

**ORDER ON I.A. NO. I**

1. In the present petition the petitioner has filed the instant application to condone the delay in preferring the present petition. The petitioner in his affidavit submits that he has sustained injuries and he was unable to walk for which he has not filed the petition within time. He further submits that the delay in filing the present petition is due to bonafide reasons. In this regard, the petitioner prays as above.
2. The respondent no.2 has appeared and filed the objections to the said application. He submits that the petition is barred by limitation and the alleged accident has taken place on 23/11/2022 whereas the Motor Accident Claim Petition has been filed on 24/05/2023 and there is an inordinate delay on the part of the petitioner in filing the claim petition and it has not been filed within the time limit as specified under the provisions of the MV Act. He further submits that the claim filed by the petitioner is barred by limitation and therefore it cannot be entertained and accordingly, he prays to dismiss the petition.
3. Considering the rival contentions of the petitioner and the respondent no.2, the following points arise for my consideration:
  1. Whether the delay caused in preferring the petition bearing M.V.C.No.376/2023 deserves to be condoned?
  2. To what order?
4. I have heard the learned Counsel for the petitioners and the respondent no.2 on I.A.No.1.
5. My findings for the above points are as under:

Point No.1: In the affirmative

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

### **REASONS**

6. **Point No.1:** It is the case of the petitioner that due to the accident he has sustained injuries and he was unable to walk and the delay in filing the present petition is due to bonafide reasons. On the other hand, the respondent no.2 has contended that the inordinate delay has been caused to file this petition and such delay cannot be entertained and prefers to dismiss the petition.
7. On perusal of the affidavit of the petitioner, it is evident that due to the accident, the petitioner has sustained injuries. It is pertinent to note that if any accident occurs ordinary prudence man will rush to hospital and not to the advocate or court for filing the claim petition and in the case on hand the petitioner has sustained injuries and it can be inferred that as unforeseen consequence, the petitioner has not preferred this petition within time.
8. Further, what exactly is to be the approach in the matter of condonation of delay has been considered by the Hon'ble Supreme Court of India in the decision between the Collector Land Acquisition v/s.Mst.Katiji and others cited in (1987) 2 SCC 107 wherein the Hon'ble Court laid down 6 broad guidelines, specifically holding that there should not be a pedantic approach in the matter of delay and delay should be liberally construed, more particularly when there is a merit in the case. Further, it has held that refusing to condone the delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is

- condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. Further, it has held that every day's delay must be explained does not mean that a pedantic approach should be made. The doctrine must be applied in a rational common sense pragmatic manner.
9. In the case on hand, undisputedly there is a delay of 22 days in preferring the present petition. Further, such delay cannot be said to be inordinate delay in the facts and circumstances of the present case. In these circumstances, having regard to the reasons given by the petitioner for delay in presenting the petition and in view of the law laid down by the Hon'ble Supreme Court of India, I am of the view that there is a sufficient cause for condoning the delay of 22 days in presenting the petition. Further, I am of the view that the delay caused in presenting the petition deserves to be condoned. Accordingly, point no.1 is answered in the affirmative.
10. **Point No.2:** In view of my discussion made supra, I proceed to pass the following:

**ORDER**

I.A.No.1 filed by the petitioners under Sec.5 of Limitation Act is hereby allowed on costs of Rs.1,000/-.

The delay of 22 days caused in presenting the petition stands condoned.

(Directly I have typed on my laptop, corrected and then pronounced by me in the open Court on this the 13<sup>th</sup> day of December, 2024.)

**(Sri. Hanamantarao R.Kulkarni)**

**Senior Civil Judge & JMFC.,  
Hunagund.**

**ORDER ON I.A.NO.II**

1. The learned Counsel for the respondent no.2 has filed I.A.No.II under VII Rule 11 r/w Sec.151 of CPC to reject the petition as barred by limitation.
2. The learned counsel for the petitioner has filed the statement of objections to the said application.
3. It is pertinent to note that the petitioner has filed an I.A.No.1 under Sec.5 of the Indian Limitation Act to condone the delay in filing the claim petition and for which the learned Counsel for the respondent no.2 has filed the objections and it is pertinent to note that this court has allowed I.A.No.1 and the delay in filing the claim petition has been condoned. Hence, again consideration of the claim petition is barred by time does not arise for consideration. Hence, I.A.No.II does not survive for consideration. Accordingly, I.A.No.II is hereby rejected.

**Senior Civil Judge & J.M.F.C.,  
Hunagund.**