

Received on	04/06/2025
Registered on	04/06/2025
Decided on	20/06/2026
Duration	YY MM DD 01 00 16

BEFORE THE MOTOR ACCIDENT CLAIM
TRIBUNAL(AUXI), AT JETPUR, DIST- RAJKOT

Vinodkumar Veljibhai Akbari,

Age-65, Occ. Farming,

Res.at :- Jaimini, Dobariya vadi, Amarnagar road, Jetpur.

...Applicant

V/s

Vehicle No. GJ-33-T-1373

1. Owner: Ghanshyambhai Mathurbhai Chauhan,

Res:- 857, Keshavnagar, Barvala, Dist- Botad.

2. Ins. Co.: The New India General Insurance Co. Ltd.,

Add:- 3rd floor, LIC main building, Mahila college chowk, Rajkot.

..Opponents

Subject : An application under section 5 of Limitation Act.

Appearance:

Ld. Advocate Mr. A.V. Parekh for applicant.

None Appears for the opponent no.1.

Ld. Advocate Mr. V.P. Doshi for Opponent no.2.

A.D.J.JETPUR.

:: JUDGMENT ::

1. This application has been filed by the injured applicant seeking to condone the delay of 8 months 15 days caused in filing the claim petition for compensation u/s 166(3) of the Motor Vehicles Act, 1988 (as amended), for damages caused to his vehicle in a vehicular accident.
2. Upon issuance of notices, Opponent No. 1 has neither appeared through his learned Advocate nor filed any reply. While the opponent no. 2 has appeared through his Ld. Advocate and filed written reply at Exh. 8 wherein it is specifically stated that the claim application must be filed within six months of the occurrence of the accident as per amendment in M.V. Act made with effect from 01.04.2022. The present accident is occurred on 20.09.2024 and the application of claim is filed on 04.06.2025 which is beyond the limitation period and also relied upon the judgment of Madras High Court in case of Santhi and others Vs. Suresh and others in civil revision petition no. 4066/2022, hence, prayed to reject the present application of the applicant.
3. I have heard the learned Advocates for the appearing parties and perused the application and the documentary evidence on record. It appears that the applicant intends to file a claim

petition for compensation regarding damages caused in the said vehicular accident. However, he could not file the claim petition within the statutory period of six months from the date of the accident as prescribed under the amended Motor Vehicles Act. Consequently, the applicant has moved this application to condone the delay that occurred beyond the limitation period.

4. The applicant submits that he is unaware regarding the legal knowledge of compensation. The accident occurred on 20/09/2024, and the present application was filed on 04/06/2025. The applicant has stated that he is retired and old age and the delay was caused due to a lack of sufficient legal knowledge. It is further submitted that due to injuries sustained he was bed rest for long time. The applicant categorically states that the delay was not intentional but bona fide.
5. Amid, the Hon'ble High Court of Gujarat in recent pronouncement titled **Bajaj Allianz General Insurance Co. Ltd vs Virsinh Muljibhai Khadiya** on 2 January, 2025, C/SCA/ 12247/ 2024, held as under,

"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 starts on 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."

6. In view of the recent pronouncement above, I am of the view that the present application deserves to be allowed. Hence, the following order is passed:

-:: ORDER ::-

1. CMACD (Delay) No. 11 of 2025 is hereby allowed. The delay caused in filing the Motor Accident Claim Petition for compensation for injuries sustained in the accident is hereby condoned.
2. It is hereby order that the claim petition filed with this petition shall be ordered to be proceeded to registered.
3. No order as to cost.

**Pronounced in open Court today i.e. on
20th day of June, 2026.**

**Date: 20/06/2026
Place: Jetpur**

**[Rajesh Sureshchandra Purani]
7th Additional Sessions Judge,
Jetpur, Dist-Rajkot.
JUDGE CODE :- GJ00727**

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A.D.J.JETPUR.