



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT MUDIGERE**

Dated this the 4th day of July 2025

**Present :: Sri. Prakash P.M, *M.B.A, LL.B.*,
Senior Civil Judge & JMFC.,
Mudigere.**

MVC No. 515/2024

Petitioner: **Sri. NiyazAhammad**
S/o Ibrahim
Aged about 33 years
Rio J.M. Road.Mudigere Town,
Mudigere Taluk,
Chikkamagaluru District

- V/s -

Respondents:1. **Sri. Chandan R.G.**
S/o Guruvaiah
Aged about 21 years,
R/o Rajanahalli Village
Bikkodu Hobli, Mudigere Taluk,
Chikkamagaluru District.
(Driver of Mahindra Bolero Pick Up
bearing No.KA-18-C-3872
D.L. No. KA4620220002921
Validity till 07.03.2043)

2. SLV EARTH MOVERS PVT. LTD
Chennapura Road Kote,
Chikkamagaluru District.
(RC owner of Mahindra bolero pick Up
bearing No.KA-18-C-3872)



**3. The New India Assurance
Co Ltd**, Andechatra Road,
Panduranga Complex,
Chikkamagaluru 577101
Rep: by its Branch Manager,
Chikkamagaluru Branch
(Insurer of the vehicle Mahindra
Bolero Pick Up bearing
No.KA-18 C-3872)
Policy No. 68010231220300009481
Valid from 20.02.2023 to 19.02.2024)

Parties to IA No.I

**Applicant/
Petitioner:** **Sri. Niyaz Ahammed**

Vs.

**Opponent/
Respondent No.3** **The New India Assurance
Company Limited,**

Parties to IA No.II

**Applicant/
respondent No.3** **The New India Assurance
Company Limited,**

Vs.

**Opponent/
Petitioner** **Sri. Niyaz Ahammed**

ORDERS ON I.A.No.I & II

I.A.No.I filed by petitioners U/Sec. 5 of Limitation Act to permit petitioners to file petition by condoning delay.



2. The I.A.No.II filed by the respondent No.3 U/o VII rule 11(d) R/w Sec. 151 of CPC to reject the petition filed by the petitioner as it is barred by limitation as accident occurred on 22.02.2023 and petition filed on 02.12.2024 after lapse of 3 months 11 days of period of limitation of said accident in the ends of justice.

3. In the affidavit annexed with IA No.I, the petitioner stated that, due to the accident he was admitted to several hospitals and taking treatment as inpatient and he could not collect the documents and file this petition intime. Hence there is a delay of about 276 days in filing this petition and the reason for delay is bonafide and not intentional. If the application is not allowed he will be put to hardship and irreparable loss and inconvenience and on the other hand no hardship will be caused to the respondents. Wherefore, it is prays to allow the application.

4. In the affidavit annexed with IA No. II, the Administrative Officer of respondent No.3 company Sri Vikrm C.R. averred that in the claim petition it is stated that the petitioner met with an accident on 22.02.2023 and petition filed on 02.12.2024, where as



the accident took place on 22.02.2023 and petition is being filed after statutory period. As per Motor Vehicles Act 1988, Sec 166(3) "No application for compensation shall be entertained unless it is made within 6 months of the occurrence of the accident". The petitioner has filed the said petition after six months of the occurrence of the accident. Therefore, the petition is hit by section 166(3) of Motor Vehicle (Amendment) Act of 2019. Hence, prays to dismiss the petition.

5. On the other hand, the petitioner has filed objections contending that, he has stated genuine reason for delay by filing affidavit. The MVC Act is for the benefit of the injured person the strict rule does not apply. Hence, it is prays to dismiss the application.

6. Heard both the sides and perused the records.

7. The Points for my consideration on I.A.No.I and III are :

1. Whether petitioner made out grounds to condone delay in filing the petition?

2. Whether petition is liable to be rejected as barred U/order 7 rule

**11(d) of CPC?****3. What order?**

8. My findings on the above Points are as below:

- Point No.1 : In Affirmative..
Point No.2 : In Negative.
Point No.3 : As per final orders
for the following:

REASONS

9. Point No.1 and 2 : These points are interconnected to each other in order to avoid the repetition of facts these points are taken together,

10. The petitioner has filed this claim petition towards the injuries sustained by him in the Road traffic accident that occurred on dated 22.02.2023 at infront of Adanthaya petrol bunk, Mudigere town. Now the case is posted for filing objection to main petition. At this juncture, the respondent No.3 has filed this I.A.No.II U/o VII rule 11(d) of CPC to reject the petition.

11. It is averment of the petitioner that, due to the accident he was admitted to various hospital as inpatient and he could not collect documents intime.



Hence, there is a delay of about 276 days in filing this petition. Hence he prays to allow I.A.No.I.

12. On the other hand, the respondent No.3 filed IA.NO.III contending that, petition is not maintainable either in law or on facts, it is barred by limitation, the petitioner filed petition after lapse of 6 months. As per petition accident has taken place on 22.02.2023 but the petition filed on 02.12.2024. Hence respondent No.3 prays to reject the petition.

13. On the other hand, the petitioner contended that, the amended provision of the IMV Act Section 166(3) is prospective and not retrospective. The present application is filed only with an intention to harass the present petitioner. The intention of the legislature and very fact of bringing the act like MVC to get compensation is socio economic condition of the families of the deceased and their well being and that cannot be curtailed by these types of alleged applications on technical matter. Hence petitioner prays to reject the application.

14. The present application filed by the respondent No.3 is Under Order VII rule 11(d) of CPC. The respondent stated that the accident took place on



22.02.2023 where as the claim petition has been filed on 02.12.2024 after lapse of limitation period.

15. The counsel for respondent No.3 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.

16. On perusal of the record it reveals that the accident took place on 02.02.2023 the petitioner has taken the contention that after accident he was under treatment and he was not able to get the documents within time. Hence delay has been caused in filing the petition. 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 this court has relied following judgments: -

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.,

17. Upon careful perusal of principles laid down in the above citations. 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.”

18. 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. Hence, under the provision of order VII rule 7 of CPC it cannot possible to reject the petition. Thus, in view of my above discussion this court answers **point No.1 in the affirmative and point No.2 in the Negative.**

19. Point No.3: In view of my findings on points, this court proceed to pass the following:

ORDER

I.A.No.I filed by petitioner to condone delay in filing application is hereby allowed.

I.A.No.II filed by respondent No.3 U/o VII rule 11(d) of CPC is hereby rejected.

No order as to cost.

(Dictated to the Stenographer, transcribed by her, then corrected by me and pronounced in the open court on this the 4th day of July 2025)

**(PRAKASH P.M.)
Senior Civil Judge & JMFC,
Mudigere.**