



**IN THE COURT OF PRINCIPAL SENIOR CIVIL
JUDGE, & C.J.M., CHIKAMAGALUR.**

**Present : Smt. Kumari Sujatha.
B.com.L.L.B.,
Prl. Senior Civil Judge & CJM.,
Chikkamagalur.**

M.V.C. No.67/2025

Dated this the 18th day of September, 2025.

- Petitioners :**
1. Smt Mangala H.T,
W/o K.S.Venugopal,
Aged about 43 years.
 2. Venugopal K.S,
S/o Late Somashekar,
Aged about 46 years.
 3. Kumari Harshitha,
D/o K.S.Venugopal,
Aged about 22 years.

All are R/o Kempanahalli,
Jyothinagar Post,
Chikkamagaluru.

(By Sri DCP., Advocate)

-V/s-

- Respondents :**
1. Mohan Kumar D.C.
S/o Chandregowda,
Aged about 48 years,
R/o Opposite Masjid,
Dantaramakki,
Jyothinagar Post,
Chikkamagaluru.



2. The Manager,
New India Assurance Co., Ltd.,
Panduranga Comlex,
K.T.Street, Chikkamagaluru.

**(R.1 by Sri. HPV., Advocate &
R.2, by Sri CVH., Advocate)**

PARTIES TO I.A. No. I

Petitioners : Smt Mangala H.T and others.

-V/s-

Respondents : Mohan Kumar D.C and Another

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ORDER ON I.A. NO.I

The instant Application is filed by the Learned Counsel for the Petitioners under Sec.5 of the Limitation Act R/w Sec.151 of CPC praying for condonation of delay in filing the Petition.

2. This Application is resisted by the Learned Counsel for the Respondent No.2 by filing his detailed Objection with a prayer to dismiss the Application.



3. Heard both sides. Perused I.A., Affidavit, Objection and materials available on record.

4. Now the Point arises for the determination of this Court are as under :

POINTS

1) Whether the Learned Counsel for the Petitioners has made out sufficient grounds to allow I.A.No.I filed under Section 5 of the Limitation Act R/w Sec.151 of CPC?

2) What Order ?

5. In order to substantiate the contentions of IA No.I, the Petitioner No.1 got examined herself as CW.1 and closed her side evidence. On the other hand, the Respondent No.2 did not choose to lead any evidence.

6. Having heard the argument by both side and upon perusal of deposition and materials available on record, my findings on the above Points are as under :

Point No. 1 : In the Affirmative

**Point No. 2 : As per the final Order,
for the following**



REASONS

Point No. 1 :-

7. The instant Application is filed by the Learned Counsel for the Petitioners with a prayer to condone the delay in filing the claim petition.

In order to substantiate the contention of the Petitioners, the Petitioner No.1 got examined herself as CW.1 and deposed that her son Harsha Gowda met with a Road Traffic Accident that occurred on 07.07.2024 and he succumbed to the injuries sustained in the accident while on the way to Hospital. Thereafter, the body of her son was taken to M.G.Hospital, Chikkamagaluru for postmortem and thereafter, body was handed over to them. Further, she deposed that since they were under shock, they could not contact their counsel well in time to file the claim petition. Therefore, there was a delay in filing the Petition. If the delay is not condoned, she will be put to hardship. On these grounds, she has prayed to allow the application. In the cross-examination, she denied the suggestions put forth to her.

8. At this juncture, I would like to rely on the Judgment passed by the Hon'ble High Court of



Karnataka, Kalaburagi 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 the 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 an application filed under Section 5 of the Limitation Act and if sufficient cause is made out to condone the delay. As aforesaid 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 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



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, Sec.5 of the Limitation Act to the fact of situation, do not find any infirmity thereof'. Accordingly, the Hon'ble High Court of Karnataka has pleased to dismissed the Writ Petition filed by the Insurance Company.

9. Upon going through the materials available on record, it shows that the alleged accident was occurred on 07.07.2024. This claim petition was filed on 12.02.2025. Admittedly, there is a delay in filing the claim petition. The contentions of CW.1 is that she could not contact her counsel as she was unaware about filing the claim petition and they were under shock due to the death of her son. Hence, there is a delay in filing the petition. Therefore, this Tribunal is also of the opinion that since M.V.Act being a beneficial Act, the benefit under the Act cannot be taken away on technical aspect. Therefore, by relying on the Judgment of our Hon'ble High Court, this Tribunal is also of the opinion that the Petitioners have made out sufficient grounds to allow the application.



Accordingly I answer Point No.1 in the
“Affirmative”

10. **Point No. 2:** As per my detailed discussion to Point No.1 as stated supra, and my answer to the above Point No.1 is **“in the Affirmative”**, I proceed to pass the following:

ORDER

I.A.No.I filed by the Learned Counsel for the Petitioners under Sec.5 of the Limitation Act and R/w Sec.151 of CPC is hereby allowed.

The delay in filing the claim Petition is condoned.

(Dictated to the Stenographer directly on the computer and typed by her, then corrected and pronounced by me in the open Court on this the 18th day of September 2025)

Sd/-

**(Smt. Kumari Sujatha.)
Prl. Senior Civil Judge & CJM
& MMACT, Chikkamagalur.**

Annexure

Witnesses examined on behalf of the Petitioner :

C.W.1 : Smt. Mangala H.T.

Documents marked as Exhibits for the Petitioner :



-Nil-

Witnesses examined on behalf of the Respondents:

-Nil-

Documents marked as Exhibits for the Respondents:

-Nil-

Sd/-

**(Smt. Kumari Sujatha.)
Prl. Senior Civil Judge & CJM
Chikkamagaluru**