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**IN TE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT, BAILHONGAL, AT: BAILHONGAL**

Dated this the 28th Day of November 2025

PRESENT

Shri. Ravi Babu Chawan,
B.A.LL.B.,
Senior Civil Judge and Addl. MACT.,
Bailhongal.

M.V.C. No.715/2023

Shri. Yallappa S/o Satyappa Mundali,
..... Petitioner

(By Shri. S.G.B., Advocate)

-Vs-

1) Smt. Manjula Aadrushappa Karabannavar
and another, **.....Respondents**

(By Sri. M.M.S., Advocate for R1)
(By Sri. U.C.H., Advocate for R2)

PARTIES TO I.A. No.IV

The Divisional Manager,
National Insurance Company Ltd.,

.....Applicant/ Respondent No.2

(By Shri. U.C.H., Advocate)

- Vs. -

Shri. Yallappa S/o Satyappa Mundali,

.....Respondent/ petitioner

(By Shri. S.G.B., Advocate)

ORDER ON I.A.No.IV

The learned counsel for the respondent No.2 has filed the present application under Order 166(3) of MV.Act and under Order 7 Rule 11 (d) R/w 151 of CPC, praying for rejection of the claim petition on the ground that it is barred by limitation.

2. In the accompanying memo of facts, it is stated that the petition is filed by the petitioner seeking compensation is filed after laps 6 months from the date of accident as prescribed under Section 166 (3) of the MV.Act, and therefore, it is time barred. It is further contended that a preliminary issue regarding limitation is a required to be framed before proceeding further. Hence, respondent No.2 prays that petition be rejected as time barred.

3. On the other hand, the learned counsel for the petitioner has filed the objections contending that the application is not maintainable either in law or on facts. Further submitted that at the time of filing claim petition application under section 5 of the limitation has been filed. Accordingly Hon'ble Principal and Session judge Belagavi verified the same permitted to file the claim petition and made over the case to this Court for adjudication. According to the petitioner the case is permitted to file and taken on record registered and in the court records. Therefore it is impliedly allowed the application filed along with the claim petition.

4. The petitioner further submits that the petitioner has sustained grievous injuries, and after discharge from the hospital he has been under bed rest and under to move without support of others, and petitioner is under impression that the for filing of the claim petition filing of charge sheet in criminal case is necessary, and its copy i.e., required, hence only he has unable to file his claim petition within the stipulated time, and in the first week of March 2023 he came know that the charge sheet has been filed in his Criminal case, after that, he has instruct to his counsel to file claim petition, accordingly his

counsel has obtain certified copies from JMFC Court Kittur, and filed his case on 27-03-2023, and all that, it caused delay of 18 days, and said delay caused were not in the control of this petitioner, and came are beyond his control. It is also contended that the delay was neither intentional nor deliberate, but due to sufficient and bona-fide cause. Hence, the application filed by respondent No.2 liable to be rejected. Therefore, he prays for dismissal of the application.

5. Heard both sides and perused the materials available on record.

6. The following points would arise for consideration are as under;

POINTS

1) Whether the claim petition appears to be barred by limitation so as to attract Order 7 Rule 11 (D) of CPC ?

2) Whether in view of the petitioner having filed an application under Section 5 of the Limitation Act, the plea of the respondent No.2 for

rejection of the petition at the threshold is sustainable ?

3) What order?

7. My findings on the aforesaid points are as under:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: As per final order for
the following:

REASONS

8. **Point No.1 & 2:-** Since these points are inter linked to each other, they are taken together for common discussion to avoid repetition of facts and evidence.

9. The respondent No.2 has invoked Section 166(3) of the MV.Act to contend that the petition filed after 6 months is time barred. The records disclose that the petitioner has filed an application under Section 5 of the Limitation Act along with the claim petition seeking condonation of the delay of 18 days in filing the claim petition. Now the question of limitation under Section

166(3) of the MV.Act cannot be decided mechanical without considering the grounds urged for condonation of delay. Further, it is settled law that when an application for condonation of delay is filed, the Court is required to consider such application on merits before invoking order 7 Rule 11(d) of CPC. Therefore, rejection of the entire petition at the stage, without adjudicating the delay condonation application, is impermissible. Therefor, the question so as to whether the accident in present case took place on 08-09-2022, which falls within limitation period notified by the Apex Court is required to consider while deciding the application filed under Section 5 of the Limitation Act. Therefor, the contention of the respondent No.2 regarding absolute bar of limitation cannot be accepted at this interlocutory stage. Furthermore, whether delay deserves condonation is a matter that has to be considered separately in the delay-condonation application filed by the petitioner along with claim petition. Until such consideration is made, the petition cannot be rejected under Order 7 Rule 11 (d) of CPC. Thus, the application filed by the respondent No.2 is premature and devoid of merits. Accordingly, point Nos.1 and 2 are answered in the **Negative**.

10. **Point No.3:-** In view of above findings and discussion made on Point Nos.1 and 2, I proceed to pass the following:

ORDER

I.A.No.IV filed by the respondent No.2 under Section 166 (3) of MV.Act and under Order VII Rule 11(d) R/w. Sec. 151 of CPC is hereby rejected.

The application filed by the petitioner under Section 5 of the Limitation act shall be considered and disposed of on merits separately

No order as to costs.

(Dictated to the stenographer, transcribed and typed by him on computer, corrected, revised then signed by me and pronounced in the open Court on this the 28th Day of November 2025)

(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT.,
Bailhongal.

