5 of the Limitation Act, 1963 would not be applicable for relaxing/condoning the delay. Therefore, it is submitted that this Court has no power to condone the delay. Hence, application is required to be rejected.

7. The Hon'ble High court of Gujarat in Special Civil Application No. 12247 of 2024, dated : 02.01.2025 Bajaj Allianz General Insurance Co. Ltd. Vs. Virsinh Muljibhai Khadiya has observed that :-

34. In view of the above and reading all provisions together harmoniously then it is no more right of the accident victim to make claim petition under Section 166 but it is bloomed and bestowed in full fledged duty on the part of the police machinery as well as on the part of the Insurance Company to settle the compensation amount on receiving various reports namely FIR as well as first accident report, interim accident report and detailed accident report. In the circumstances, the claim petition filed by the claimant under Section 166 is in addition to statutory duty of the police machinery or Insurance Company who has not settled the claim on receipt of the information cannot be treated as claim petition made beyond time period. Probably aforesaid provisions are amended in the Motor Vehicle Act to ensure that helpless victim of the motor accident need not to be dependent on filing claim petition in a Court for the purpose of getting just, fair and adequate compensation. The proceeding to grant just, fair and adequate compensation start son the basis of report filed by the police authority as per Section 159. Duty is upon the Insurance Company to offer just, fair and adequate compensation to the victim of the road accident on receipt of the information as per Section 149 of the Motor Vehicle Act and if such offer is rejected, duty is upon claim tribunal to adjudicate such claim on merits. In

effect the petition under Section 166 is mnemonic to the learned Tribunal when police has already filed the various report containing all the requisite details and therefore it has to take up said report as claim petition and to tag it with the petition filed under Section 166 of the Motor Vehicle Act and to proceed further for adjudicating the claim petition.

35. Learned advocate appearing for the Insurance Company is not in position to submit that police authority has not followed the procedure laid down in Section 159 or under the Central Motor Vehicle Rules, 2022 and has not filed/forwarded various reports which they are required to file. Even the Insurance Company did not bring on record anything that what they have done to settle the claim as per Section 149, for which they are statutorily bound to do and to offer just, fair and adequate compensation. Thus, in view of aforesaid discussion, it is crystal clear that in case where any request is made and assessable by the tribunal to adjudicate the claim petition in addition to procedure laid down in Section 149, Section 159 reading with Section 166(4) of the Motor Vehicle Act, question of six months limitation would not arise. The question of six months limitation will arise only in case where no FIR has been registered by the police and no report has been sent or uploaded.

36. The upshot of the discussion is that on registration of the FIR, the claimant is entitled to make petition without fear of being thrown out on the ground of limitation. This could be the reading, more particularly when FIR is registered within six months from the date of the road accident.

37. Another aspect which could be noticed that learned advocate appearing for the Insurance Company 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 Company 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.

38. In case on hand deceased Kamlaben Khadiya lost her life from the road accident. She is survived by his legal heirs and representatives. Amongst them two are minor children. Section 6 and 7 of the Limitation Act for legal disability also applies in case on hand. Since one of the several persons being the claimant suffered from legal disability, they can file claim petition within same time limit after the disablement is ceased."

8. Having regards to the ration laid down by the Hon'ble High Court of Gujarat and considering the fact that husband of the applicant has been died due to grievous injuries sustained due to vehicular accident and considering the facts and circumstances, I am fully satisfied that, this Court has power to condone the delay in filling the claim petition. Hence, whatever delay caused in filing the motor accident claim petition u/s. 166 of the Motor Vehicle Act has been condoned by passing the following order :

ORDER

1. The present MAC Misc. Application (for condonation of delay) No. 25 of 2025 for condonation of delay of 3 months 7 days is hereby allowed.
2. The registry is directed to register the motor accident claim petition.
3. In view of this final order any application pending be disposed of accordingly.
4. As the neither parties are remained present today the office is directed to issue process to both the parties after registering the petition.

**Pronounced in the Open Court today on this
18th Day of the March, 2026.**

Date : 18/03/2026
Place: Dwarka.

(Kaushikkumar Jashvantlal Modi)
Addl. District Judge, Devbhoomi Dwarka
At : Dwarka. UID-GJ00597