

: ORDERS ON I.A.No. I :

Application Under section 5 of Limitation Act filed by the appellant to condone the delay in filing the petition. The said application is supported by an affidavit sworn by applicant.

2. The applicant in the affidavit annexed to the application stated that, due to the accident she sustained injuries and the Banakal Police have filed FIR and thereafter filed chargesheet before the JMFC Court, Mudigere and petitioner has obtained the documents on 18/07/2024. But due to the injuries and lack of knowledge and mistake she has not filed the petition within limitation. The said mistake is bonafide one and not intentional. Hence petitioner prays to allow the application.

3. On the other hand respondent has not filed any objection to the IA No. I.

4. Heard arguments by both side. Perused the materials on record.

5. On the basis of the above pleadings the following points arise for my consideration.

1. Whether the applicant has made out a reasonable ground to condone the delay in filing the petition?

2. What order?

6. My findings on the above points are as follows:

Point No.1: In the Affirmative;

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

:R E A S O N S:

POINT No.1:-

7. The petitioner filed application Under Section 5 of Limitation Act to condone the delay in filing the petition. The applicant stated that, due to the injury petitioner was under the treatment and delay also caused for obtaining documents. The petitioner has filed the petition U/Sec 166 of IMV Act for claiming compensation with respect of accidental injuries sustained in the accident. The counsel for petitioner submitted that after the accident the petitioner was under

treatment and delay has been caused due to ill-health of the applicant and delay has been caused for obtaining documents.

8. On perusal of the record it reveals that the accident took place on 29/06/2021 the petitioner has taken the contention that after accident he was taken treatment in the Hospital. Hence, it is clear that the petitioner file the claim petition after lapse of limitation period. On perusal of the record it is clear that the petitioner was taken treatment in the Hospital. Therefore, there is sufficient grounds to delay in filing the petition. So far the statutory provisions with regard the limitation is concerned, under the old Motor Vehicle Act 1939 the period of limitation for filing application for compensation was 6 months from the date of the accident, but proviso to section 110 (A) of the Act, empower the tribunal to entertain the application even after the expiry of 6 months after having satisfied that the claimant was prevented by sufficient cause for making such application. In respect of the provision the petitioner counsel has relied on the

judgment passed by the Hon'ble High Court of Kerala reported in 2023 Live Law (Ker) 50 in the case of **Akshay Raj-VS Ministry of Law and Justice Legislative Department**, wherein held that

“As a fall out of my findings the impugned orders are set aside, it is held that the provisions of the limitation Act would be applicable for entertaining the petitions for claiming of the compensation even beyond the period of 6 months, for, by taking into consideration, Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act. In other words, it is held that the claim petitions, if filed beyond the period of six months cannot be dismissed in limine.

Further held that the Judicial Academy is requested to sensitize all the stake holders as early as possible with respect to the provision of the Motor Vehicles Amended Act and the Rules to ensure the mandate of law so that the litigants are not made to suffer for having not filed claim petitions within a period of six months. All the MACT's are directed to entertain the petition and decide the same,

in accordance with law. Registry is directed to circulate the copy of the judgment to all the MACTS to entertain and try the petitions under the Motor Vehicles Act in view of the observations aforementioned.”

9. The principle laid down in the above judgment it is clear that even beyond the period of 6 months the claim petition can be filed for seeking the compensation in respect of the road traffic accident. The claim petition is not considered as the suit or appeal. The petitioner is having sufficient grounds to condone the delay in filing the claim petition. The petitioner is entitled to file the claim petition and proceed the case against respondents. Hence, I proceed to pass the following:

: O R D E R :

IA No. I filed by the applicant under section 5 of the Limitation Act is hereby allowed.

The delay in filing the petition is hereby condoned and the petitioner is permitted to proceed the case.

SENIOR CIVIL JUDGE &
JMFC., MUDIGERE.

Order pronounced in the open court

(vide separate order)

ORDER

IA No. II filed by respondent
No.2 U/o VII rule 11(d) of CPC is
hereby rejected.

Case posted for objection to
main petition by respondents finally.

Call on 21.04.2025.

SENIOR CIVIL JUDGE &
JMFC., MUDIGERE.