

ORDER ON I.A. NO. I

1. In the present petition the petitioners have filed the instant application to condone the delay in preferring the present petition. The petitioner no.1 in her affidavit submits that she has lost her son and she has suffered mental agony and life has become dark miserable and untold hardship for which she has not filed the petition within time. She 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 written statement and he has also filed a memo that he has adopted the contents of the written statement as objections to the said application. He submits that the petition is barred by limitation and there is an inordinate delay on the part of the petitioners 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 petitioners 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 petitioners 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.502/2023 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 no.1 that due to the accident she has lost her son and she has undergone mental agony 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 no.1, it is evident that due to the accident, the petitioner no.1 has lost her son. 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 no.1 has lost her beloved son and undergone mental agony and it can be inferred that as unforeseen consequence, the petitioner no.1 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 230 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 no.1 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 230 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 petitioner no.1 under Sec.5 of Limitation Act is hereby allowed on costs of Rs.1,000/-.

The delay of 230 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 **13th** day of **June, 2025**.)

(Sri. Hanamantarao R.Kulkarni)
Senior Civil Judge & JMFC.,
Hunagund.

