



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC AT MUDIGERE**

: PRESENT :

**SRI. JAYAPRAKASH V. B.A., LL.B.,
SENIOR CIVIL JUDGE & JMFC,
MUDIGERE.**

M.V.C. NO. 414/2024

DATED THIS THEE 1st DAY OF APRIL 2025

PETITIONERS: Smt. Lalitha
W/o. Chandre Gowda H.H.,
Aged about 70 years,
Housewife/coolie,
R/o. Godlumane, Mavinkere Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru District.

(By Sri. S.D, Advocate)

V/S

Respondents:

1. Sri. H.M. Sudhir,
S/o H.H. Malle Gowda,
Aged about 37 years,
R/o Godlumane, Mavinkere Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru District.



2) The Manager,
The New India Assurance
Company Limited,
Kalasa Town, Syndicate Bank Road,

(R1 by Sri. H.K.R. advocate
R.2 by Sri. M.Y.S advocate)

RANK OF PARTIES IN IA.NO.II

Applicant/S: The New Indian Assurance
Company Ltd.,

V/s.

Opponent: Smt. Lalitha

**ORDERS ON I.A.NO.II FILED BY THE RESPONDENT NO.2
U/O VII RULE 11(d) R/W 151 OF CPC**

I.A.No.II filed by the respondent No.2 U/o VII rule 11(d) R/w 151 of CPC to dismiss the petition as it is barred by limitation as the accident occurred on 29/06/2021 and the claim petition is filed on 26/09/2024 and there is delay of 1 year, 11 months 24 days.



2. On the other hand, the petitioner filed objection to IA No.II and prays to dismiss the application.

3. Heard both side and perused the materials on record.

4. The following points arises for my consideration.

1. Whether petition is liable to be rejected as barred U/order 7 rule 11(d) of CPC?

2. What order?

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

Point No. 1 : In the Negative

Point No. 2 : As for the following:

REASONS

Point No. 1:

6. The present application is filed by respondent No.2 U/o VII rule 11(d) of CPC to reject the petition. In the affidavit annexed to the application respondent No.2 stated that, petitioner has filed the above claim petition for award of compensation due to personal injuries sustained by her in R.T.A. The



above claim petition is filed under Sec 166 of M.V. Act on account of accident in question taken place on 29/06/2021 when the petitioner was proceeding in Maruthi Swift car bearing No. KA-18/Z-4381 when after taking treatment petitioner was coming from Kakkunje and proceeding to Kalasa and when they were so returning near Malayamarutha, Thuruve Village, Charmagdi Ghat respondent No.1 driver cum owner of the said car dashed to the road side bridge, due to which the petitioner sustained grievous injuries, then taken treatment K.M.C Hospital, Mangalore and Yash Gagan Ortho Clinic, Chikkamagaluru and undergone surgery. The respondent No.2 has issued Insurance Policy to the said vehicle at the time of the accident thereby the petitioner has implead respondent No.2 in the claim petition.

7. Respondent further stated that, accident has taken place on 29/06/2021 where as the claim petition has been filed on 26/09/2024 and as per the



provisions of amendment of MV Act which came into effect from 01/04/2022 and the claim petition ought have to filed within a period of 6 months from the date of accident, but the claim petition has been filed belatedly after the period of 1 year, 11 months and 24 days. There is a inordinate delay in filing of claim petition and same has not been filed within the time limit as specified under the provisions of IMV Act. Hence the claim petition filed by the Petitioner's is barred by limitation. Therefore the above claim petition is not maintainable. Hence, respondent No.2 prays to reject the petition.

8. On the other hand, the petitioner filed objection to the IA No.II. In the objection the petitioner stated that, the accident took place on 29/06/2021 near Malayamarutha and petitioner has sustained injury. The said accident taken place due to the negligence of respondent No.1. The Mudigere Police have filed charge sheet against the accused before the JMFC., Court Mudigere immediately



petitioner filed application on 27/07/2024 and obtained documents on 31/07/2024 and at the time of filing of the petition petitioner has filed application U/Sec. 5 of Limitation Act. Petitioner stated that the delay has been caused only to obtain document.

9. The entire MVC Act is for the benefit of the injured person and the strict rule doesn't applicable. Even though amended provision of the IMV Act Section 166(3) is prospective and not retrospective. Hon'ble High Court of Karnataka in Writ Petition No. 201961/2023 between The Divisional Manager United India Insurance Company Ltd., V/s Ramu @ Ramesh and another clearly stated the benefits under the IMV Act cannot be taken away on a technical aspect that too of limitation, IRRESPECTIVE OF RULES OF 2022.

10. That the Hon'ble High Court of Karnataka in Writ Petition No. 201961/2023 between the Divisional Manager United India Insurance Company



Ltd., V/s Ramu @ Ramesh and another has dealt with the similar matter and dismissed objections of Insurance company. Petitioner further stated that the High Court of Kerala in its reported judgment 2023 LiveLaw (Ker) 50 has dealt with similar objections and dismissed the objections of the Insurance company.

11. Petitioner state that, the Hon'ble Supreme Court of India in 2023 LiveLaw (SC) 9 dealt with law of Limitation under section 5. That the Hon'ble Supreme Court of India has seized this matter under IMV Act Section 166(3) in BHAGIRATHI DASH v. UNION OF INDIA & ANR., Writ Petition(s) (Civil) No(s). 166/2024 and the same is pending for adjudication. Hence, petitioner prays to reject the application.

12. The present application filed by the respondent No.2 is Under Order VII rule 11(d) of CPC. The accident took place on 29/06/2021. The applicant 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 and delay also caused for obtaining documents.

13. The counsel for respondent submitted that as per the amendment Act, the petitioner has to file claim petition within 6 months from the date of accident, but the present petition is filed after laps of the period of limitation. Hence, the petition is not maintainable.

14. 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 she was taken treatment in the Hospital and delay has been caused for obtaining documents. Due to the same she has not able to file the petition within time. 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 following judgment: -

a. WP No. 201961/2023 between the Divisional Manager United India Insurance Company Ltd., Vs Ramu @ Ramesh and others.

b. 2023 live law (KER) 50 Akshay Raj-VS Ministry of Law and Justice Legislative Department.

c. 2023 live law (SC) 9 between Sabarmati Gas Ltd., Vs Shah Alloys Ltd.,



15. I have carefully perused the principles laid down in the above citation. 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.”

16. 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. If the application is allowed the petition Will be put into untold hardship and loss. In view of my above discussion I answer point No.1 in the Negative.

17. **Point No. 2:** In view of my findings on point No.1 I proceed to pass the following:



ORDER

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

(Dictated to the Typist, transcribed by her, then corrected by me and
pronounced in the open court on this the 1st day of April 2025)

**(JAYAPRAKASH V.)
SENIOR CIVIL JUDGE AND JMFC.
MUDIGERE.**

Mk/-