

	Received on	:	01/03/2025		
	Registered on	:	01/03/2025		
	Decided on	:	29/07/2026		
GJJN220000732025	Duration		Years	Months	Days
			1	4	28

IN THE COURT OF THE 3rd ADDITIONAL DISTRICT & SESSIONS JUDGE, VANTHALI

M.A.CIVIL MISC. APPLICATION (Delay) No.10/2025

Exhi. _____

Applicant:-

Shantaben Hirabhai Dangar

V/s

Opponent:-

Ow. : The Gujarat State Road Transport Corporation

Sub:- Delay Condone Application for condonation of delay 13 days occurred in filing a claim petition.

Appearance:-

Ld. Advocate Mr.K.L.Sanchela for the applicant.

Ld. Advocate Mr.P.M.Hirpara for the opponent.

- JUDGMENT -

- 1) The present application is filed by the applicant, seeking condonation of a delay of 13 Days occurred in filing the claim petition pertaining to the vehicular accident happend on 16/08/2024.
- 2) The learned Advocate for the applicant submitted that the motor vehicle accident occurred on 16.08.2024. Under the

amended provisions of the Motor Vehicles Act, the claim petition was required to be filed within 180 days. However, due to applicant's lack of knowledge of the law and the prescribed limitation period, she could not file the claim within time. It is further stated that she was undergoing medical treatment following the accident and had approached the police for registration of an FIR. However, the police allegedly recorded only a *JanvaJog* entry and did not register an FIR. The applicant remained under the bona fide belief that the police would take the necessary steps and were waiting for the registration of the FIR/DAR. It is stated that there is a delay of 13 days in filing the claim petition and pray that the said delay be condoned in the interest of justice so that her claim for compensation may be adjudicated on merits.

- 3) Notice of the present application is served upon the opponent, who appeared through its Ld. Advocate and orally objected the present application.
- 4) Heard Ld. Advocates for the parties, perused the record.
- 5) Herein, In the present case the accident occurred on 16.08.2024, and the present application has been filed on 01.03.2025. The Motor Vehicles Act of 1988 has been amended, and Section 166(3) has been modified to state,

“No application for compensation shall be entertained unless it is made within 6 months of the occurrence of the accident.”
- 6) That the Hon’ble Madras High Court in the case of Santhi & Ors. vs Suresh & Anr. wherein the Hon’ble Madras

High Court has laid down as under;

- (i) The amendment to Section 166 (3) of the Motor Vehicles Act is to be implemented scrupulously with reference to the accidents that occurred after 01.04.2022.
- (ii) Regarding the accidents occurred prior to 01.04.2022, the applications have to be entertained within a period of six months from the date of amendment i.e. 01.04.2022.

7) The Hon'ble Gujarat High Court, in the case of ICICI Lombard General Ins. Co. Ltd. vs Shilaben Sukkarbhai Rathod is produced and wherein in para (4), the Hon'ble Gujarat High Court has observed that ;

4. The impugned order does not reflect as to whether any report of accident has been forwarded to the Tribunal under Section 159 to consider it as an application for compensation under the MV Act, as provided under Sub-section (4) of Section 166. The grounds raised in the petition require consideration. Hence, RULE returnable on 22nd AUGUST, 2023.

8) In another judgment of the Hon'ble Gujarat High Court, in the case of ICICI Lombard General Ins. Co. Ltd. vs Hansaben Jagdishbhai Bhatiya is produced and wherein also in para (4), the Hon'ble Gujarat High Court has observed that ;

4. The impugned order does not reflect as to whether any report of accident has been forwarded to the Tribunal under Section 159 to consider it as an application for compensation under the MV Act, as provided under Sub-section (4) of Section 166. The grounds raised in the petition require consideration. Hence, Rule, returnable on 22nd August, 2023.

9) Herein, the judgment of the Hon'ble Apex Court, in the case of Chola mandalam MA General Insurance Co. Ltd. vs Shreelakshmi T & Ors. in Spl. Leave Petition (C)

No.9152/2023 wherein the Hon'ble Apex Court has passed following order

“In the facts and circumstances of the case, the effect and operation of the impugned order dated 23.01.2023 shall remain stayed.”

- 10) The order which has been stayed was of the Hon'ble Kerala High Court in the case of Sathy & Ors. vs Dileep I. S. & Ors. and wherein Hon'ble Kerala High Court has held in para (24) that :

24. As a fall out of my findings, the impugned orders are set aside, it is held that the provisions of the limitation Act would be applicable for entertaining the petitions for claiming the compensation even beyond the period of six months, for, by taking into consideration, Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act. In other words, it is held that the claim petitions, if filed beyond the period of six months cannot be dismissed in limine.

- 11) Therefore, the Hon'ble Kerala High Court has categorically decided that a claim petition filed beyond the period of six months cannot be dismissed in limine. However, the Hon'ble Apex Court has stayed this order of the Hon'ble Kerala High Court. As a result, no final order is required to be passed in the present application since the question of law is pending before the Hon'ble Apex Court in the said case. If the present application is dismissed and the Hon'ble Apex Court decides that the delay can be condoned, then the petitioner may face significant

inconvenience. Therefore, the following order is passed

- ORDER -

1. The present application is hereby **allowed** and it is hereby clarified that if the final verdict of the Hon'ble Gujarat High Court or the Hon'ble Apex Court does not come on the point of delay, until the final conclusion of the trial, then at the stage of final argument of the MACP, this matter shall also be decided on the ground of delay.
2. Furthermore, it is hereby clarified that the point of limitation can also be raised by the opponents in the main petition.
3. Registry is directed to register the claim petition in accordance with law.

Pronounced in the open Court on the **29th day of July, 2026.**

Date:29/07/2026
Place:Vanthali

(Salimbhai Babulal Mansuri)
3rd Additional District Judge
& MACT (Auxi.), Vanthali.
UIC No.GJ00698