

:: ORDER ON I.A.No.II:

1. Respondent No.2 being insurer of lorry bearing registration No.MH-25/U-0178 has filed I.A.No.II, Under Order 7 rule 11(d) of CPC., read with Sec.166(3) of IMV Act, seeking to reject the claim petition as barred by limitation. Said application is supported by the affidavit of authorized person of respondent No.2, wherein it is stated that, as per Sec.166(3) of the amended Motor Vehicles Act, claimant ought to have filed the claim petition within 6 months from the date of alleged accident. The alleged accident took on 18.11.2022. Whereas, the claim petition was filed on 04.06.2024. Therefore, it is clear that, instant claim petition is filed after lapse of 6 months from the date of alleged accident. Therefore, the claim petition is barred by limitation and accordingly it is liable to be dismissed.

2. Said application is resisted by the claimant by filing his counter, inter-alia, contending that the application filed by the respondent is not maintainable. Claimant has filed IA No.I, U/Sec.5 of Limitation Act, seeking to condone the delay in filing

this claim petition. Claimant sustained injuries in the accident. Therefore, he took long treatment. Therefore, claimant could not file the claim petition in time. Said delay was not intentional one, but for the above said genuine reason. Therefore, it is prayed to dismiss IA No.II.

3. I have heard the arguments of both sides on the above said application and perused the material on record. The following point arises for consideration.

Point for consideration

Point:- Whether, in view of Sec.166(3) of M.V.Act, the claim petition filed by the claimant is barred by limitation and consequently, it is liable to be rejected U/o 7 rule 11(d) of CPC ?.

4. My findings on the above point is in the negative for the following...

:: REASONS ::

5. This is a claim petition filed by the claimant U/Sec.166 of MV Act against the respondents

seeking compensation in respect of injuries sustained by him in the road traffic accident occurred on 18.11.2022. In response to the notices, respondents appeared through their counsel and contested the claim petition. The respondent No.2 has filed I.A.No.II, under order 7 rule 11 (d) of CPC., read with Sec.166(3) of CPC., seeking rejection of claim petition on the ground that it is barred by limitation. To the said application, claimant has filed his counter.

6. Having regard to the above said rival contentions and as per Sec.166(3) of M.V.Act, it is clear that, no application seeking compensation shall be entertained, unless such claim petition is filed within six months from the date of accident. In the case on hand, it is alleged that the accident occurred on 18.11.2022 and the claim petition was filed on 04.06.2024. Considering the same, the learned counsel for respondent No.2 would contend that, in view of filing of claim petition after lapse of six months from the date of alleged accident, this petition is barred by limitation and accordingly it is liable to be dismissed.

7. Per contra, the learned counsel for claimant would contend that, condonation of delay application is filed by explaining the reason for

delay and same may be treated as her counter to IA No.II. In support of contention of claimant, he has relied on the decisions of Hon'ble High Court of Karnataka decided in WP No.201723/2024 C/w 101740/2024 and WP No.20737/2024.

8. I have gone through the material on record. The **Hon'ble High Court in W.P.No.201961/2023, between the Divisional Manager, United India Insurance Company Ltd., Vs. Ramu @ Ramesh and others, decided on 21.07.2023**, a question arose before the Hon'ble High Court of Karnataka as to whether Sec.166(3) could be construed strictly, so as to deprive the victim of the accident to deny just compensation. The Hon'ble High Court having gone through the various provisions of M.V.Act and the amended Act, has finally come to conclusion that Sec.166 of M.V.Act shall be read in consonance with Sec.159, 160, 161 of M.V.Act and among other provisions of M.V.Act. Sec.159 of M.V.Act states that police officials after receiving the information regarding the accident shall submit a report to the concerned Tribunal within 3 months from the date of accident so as to facilitate the victim of the accident to get the compensation. Sec.160 of the M.V.Act casts a duty on the police officer or the agency to furnish the particulars of vehicles

involved in the accident. Sec.161 of M.V.Act mandates for interim compensation to be paid in case of hit and run case. In the case on hand, there is no material on record to show that, the above provisions have been complied by the concerned police by submitting their report before the tribunal within the stipulated period regarding the said accident. Therefore, considering observations made in the said decision as well as facts and circumstances of the case on hand, I am of the view that, at the threshold, claim petition cannot be rejected as barred by limitation. Therefore, IA No.II is liable to be dismissed as devoid of merit. Accordingly, I answer the above point in the negative. Consequently, I proceed to pass the following...

:: ORDER ::

I.A.No.II filed by the respondent No.2
U/O 7 rule 11 (d) of CPC R/w
U/Sec.166(3) of MV Act, seeking to
reject the claim petition as barred by
limitation, is rejected.

Senior Civil Judge and JMFC,
Basavakalyan.