

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT
HIRIYUR

Dated on this 30th day of August 2025

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

Senior Civil Judge & JMFC,
Hiriyur
MVC No.339/2024

PETITIONER : Smt. Siddamma W/o Thimmanna.
Aged about 50 years,
Vegitable Business & Sheep
Raring work,
R/o Lakkavvanhally -Village
Hiriyur-Taluk,
Chitradurga -District

[Rep. By Sri. YRK, Advocate]

Vs

RESPONDENTS : 1. Rangaswamy
S/o Krshnamurthy R.
Aged about 25 years,
R.C.Owner of the "Mahendra
Bolero Maxx-Pickup Goods
Vehicle"
Bearing No.KA-16-AA-7146,
R/o Balenahally -village,
Hiriyur-Taluk
Chitradurga-District.

2. Mahalingappa
S/o Kantharaja,
Aged about 35 years,
Driver of the Mahendra Bolero-
Pickup Goods vehicle"
Bearing No.Ka-16-AA-7146.
R/o.A.V.Kottie-Village,
Beerenahally -Post,
Hiriyur-Taluk,
Chitradurga-District.

3. The claim settle Manager,
 Universal Sompo General
 Insurance Company Ltd.,
 3rd Floor, K.V.V.Samrat,
 217/A 3rd Main, Outer Ring road,
 Kasturi Nagar,
 Bangalore-560043.
 Policy No.2315/71417597/00/000
 Valid from: 14.09.2023 to
 13.09.2024

[R.1& 2 Rep. By Sri. CS, Advocate,
 R.3 Rep. By Sri.KMB, Advocates]

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

Applicant / Respondent No.3 : Universal Sompo Gen.,
 Ins.,Co.,Ltd.,

Vs.

Opponents/ Petitioner : Smt. Siddamma

RANK OF THE PARTIES ON I.A.NO.3

Applicant / Petitioner : Siddamma

Vs.

Opponents/ Respondent No.3: Universal Sompo Gen.,
 Ins.,Co.,Ltd.,

i	Provision under which the applications are filed	IA No.2- U/O 7 Rule 11 of CPC. IA No.3-section 5 of limitation Act.
ii	Relief sought for	IA No.2- Rejection of the claim application

		IA No.3-Condonation of the delay
iii	The date on which the applications are filed	16.01.2025 & 12.06.2025
iv	Number of the application	2 & 3
v	The date on which the objections are filed by different opponent	24.04.2025 21.08.2025

COMMON ORDERS ON I.A.NO. 2 & 3

The respondent No.3 has filed I.A.No.2, under Order VII Rule 11(d) R/w Sec.151 of C.P.C and prays to dismiss the claim petition as barred by limitation.

2. In support of the application, the respondent No.3 has filed affidavit and stated as follows:

The accident occurred on 30.09.2024 and petition has been filed after 6 months limitation period. As per amendment U.Sec.166 (3) the claim petition has to be filed within 6 months of the occurrence of the accident. The present claim petition is filed after expiry of the period of limitation. Hence, prayed to allow the application.

3. The petitioner has filed objection on I.A.No.II and stated that, the application filed by the respondent No.3 is not maintainable either in law or on facts. In the accident petitioner sustained grievous injuries and due to injuries she unable to walk independently and suffered lot of pain .Finally she came to Hiriyur Town in the 2nd week of April 2024 and visited the police station and collected the documents and meet her counsel and filed petition for seeking compensation. Delay is not any intentional and it s a bonafide reason. The police have not followed the legal aspects as prescribed in the section 166(3) of IMV and also not followed the provisions as in sec 159 and 160 of IMV ACT. Hence, prayed to reject the application.

4. The petitioner has filed IA No.3 U/Sec.5 of Limitation Act prays to condone the delay for filing the claim petition.

5. In support of the application the petitioner has filed her affidavit and stated that, due to the accidental injuries and fracture she admitted in the Government hospital, Hiriyur and she has taken treatment for a period of 8 months as an outpatient by taking bed rest. Due to fracture over L.S.back region she unable to walk for a long distance and so for that

she unable to collect all the police documents from the concerned police, and to approach her counsel well in time. There is no mistake on the part of her counsel to file the petition well in time. The delay in filing the petition is not intentional and it is bonafide mistake. Hence prayed to condone the delay.

6. The respondent No.3 has filed objection and stated that, there is no valid reason mentioned in the application to condone the delay . The above petition is filed beyond 6 months, therefore this petition is not maintainable in law. The application is highly belated. Hence, prayed to reject the application.

7. Heard and perused the materials on record.

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

1. Whether the petitioner made out sufficient ground to condone the delay as prayed in the IA No.III?
2. Whether the respondents have made out sufficient grounds to reject the petition as reasons mentioned in the application at this stage?

3. What order?

9. 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

POINT No.1 & 2:- Since these two points are inter connected to each other as such they are taken together for common discussion to avoid repetition.

10. It is the contention of the respondent that, the petitioner has filed this petition after lapse of limitation and petition is barred by limitation. The applicant in IA No.3 under section 5 of limitation Act contended that, due to grievous injury she unable to file the claim petition within stipulated period. Perusal of available materials it appears that, the accident took place on 30-09-2023 at 10.30 a.m using the vehicle bearing Reg.No.KA-16-AA-7146 and claim petition was filed on 04.04.2024, as per provisions of Sec.166(3) of IMV Act a claim petition ought to be filed within 6 months from the date of accident.

11. 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 her 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. .

12. 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.”

13. Sec 166 is for the benefit of Victim. It came into force as a measure of social legislature. As reasons mentioned above this tribunal come to the conclusion that, it is fit case to condone the delay. As such in my opinion the delay is to be condoned which would 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 Negative.

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

O R D E R

The I.A.No.3 filed by the petitioner U/Sec.5 of Limitation Act is allowed and delay in filing claim petition by her is condoned.

The I.A.No.2 filed by the respondent No.3 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 30th day of August 2025)

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