

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT
HIRIYUR**

Dated on this 13th day of March- 2026

Present: SMT. SUJATHA SUVARNA B.,
B.Com., LL.B.,

Senior Civil Judge & JMFC,
Hiriyur

MVC No.257/2024

PETITIONER

: Sunil S
S/o Srinivasa,
Aged about 31 years,
Barber Worker,
R/o Murugan Temple road,
Behind Poudhiyamma Temple,
Hiriyur Town, Chitradurga District.

[Rep. By Sri.Y.R.K., Advocate]

Vs

RESPONDENTS

: 1. Mohammed Kizarulla.T.A
S/o Mohammed Ameersab. U.R.,
Aged about 43 years,
R.C.owner of Royal Enfield Classic
350 bike bearing No.KA-16-ER-0402,
R/o "Razak Manzil", Behind Junior
College, Hiriyur Town, Chitradurga.

**2. The Authorized Manager,
Claim settled Manager,**
The IICO-Tokio General Insurance
Company Limited, KSCMF-building,
No.8, 3rd Floor, 3rd Block, Cunningham
Road, Bangalore-52,
Shakthi Towers, 5th Floor,
(Police issued at Policy No.1-
2R2PTTTV-P400MT919995..)
Valid from 01.04.2023 to 31.03.2024)

3. Anil.D.S

S/o Srinivas T
 Aged about 35 years,
 R.C.Owner of the Apache Motor bike
 bearing No.KA-16-EF-9955,
 R/at Vedavathi Nagar, Hiriyr Town.

4. The Authorized claim settle manager
 Reliance General Insurance Company
 Ltd., Kudlasangameshwara Arcade,
 No.1, Opp:IDBI Bank, B.D.Road, Near
 K.S.R.T.C Bus stand,
 Chitradurga -577501
 Policy No.140622223120004985 valid
 from 27.09.2022 to 26.09.2023

[R1 Rep.By Sri.Y.S.N., advocate]
 [R.2 Rep. By Sri.B.M.R.C., Advocate]
 [R.3 Rep. By Sri.S.N., Advocate]
 [R.4 Rep. By Sri.S.V., Advocate]

RANK OF THE PARTIES ON I.A.No.1

Applicant / Petitioner : Sunil S
 Vs.
 Opponents/ Respondents : Mohammed Kizarulla.T.A &
 Others.

RANK OF THE PARTIES ON I.A.No.2

Applicant / Respondent No.2 : The Manager,
 IFFCO Tokio General Insurance
 Company, Limited,

Vs.

Opponents/ Petitioner : Sunil S

i	Provision under which the applications are filed	IA No.1- section 5 of limitation Act.
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		IA No.2-U/O 7 Rule 11(d)of CPC
ii	Relief sought for	IA No.1-Condonation of the delay IA No.2-Rejection of the claim application
iii	The date on which the applications are filed	28.02.2024 & 25.07.2024
iv	Number of the application	1 & 2
v	The date on which the objections are filed by different opponent	29.08.2024 28.11.2024
vi	The date on which the orders were passed on the said application	13.03.2026

COMMON ORDERS ON I.A.No. 1 & 2

The petitioner has filed IA No.I U/Sec.5 of Limitation Act praying to condone the delay in filing the claim petition.

2. In support of the application, the petitioner has filed his affidavit and stated as follows:

Due to the accident, the petitioner sustained injuries and took treatment at Hiriur Government hospital and Bapuji Dental College of Science hospital Davanagere. During the course of treatment, he was under the bed rest for a period of 3 months. Hence, he was unable to visit the Hiriur Town police Station to collect the records and was unable to meet his counsel to file the claim petition. Due to his personal problem, he collected the

documents only in the last week of filing of this petition and engaged his counsel to file the claim petition. The delay in filing the petition is not intentional. Hence, he prayed to allow the application.

3. Per contra, the respondent No.2 filed objections and stated as follows:

The application filed by the applicant is not maintainable either in law or on facts. The delay application has to be filed at the time of filing the petition. However, the petitioner has not filed the said application at the time of filing of petition. The petition has been filed after the lapse of 6 months from the date of accident. It is barred by limitation. There is no provision under Motor Vehicle Act, permitting the filing of a claim petition along with an application U/s 5 of Limitation Act for condonation of the delay. Hence, respondent no.2 prays to reject the application.

4. The respondent No.2 has filed I.A.No.2 under Order VII Rule 11(d) R/w Sec.151 of C.P.C., praying to dismiss the claim petition as barred by limitation.

In support of the application, the learned counsel for the respondent No.2 has filed a memorandum of facts and stated as follows:

The accident occurred on 25.08.2023, and the petition has been filed after the expiry of the 6 month limitation period. As per the amendment to Sec.166 (3) of the Motor Vehicles Act, the claim petition has to be filed within 6 months from the date of occurrence of the accident. The present claim petition has been filed after expiry of the period of limitation. Hence, it is prayed to allow the application.

5. The petitioner has filed objection to I.A.No.2 and stated as follows:

The application filed by the respondent No.2 is not maintainable either in law or on facts.

The petitioner has filed this petition for seeking compensation on account of injuries sustained in a motor vehicle accident. In the accident, petitioner sustained injuries, and took treatment at the Government hospital, Hiriyur and Bapuji Dental College of Science Hospital, Davanagere for a long period and due to swelling over the face petitioner unable to visit the Hiriyur Town police station and

meet his counsel in the 2nd week of March 2024, petitioner collected the police documents and contacted his counsel and filed the claim petition. That the delay is not any intentional one, but it is a bonafide reason only.

The Investigation Officer of the Hiriyr Town police has not followed the legal aspects as prescribed in the Sec.166(3) of IMV Act and also not followed the provisions as in Sec.159 and 160 of IMV Act, while I.O is not intimate report to the AIR -Mis. Before M.A.C.T of principal District Judge Chitradurga. Hence, application filed by the 2nd respondent is not maintainable.

That the petitioner already filed application u/Sec.5 of the Indian Limitation Act along with the claim petition for seeking delay condonation. Hence the application filed by the 2nd respondent is not maintainable. Therefore, it is prayed to reject the application.

6. Heard and perused the materials on record.

7. The points that would arise for consideration of this court are as follows:

1. Whether the petitioner has made out sufficient grounds to condone the delay as prayed in the IA No.1?

2. Whether the respondents have made out sufficient grounds to reject the petition for the reasons mentioned in the application at this stage?
3. What order?
8. The findings of this court on the above points are:
Point No.1:- In the Affirmative
Point No.2:- In the Negative
Point No.3:- As per final order,
for the following,

REASONS

9. **POINT No.1 & 2:-** Since these two points are inter connected , they are taken together for common discussion to avoid repetition.

10. It is the contention of the respondents that the petitioner has filed the petition after the lapse of the limitation period and that the petition is barred by limitation. The applicant in IA No.1 under Section 5 of the Limitation Act contends that, due to grievous injuries, he was unable to file the claim petition within the stipulated period.

11. This petition is filed by the petitioner against the respondents under Sec. 166 of Motor Vehicles Act seeking compensation of Rs.25,50,000/- with interest at the rate of 12%

per annum. As per the petitioner, the accident occurred on 25.08.2023 at about 7.30 p.m. Due to which the petitioner sustained grievous injuries. The petitioner further stated that he took treatment at Government hospital, Hiriyur and Bapuji Hospital, Davanagere. Due to the said injuries he filed this petition.

12. Perusal of available materials shows that the accident took place on 25.08.2023 between vehicles bearing No.KA.16.EF.9955 and KA.16.ER.0402. The claim petition was filed on 28.02.2024. As per the provisions of Sec.166(3) of the IMV Act, a claim petition ought to be filed within 6 months from the date of accident.

13. The decision reported in AIR 1999 Supreme Court 2630 is follows:

11. The law regarding condonation of delay is well settled. In the decision reported in (1998) 7 SCC 123 (N. Balakrishnan V. M. Krishnamurthy), it is observed as follows:-

It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due

to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

Petitioner has explained the circumstances which compelled him to file the petition after lapse of limitation period. It is well settled law that, the limitation is a mixed question of law and facts. The petitioner has properly explained the reason for delay.

14. At this juncture, I would like to rely on the judgment passed by the Hon'ble High Court of Karnataka, Kalaburgi Bench, in writ petition No.201961/2023 (MV) in between The Divisional Manager, United India Insurance Co. Ltd., Vs. Ramu @ Ramesh and Others, wherein the Hon'ble High Court of Karnataka has pleased to observed as under:

“Section 5 of Limitation Act provides for condonation of delay wherever any claim petition, appeal, etc., are filed beyond the period of Limitation and provides discretion to the court to consider the reasons made out in any application filed under Section 5 of Limitation Act and if sufficient cause is made out to condone the delay. As aforesaid MV Act being a beneficial enactment Section 5 of Limitation Act being enacted to provide succor to persons who have come to Court late, but with a valid reason, Section 5 of the Limitation Act would also have to be considered beneficially and there being no bar under the MV Act for applying the principles under Section 5 of the Limitation Act. I am of the considered opinion that it cannot now be said that there is a blanket embargo under subsection (3) of Section 166 of the MV Act in entertaining a claim petition filed after the limitation period.”

Further, his Lordship has pleased to observed that:- “The MV Act being a beneficial Act, the provision thereof had to be given beneficial meaning and effect. The benefit under the Act, cannot be taken away on a technical aspect that too of limitation, thus, Sec.5 of Limitation Act to the fact of situation, I do not find any infirmity thereof.”

15. Sec 166 is for the benefit of Victim. It came into force as a measure of social legislature. For the reasons mentioned above,

this tribunal comes to the conclusion that, it is fit case to condone the delay. In my opinion, the delay is required to be condoned in order to meet ends of justice. Hence, there is no valid ground to reject the claim petition, though it has been filed after lapse of limitation period. Accordingly this Court is answered point No.1 in the affirmative and point No.2 in the Negative.

16. POINT No.3 :- In view of the findings on the above point, I proceed to pass the following;

ORDER

The I.A.No.1 filed by the petitioner U/Sec.5 of Limitation Act is allowed and delay in filing claim petition by him is condoned.

The I.A.No.2 filed by the respondent No.2 U/o.7 R. 11(d) r/w Sec.151 of C.P.C R/w Sec.166(3) of I M V Act is rejected.

(Dictated directly to the steno, she typed on lap top, corrected by me and then pronounced in the open court on this the 13th day of March- 2026)

(SUJATHA SUVARNA. B)
Senior Civil Judge & JMFC,
Hiriyur.