



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

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

M.V.C. No.279/2024

Dated this the 29th day of August, 2025.

Petitioner : Sri Walter Saldnha
S/o Michael Saldnha,
Aged about 54 years,
Driver and Agriculturist,
R/o Karamakki, Hale Kote
Village, Bidaralli Post,
Mudigere Taluk,
Chikkamagaluru Taluk

(By Sri H.M.S., Advocate)

-V/s-

Respondents : 1. Sri Girish. N,
S/o Narayanappa,
Aged about 43 years,
Driver of the Maruthi Car,
Bearing Reg. No.KA-04-AA-7012,
R/o Rathnagiri Extension,
Chikkamagaluru City.

2. Sri Keerthi M
S/o Madevayya,
Aged about 28 years,
Owner of the Maruthi Car,
Bearing Reg. KA-04-AA-7012,



R/o Harohalli Village,
Dibburu Post, Thumakuru

3. The Branch Manager,
SBI General Manager,
Company Ltd.,
Shop No.4 and 5, 1st Floor,
Inland Ornet, Navabarath
Circle, Kodilbail,
Mangalore.

**(R.1 and 2 by Sri SHMK, Advocate)
(R.3 by Sri COY, Advocate)**

PARTIES TO I.A. No.I

Petitioner : Sri Walter Saldnha

-V/s-

Respondents : Sri Girish. N and Others

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ORDER ON I.A. NO.I

The instant Application is filed by the Learned Counsel for the Petitioner under Sec.5 of the Limitation Act praying for condonation of delay of 6 months 4 days in filing the Petition.

2. In spite of sufficient opportunities given to the Respondents, they did not file objection to IA.No.I.



3. Heard. Perused I.A., Affidavit and the 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 Petitioner has made out sufficient grounds to allow I.A. No. I filed under Section 5 of the Limitation Act?

2) What Order ?

5. In order to substantiate the contention of the Petitioner, the Petitioner got examined himself as PW.1 and closed his side evidence.

6. 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 Petitioner with a prayer to



condone 6 months 4 days delay in filing the claim petition.

In order to substantiate the contentions of the Petitioner, the Petitioner got examined himself as PW.1 and deposed that he had sustained injuries in the Road Traffic Accident and after the accident, he was shifted to MGM Hospital, Mudigere and thereafter he was shifted to Justice K.S.Hegde Charitable Hospital, Mangaluru on 18.06.2023 and he was discharged from the said Hospital on 29.06.2023. Again he was shifted to Shafi Nursing Home, Mangaluru on 13.07.2023 and he was discharged on 30.07.2023. After discharge, he was taking treatment as an outpatient. Further he deposed that his brother Cyril Saldana lodged the complaint before the Mudigere Police Station against the Respondent No.1. But, they did not take any action against the Respondent No.1. Hence, he has lodged the Complaint against the Respondent No.1 before the Superintendent of Police, Chikkamagaluru on 01.09.2023. But, they also not taken any action against the Respondent No.1. Hence, he has filed private complaint before the Prl. JMFC, Mudigere in PCR No.240/2023. Thereafter, the matter was referred to Mudigere



Police Station for investigation and the Police had registered the FIR against the Respondent No.1 and also submitted Charge-sheet against the Respondent No.1. Since, he could not collect the Charge-sheet within time, he could not contact his counsel to give instructions to file the present petition in time. Therefore, there is a 6 months 4 days delay in filing the Petition. If the delay is not condoned, he will be put to hardship. On these grounds, he has prayed to allow the application.

8. The Discharge summary of the Petitioner shows that he was diagnosed for C4-C5 mild disk bulge with cord contusion, left hemiparesis, type 2 diabetes mellitus and systemic hypertension. The Wound certificate shows that he had sustained grievous injuries. Further, the materials available on record i.e., the Discharge summary of the Petitioner shows that he admitted as an inpatient in the K.S.Hegde Hospital from 18.06.2023 to 29.06.2023 and the Discharge summary of the Petitioner pertaining to the Shaffi Nursing Home shows that he was admitted as an inpatient from 13.07.2023 to 30.07.2023.



9. 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.

10. The contentions of PW.1 is that he could not contact his counsel as he did not get Charge-sheet in time. Initially, though Complaint was filed, the Police had not taken any steps. Thereafter, on the private complaint filed before the Court, the matter was referred and the case was registered and Charge-sheet was filed. The material available on record also shows that the Petitioner was an admitted as an inpatient in two hospitals. 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 Petitioner has made out sufficient grounds to allow the application. Accordingly I answer Point No.1 in the "**Affirmative**"

11. **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 Petitioner under Sec.5 of the
Limitation Act is hereby allowed.**

**The delay in filing the claim
Petition is condoned.**

(Dictated to the stenographer directly on the Computer, computerized by her, corrected, signed and then pronounced by me in the open Court on this **29th day of August, 2025**)

**Sd/-
(Smt. Kumari Sujatha.)
Prl. Senior Civil Judge & CJM
& MMACT, Chikkamagaluru.**