

ORDERS ON I.A.No.1

FILED UNDER SEC.5 OF LIMITATION ACT

This instant application is filed by the petitioner U/S. 5 of Limitation Act 1963 for condoning the delay in filing the petition.

2. The above said application is accompanied with an affidavit of petitioner, wherein she has contended that she has filed the claim petition against respondents for claiming compensation due to injuries sustained by her in R.T.A. on 7-4-2023. She could not able to file the claim petition within time, because she was taking treatment at M.S.Ramaiah Hospital and taking follow up treatment. Hence, she could not able to meet her counsel to file the present petition. After recovering from ill health, she met her advocate on 18-12-2023. The delay in filing the petition is bonafide and not an intentional one. Hence, prays to condone the delay in filing the petition.

3. The counsel for the respondent no.1 has filed the objections to the said application contending that, the application filed by the petitioner is not maintainable either in law or on facts of the case. The alleged accident occurred on 07-04-2023, whereas the claim petition has been filed on 02-01-2024 i.e., after lapse of statutory period of six months and same is barred by time and it has not been filed within the time limit as specified under section 166(3) of M.V.Act. Hence prays to dismiss the petition.

4. Heard on application from petitioner side.

5. The points that would arise for my consideration are as under:

1) Whether, the petitioner has made out sufficient grounds to condone the delay?

2) What Order?

6. My findings to the above points are as under;

Point No.1: In the Affirmative,

Point No.2: As per the final order, for the following:

REASONS

7. **Point No.1:** The petitioner herein has filed above petition against respondents for seeking compensation on account of injuries sustained by her in R.T.A.

8. The petitioner has stated that she was admitted in M.S.Ramaiah hospital for and she was under continuous follow up treatment, hence she could not able to meet her counsel to file the petition. Therefore there is a delay in filing the claim petition.

9. Admittedly, there is a delay of 85 days in filing the petition. Learned counsel for petitioner has relied the following decisions:-

1) Mr.Sathy V/s Dilip .I.S. and another in O.P. (MAC) No.51/2022 of Hon'ble High Court of Kerala, Ernakulam.

2) 2023 Live Law (Ker) 50, between Akshay Raj V/s Ministry of Law and Justice Legislative Department (OP.(MAC) No.6/2023)

3) The Divisional Manager, United India V/s Ramu @ Ramesh in WP No.201961/2023 before Hon'ble High Court of Karnataka.

In the case of Divisional Manager, United India V/s Ramu @ Ramesh, the Hon'ble High court of Karnataka. held that, ***The M.V. Act being a beneficial Act, the provisions thereof had to be given beneficial meaning and effect. The benefit under the act cannot be taken away on the technical aspect that too of limitation.***

10. In this case the petitioner has stated that he was hospitalized for long time. It is admitted fact that after amendment the police authority has to file first accident report, interim accident report and detailed accident report before claim tribunal within its jurisdiction. In this case FIR has been registered but there is no records to show that the police have complied mandatory provisions stated in above. By applying principle laid down in the supra decision, I am of the opinion that the petitioner has not delayed deliberately but, the circumstances were beyond his control. By taking liberal view and to give fair

opportunity and also to avoid multiplicity of proceedings, the delay may be condoned in filing the petition. Hence, I have answered Point No.1 in the Affirmative.

11. **Point No.2:** For the above made discussions, I proceed to pass the following:

ORDER

I.A.No.I filed by the petitioner U/S. 5 of Limitation Act, is hereby allowed.

Consequently, the delay in filing petition is hereby condoned.

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.

**(Order pronounced in the open court vide
separate order)**

ORDER

I.A.No.II filed by the applicant / respondent No.1 Under Order VII Rule 11(d) R/w Sec.151 of CPC is hereby dismissed.

For W.S. of R1.

Call on 02-05-2025

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.