

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT
HIRIYUR

Dated on this 30th day of December 2025

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

Senior Civil Judge & JMFC,
Hiriyur

MVC No.691/2024

PETITIONER : S.Mahesha
S/o Shivalingappa,
Aged about 35 years,
Labour worker,
R/o Adivala Village,
Hiriyur Taluk ,
Chitradurga District.

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

Vs
RESPONDENTS : 1. Dhanush Kumar T
S/o Thimmaraju,
Aged about 33 years,
R.C.owner of the Honda Motor
bike bearing No.KA-16-EU-3387,
R/o Sri.Venkateshwara Krupa
Chanal road, beside Gaadi
Basanna Layout, Near Ganesha
Subramanya Temple,
Hiriyur Taluk,
Chitradurga District.

2. The Authorised Claim settle
Manager, Royal Sundaram General
Insurance Co.Ltd., No.56/1,
2nd Floor, 9th main road,
5th Block, Jayanagar.
Bangaluru-560041.

[R.1 Rep. By Sri.R.T.S.,Advocate)
R.2 Rep. By Sri. B.S.S., Advocate)

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

Applicant / Petitioner : S.Mahesha

Vs.

Opponents/ Respondents : Dhanush Kumar T, and another

i	Provision under which the applications are filed	IA No.1- section 5 of limitation Act.
ii	Relief sought for	IA No.1-Condonation of the delay
iii	The date on which the applications are filed	19.07.2024
iv	Number of the application	1
v	The date on which the objections are filed by different opponent	No
vi	The date on which the orders were passed on the said application	30.12.2025

ORDERS ON I.A.NO. I

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:

The accident occurred on 08.10.2023. Due to the accident, he sustained injuries to the face and chest. Further, he sustained fractures on both sides of parietal and temporal bones fracture of the right maxilla, and a fracture of the 5th rib on the left side of the chest. He took treatment from 09.10.2023 to 17.10.2023 as an inpatient and thereafter as per

the advice of the doctor, he took bed rest and continued follow-up treatment as an out patient.

The Chitradurga Rural Police Station refused to provide the case records and stated that the police papers could be collected only after filing the final report. The police filed the final report on 05.06.2024. Thereafter, he obtained the documents from the Hon'ble Addl. Judge and JMFC., at Chitradurga on 26.06.2024 and visited his counsel and filed the claim petition. However, a delay of 3 months occurred and delay is not any intentional, but it is a bona-fide reason. Hence, prayed to allow the application.

3. The respondent no.2 has not filed any objection.

4. Heard and perused the materials on record.

5. 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.1?

2. What order?

6. The findings of this court on the above points are:

Point No.1:- In the Affirmative

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

REASONS

7. POINT No.1:- . Perusal of available materials it reveals that, the accident took place on 08.10.2023 The claim petition was filed on 19.07.2024. 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.

8. This petition is filed by the petitioner against the respondents under Sec. 166 of Motor Vehicles Act seeking compensation of Rs.32,00,000/- with interest at the rate of 12% per annum. time, said bike rider drove the same in high - speed with rash and negligent manner. The petitioner further stated that, he has taken treatment at Basaveshwara hospital, Chitradurga. Towards the said injuries he has filed the petition.

9. 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 them 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.

10. 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.”

11. 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.

12. **POINT No.2 :-** In view of the findings on the above point, I proceed to pass the following;

O R D E R

The I.A.No.1 filed by the petitioners U/Sec.5
of Limitation Act is hereby allowed .

(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 December 2025)

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