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MACMA (Delay)/353/2024

Received on : 11 / 07 / 2024

Registered on : 11 / 07 / 2024

Decided on : 22 / 05 / 2026

Duration :

YY	MM	DD
01	10	11

**BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL (Main)
MAHISAGAR AT LUNAWADA.**

MACMA No. 353 of 2024

Exh. :- 10

Applicant :-

Somabhai Javrabhai Baria
Age – 37 years, Occupation – Agriculture / Labour,
R/o. Godhar (West), Rathod Faliyu,
Tal. Santrampur, Dist. Mahisagar.

V E R S U S

Opponents :-

(Owner and insurer of vehicle no.GJ-17 Q-7081)

1. Mahendrabhai Rameshbhai Nayak
Adult, Driver,
R/o. Nayakvada, Salera,
Tal. Lunawada, Dist. Mahisagar.
2. Shankarbhai Hirabhai Patel
Adult, Owner,
R/o. Velanvada, Umiyanagar,
Tal. Lunawada, Dist. Mahisagar.

Appearance :-

Ld. Advocate Shri C. P. Patel for applicant

Ex-parte against the opponents

-:: J U D G M E N T ::-

- (1) As of the present application, claimant Somabhai sustained injuries in a vehicular accident involving the vehicle no.GJ-17 Q-7081 and hence intends to file a claim petition for getting compensation from the driver and owner of the offending vehicle but it caused delay and hence filed present application to condone the delay. It is the say of the applicant that the accident occurred on 13.06.2022 but she is unaware with the procedure of the law and therefore doesn't know about the limitation to file the claim petition and it caused delay by 575 days. That the applicant has not delayed intentionally to file a claim petition and if the delay is not condoned and the claim petition will not be filed then she will have to suffer a huge economic loss. Therefore, the applicant has filed present application and requested to condone the delay.
- (2) Notices of this claim petition have been duly served upon the opponents but none of them appeared to contest this matter and therefore ex-parte order is passed against them on 24.04.2026.
- (3) Ld. Advocate for the applicant argued that FAR, DAR did not submit by the police before the MAC Tribunal. Moreover the delay occurred in collecting the documents. Also as per the judgment of the Hon'ble High Court of Gujarat, the present application is required to be allowed and delay be condoned. None appeared on behalf of any of the opponent to argue in this matter.

- (4) Herein, it is an undisputed fact that the accident occurred on 13.06.2022, and the present application has been filed on 11.07.2024. 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.”*
- (5) But recently, in the case of *Bajaj Allianz General Insurance Co. Ltd. Versus Virsinh Muljibhai Khadiya* reported in **2025 (0) AIJEL-HC 249946**, the Hon’ble High Court of Gujarat has observed in para (35) as under;

“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.”

Also in para (37) of the said judgment, it is observed that;

“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.”

- (6) So far as the Hon’ble Apex Court, in the case of *Bajaj Allianz General Insurance Company Private Ltd. vs Union of India & Ors.* in **Writ Petition(s)(Civil) No(s).534/2020** has categorically imposed the guideline to submit FAR, DAR, etc. before the concerned Tribunal in the accidental cases and thereby the police has to submit such reports before the concerned Tribunals within time limit described in that case. In the present case, accident occurred on 13.06.2022 and complaint filed on 18.06.2022 vide C.R. No.11187007220450/2022 with Santrampur Police Station.
- (7) Therefore, considering the above ratio laid down by the Hon’ble Gujarat High Court, as in the present case, it is on record that the complaint of the accident has been lodged on 18.06.2022 with Santrampur Police Station vide C. R. No.11187007220450/2022 and therefore as per the above judgment, question of six months limitation not arise in the present case and even the delay of only 575 days cannot be said.
- (8) Also the opponents not remained present to establish that the 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 they did not bring on record anything that what the opponents including insurer, if any, 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. Therefore, considering the same, the following order is passed.

-: ORDER :-

This application is hereby allowed.

The registry is hereby directed to register the claim petition of the applicants.

No order as to costs.

Pronounced in the open court today.

Date : 22.05.2026

Lunawada.

(M. N. Gadkari)
M. A. C. Tribunal (Main)
Mahisagar at Lunawada.
[GJ00425]