

ORDERS ON IA No.I & II

IA No.I is filed by the petitioners under section 5 of Limitation Act seeking condonation of delay of one month ten days, caused in filing the present petition on the ground the due to paucity of funds they could file the petition well in time. The application is supported with the affidavit of the petitioner No.1.

2. IA No.II is filed by the respondent No.2 under Order 7 Rule 11 (d) R/W Sec. 151 of CPC and Sec.166 (3) of MV Act seeking rejection of petition on the ground that the same is barred by law of limitation. It is contended by the respondent No.2 that the present petition was filed after a six months from 01-04-2022.

3. Per contra, the petitioners have filed their objection contending that the petitioners have filed the petition along with IA No.I under section 5 of Limitation Act and as such the contentions of the respondent No.2, that the petition is liable to be dismissed cannot be accepted. Further it contended that the MV Act is based on the principle of social justice and as

such, the petition cannot be dismissed. On these grounds and such other it is prayed for dismissal of IA No.II.

4. Heard arguments. Perused records. It is submitted by the learned counsel for the respondent No.2 to consider IA No.II as objection to IA No.I.

5. The present petition is filed under section 166 of Motor Vehicles Act seeking compensation on account of death of one Mannekote Chittanna. The alleged date of accident is 14-06-2023. The present petition came to be filed on 24-01-2024. Thus the respondent No.2 claims that there is a delay caused in filing the claim petition. As per section 166 (3) of Motor Vehicles Act, no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident. As such the petition ought to have filed on or before 14-12-2023 and the same came to be filed on 24-01-2024. The delay caused is one month 10 days. The petitioners claim that due to paucity of funds, they could not contact there counsel well in time and as such he could not file the petition

in time. It is pertinent to note that Motor Vehicles Act is a beneficial piece of legislation. The claim made by the legal heirs of the deceased, cannot be dismissed on the ground of technicalities.

6. In this regard it is pertinent to refer to a decision of Hon'ble High Court of Karnataka, Kalaburgi Bench in W.P.No.201961/2023 (MV) dated 21-07-2023 reported in **NC 2023: KHC-K-5621**. It was observed by the Hon'ble High Court that ***MV act being a beneficial enactment section 5 of the Limitation Act being enacted to provide succor to persons who have come to court late, but with a valid reason, section 5 of Limitation Act would also have to be considered beneficially and there is no bar under the MV Act for applying the principles under section 5 of the Limitation Act.*** Further it was held that it cannot be said there is a blanket embargo under sub section (3) of Section 166 of MV Act in entertaining a claim petition filed after the limitation period. Thus having recourse to section 5 of Limitation Act, the delay if any, caused, could very well be condoned by the court.

7. Similar view was taken by the Hon'ble High Court of Kerala in the case of **Akshay Raj Vs Ministry of Law and Justice, Legislative Department** reported in 2023 LiveLaw (Ker) 50. It was observed that *claim petitions, if filed beyond the period of six months cannot be dismissed in limine*. Further it was held that *the provisions of the limitation Act would be applicable for entertaining the petitioners for claiming compensation even beyond the period of six months*.

8. Thus in the light of the ratio laid down in the aforesaid cases, merely because the petition was filed after lapse of six months, is no ground to reject the petition under order VII Rule 11 (d) of CPC. Considering the fact that the petitioner was under treatment, this Tribunal finds no sufficient grounds to allow the IA No.I. The petitioner has made out sufficient cause to condone the delay caused in filing the present petition. In the light of foregoing discussions, this Tribunal proceeds to pass the following

ORDER

IA No.I filed by the respondent No.2 under Order VII Rule 11 (d) R/W section 151 of CPC & Sec.166 (3) of MV Act is hereby dismissed.

IA No.II filed by the petitioner under section 5 of Limitation Act is hereby allowed.

The delay caused in filing the petition is condoned.

For issues by 20-11-2024

Senior Civil Judge & AMACT
CHALLAKERE