

KACD410003672023



**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.  
AT: HOLALKERE.**

**PRESENT:** Sri. Saravanan .S.  
B.B.M., LL.B.  
Senior Civil Judge and JMFC,  
Holalkere.

**MVC No.342/2023**

**Dated: 1<sup>st</sup> Day of February 2024**

**Petitioner/s:**

**Respondent/s:**

Sri. Sumanth H.K

V/s.

Sri H.B. Rudresh & Another

**(By Sri.K.E.C., Advocate)**

**(R.1 Exparte.,**

**R2 by Sri.G.M., Advocate)**

**PARTIES TO IA NO.I**

**Applicant/s:**

**Opponent/s:**

Sri. Sumanth H.K

V/s.

Sri H.B. Rudresh

& Another

((Petitioner)

(Respondents)

**ORDER ON I.A.No.1**

The I.A. No.1 filed by the petitioner U/Sec.5 of the Limitation Act R/w Sec.151 of CPC.

2. In this case, petition filed U/Sec.166 of Indian Motor Vehicles Act, 1988, by the petitioner herein, seeking compensation for the injuries sustained by him in the alleged RTA, the petitioner has filed I.A.No.1 U/Sec.5 of the Limitation Act, praying to condone the delay of 22 days by allowing this application in the interest of justice and equity.

3. In support of this application the petitioner has swearing in the affidavit.

4. Per contra the respondent No.2 has filed objection.

5. The following points will arise for my consideration:-

1) Whether the petitioner has made out proper grounds to condone the delay caused in filing of the present claim petition U/s 166 of IMV Act?

2) What order?

6. I have heard the learned counsels appearing for the parties and also after perused the materials which are placed on record, my findings on the above points are:-

Point No.1 : In the Affirmative

Point No.3 : As per my final order  
for the following:

**REASONS**

7. **Point No.1:-** The petitioner has filed this appeal against the respondents after lapse of 25 days. The petitioner has submitted, that the delay which occurred was for the reason that after the occurrence of accident, due to grievous injuries sustained by him and after the accident, he was shock due to accidental injuries and also he was under the treatment and also to obtain the concerned documents from the concerned police and other authorities, so, the delay has been occurred. Therefore, he being an agriculturist and also do not know the legal process, who prayed to condone the delay to conduct the proceeding in the interest of justice and equity. It is also stated, that if it is not condoned, he will be put to untold hardship, as such there is a delay has been occurred and the said delay is not an intentional one and it is bonafide one. Hence, prays that allow the application and condone the delay.

8. That on perusal of the case papers, the date of occurrence of accident is shown as 27-08-2022, the registration of petition is 24-03-2023, as such, there are delay of 25 days caused in filing of such petition, so that, as contemplated U/Sec.166(3) of IMV Act, 2019, even a day lapse in filing such petition, there is a bar to entertain such petition.

However, the petition has been registered, and the application U/Sec.5 of Limitation Act, has been filed by the petitioner before this Tribunal to condone the delay to proceed further with the case, for the reason that the petitioner was shock due to accidental injuries and also he was under the treatment and also to obtain the concerned documents from the concerned police and other authorities, to prefer this petition.

9. Per contra the learned counsel appearing for the respondent No.2 argued that the application filed by the petitioner U/Sec.5 of Limitation Act is not maintainable both either in law or on facts. it is the only contention of the respondent No.2 insurer that since the petition has been filed after lapse of 06 months of from the date of accident, the petition is barred by limitation, therefore, sought for rejection of plaint. Now, the question is whether the Tribunal can invoke Sec.5 of Limitation Act, so as to condone the delay to meet the ends of justice since the provision U/s 166, 163-A and such other provision as contemplated under the IMV Act are benevolent provision, which are beneficial provisions, which are amended from time to time to provide benefit to any injured or to the legal representatives of a deceased.

10. The reading of **Section 166(3) of IMV Act, 2019**, which reads thus:-

*“No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident. (4) The Claims Tribunal shall treat any report of accident forwarded to it under (section 159) as an application for compensation under this Act”*

11. The plain reading of the provision of course, the Tribunal cannot entertain any such petition, if filed within 06 months from the date of accident, so that, it speak about the limitation in filing of such claim petition, but not barred by law. Even the Tribunal can frame issue on such point and can be determined along with merits of the case as understood by the Tribunal. At the same time, the question whether Tribunal can invoke Sec.5 of Limitation Act to condone the delay in filing of such petition after lapse of 06 months of occurrence of accident, this question is concerned our own Hon'ble High Court of Karnataka has laid down the ratio recently in a reported case, in the Judgment rendered by his **Lordship Hon'ble Mr. Justice Suraj Govindaraj in W.P. No.201961/2023 (MV) on 21<sup>st</sup> July 2023** in the case of the **United India insurance Co. Ltd., V.s Ramu @ Ramesh & Others**, and in the reportable judgment, it has been held that:-

26. “Irrespective of Rules of 2022, in terms of Section 159 of the MV Act, if the Investigating Officer has

submitted the First Accident Report in terms of Section 159 of the MV Act, the same would have reached the Court for necessary action to be taken. It is on account of Investigating Officer not having sent the First Accident Report that the above situation has arisen.

27. As afore observed, the MV Act being a beneficial Act, the provisions 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, the Trial Court having applied Section 5 of the Limitation Act to the fact situation, I do not find any infirmity thereof.
28. Learned High Court Government Pleader is directed to inform the above to the Director General of Police, Commissioner of Transport Department, Secretary Health Department, as also Secretary e-Governance Department.
29. Learned Additional Registrar (Judicial) of this Court is directed to forward a copy of this order to the Director General of Police, Commissioner of Transport Department, Secretary Health

Department, as also Secretary e-Governance Department.

**30. In view of the above, I do not find any infirmity in the order passed by the III-Additional Senior Civil Judge and JMFC, Raichur in FR. MVC No.575/2022, as such, the Writ Petition stands dismissed.”**

12. After having gone through the materials placed on record, the reasons assigned by the petitioner herein, with respect to the delayed in filing of petition U/Sec.166 of IMV Act for claiming of benefit for the injuries sustained in the alleged Road Traffic Accident after lapse of 06 months from the date of alleged accident and the reasons shown in the affidavit are acceptable, since the injured would not get recover from the injuries some time within 06 months from the date of accident, which depends on their mental ability, which he/she/they sustained/death in the Road Traffic Accident, it is also when a situation may arise that the police may file charge sheet after lapse of 06 months from the date of accident and the documents, which are necessarily required to be collected to file claim petition, it may not be available to the victims or to the legal representatives of the deceased person within 06 month from the date of accident, under such circumstances, the delay

would be inevitable for them to file plain petition after lapse of 06 months from the date of accident.

13. Further more, in these region the police are not filing any FAR, IAR and DAR even after the claim tribunal to which, they are supposed to file such reports within the time stipulated under the Act, as per the ratio laid down by our own Hon'ble High Court of Karnataka (supra), there is no bar to entertain such petition if delay is properly explained by the petitioner in filing such claim petition, then as held by the Hon'ble High Court of Karnataka by invoking Section 5 of Limitation Act, this Tribunal can condone the delay in filing claim petition. Hence, the petitioner has made out ground to condone the delay of 25 days in filing the petition after date of accident. **Accordingly, I answer Point No.1 in the Affirmative.**

14. **Point No.2**:- In view of the above findings, I proceed to pass the following:

**ORDER**

The I.A.No.1 filed by the petitioner U/Sec.5 of Limitation Act, R/w Sec.151 of CPC, is hereby allowed.

Consequently, the delay of 25 days in filing of the claim petition is hereby condoned.

In view of the peculiar facts and  
circumstances of the case, no order as to costs.

(Dictated to the Stenographer directly on computer, typed by her corrected and pronounced by me in the Open Court on this 1<sup>st</sup> day of February 2024.)

**(SARAVANAN .S.)**  
**SENIOR CIVIL JUDGE & AMACT.,**  
**HOLALKERE.**

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