



**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.277/2024**

**Dated this the 29<sup>th</sup> day of August, 2025.**

**Petitioner :** Smt Elija Saldana,  
W/o John Saldana,  
Aged about 40 years,  
Coolie, R/o Karamakki,  
Hale Kote, 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, 1<sup>st</sup> Floor,  
Inland Ornet, Navabarath  
Circle, Kodilbail,  
Mangalore.

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

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**PARTIES TO I.A. No.I**

**Petitioner** : Smt Elija Saldana,

**-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 herself as PW.1 and closed her 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 herself as PW.1 and deposed that she had sustained injuries in the Road Traffic Accident and after the accident, she was shifted to MGM Hospital, Mudigere and thereafter she was shifted to Justice K.S.Hegde Charitable Hospital, Mangaluru on 18.06.2023 and she was discharged from the said Hospital on 01.07.2023. During the period of hospitalization, she has underwent for two operation to her waist and vaginal tear repair and the stitches was done to her head, above eye and below eye, lip and jaw. After discharge, she was taking treatment as an outpatient. Further she deposed that one 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, Walter Saldana 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, a private complaint was filed 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, she could not collect the Charge-sheet within time, she could not contact her 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, she will be put to hardship. On these grounds, she has prayed to allow the application.

8. The Certified copy of Wound certificate of the Petitioner shows that she had sustained injuries i.e., Cut over forehead and Cut over right eyebrow and Cut over occipital region. The X-ray shows that fracture of 1, 2, 3 right ribs and left first rib fracture. Admittedly, the private Complaint was filed by the son of the Petitioner in PCR No.240/2023 which also available in the case file. Further, the materials available on record i.e., the Discharge summary of the Petitioner shows that she admitted as an inpatient in the K.S.Hegde Hospital from 18.06.2023 to 01.07.2023.

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 she could not contact her counsel as she 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. 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 **29<sup>th</sup> day of August, 2025**)

**Sd/-**

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