

KACM510000102024



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C
AT N.R.PURA, ITINERATE AT KOPPA**

Present: Sri.Raghunatha Gowda K.T., *B.Com. LL.B.*,
Senior Civil Judge & J.M.F.C., N.R. Pura, Itinerate at Koppa

Dated this the 26th day of February, 2026

M.V.C No.15/2024

BETWEEN:

Sri. Mohammed Fazil ...Petitioner
V/s.

Sri. Shankarappa and others ...Respondents

I.A. NO.I

BETWEEN:

Sri. Mohammed Fazil ...Applicant
V/s.

Sri. Shankarappa and others ...Opponents

ORDERS ON I.A. NO.I

Learned counsel for petitioner has filed I.A. No.I under Section 5 of Limitation Act to condone the delay of 1 month 3 days to filing the present petition.



2. I.A. No.I is supported with the affidavit of the petitioner, he has stated that due to accidental injury he has sustained greivous injuries to his right foreharm, wrist, left thigh and the doctor advise him to take rest, so that reason he could not contact his counsel. Further he contended that if the delay is not condoned then great hardship will be caused to him. Otherwise if delay is condoned no hardship will caused to the other side. Hence, prayed to allow the application.

3. Per contra the respondent No.2 counsel filed objection to the said application contended that the application filed by the petitioner is not maintainable either in law or facts. Further she contended that as per Section 166(3) of M.V. Act no application for compensation shall be entertained unless it is made within 6 months of the occurance of accident. Hence she prays to reject the said application.

4. Further the delay in filing the claim petition for 1 month 3 days, hence matter posted for enquiry on I.A. No.I and petitioner examined as PW2 and no documents marked. Respondent No.2 counsel submit that no evidence on respondent side on the said application.



5. Heard the arguments on both side, perused the papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether petitioner has made out sufficient grounds to condone the delay of 1 month 3 days for filing the present petition?
2. What order ?

6. The findings on the above points are as hereunder:

Point No.1: In the affirmative

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

REASONS

7. **Point No.1:** This is the petition preferred by the petitioner under Section-166 of Motor Vehicle Act that on 03.06.2023 at about 6-00 p.m., when he was proceeding as a pillion rider the bike bearing registration No.KA-18-ED.9072 driven his father from Koppa Town to Jogisara slowly cautiously by observing traffic rules, near Breeze Hotel, Balagadi Road, Koppa Town the respondent No.1 being the driver of the Maruthi Alto Car bearing registration No.KA.18 – N.6562 drove the same in rash and negligent manner, due to accidental injuries he has sustained grievous injuries and taken



treatment at Government Hospital, Koppa, thereafter he was shifted to K.M.C. Hospital, Manipal.

8. On 08.01.2024 the petitioner has preferred this petition along with I.A. No.I under Section 5 of Limitation Act. It is an admitted fact that, there is delay of 1 month 3 days in preferring the present petition. The application is supported with the affidavit of the petitioner. Further the petitioner examined himself as PW2, the learned counsel for respondent No.2 not cross-examine the said witness. Wherein he contended that due to injuries sustained by him, so that reason he was unable to contact his advocate and instruct him to prefer this petition. So that reason dealy is caused to file this petition.

9. It is the settled principles of law that an application under Section 5 of Limitation Act shall be considered liberally. In this regard this court would like to rely upon a citation reported in:

AIR 2014 SC 1612

Between: Brijesh Kumar and others Vs State of Haryana and others

The courts should not adopt an injustice-oriented approach in rejecting the application for



condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bonafides of an inaction or negligence would deprive a party of protection of Section 5 of the Limitation Act. Sufficient cause is a condition precedent for exercise of discretion by the court for condoning the delay. This court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.

10. Further in the judgment of Hon'ble High Court in **W.P. No.201961/2023 (M.V.) in between the Division Manger, United India Insurance Company Ltd., Vs. Ramu @ Ramesh and others, judgment dated 21.07.2023** at para No.9 the Hon'ble High Court clearly held that

Section 5 of Limitation Act provide for condonation of delay whenever any claim petition, appeal etc., are filed beyond the period of limitation and provide discretion to the court to consider the reasons made out to condone the delay. As aforesaid M.V. Act being a beneficial enactment, Section 5 of the Limitation Act being enacted to provide succor to person, who have come to court late, but with a valid reason, Section 5 of Limitation Act would also have to be considered beneficiary and there being no bar under the



M.V. Act apply the principles under Section 5 of the Limitation Act. I am of the considered opinion that it cannot be now be said that there is a blanket embargo under sub Section 3 of Section 166 of M.V. Act in entertaining a claim petition filed after the limitation period.

11. Further the reasons stated in the affidavit of petitioner is satisfied. Hence, if the delay is not condoned and petitioner is not permitted to file the petition, hardship will be caused to the petitioner. Hence, the delay may be condoned by imposing costs on him. Accordingly, **point No.1 is answered in the affirmative.**

12. **Point No.2:** In view of the discussions made above this court proceeds to pass the following:

ORDER

I.A. No.I filed by the petitioner under Section 5 of Limitation Act is hereby allowed with costs of Rs.200/-.

Consequently, the delay of 1 month 3 days preferring present petition is hereby condoned.



Further directed the petitioner to
deposit the cost before the TLSC, Koppa.

(Dictated to the Stenographer directly on the computer, then corrected and pronounced by me in the open court on this date the 26th day of February, 2026.)

Sd/-

(RAGHUNATHA GOWDA K.T.)
Senior Civil Judge and J.M.F.C.,
N.R. Pura, Itinerate at Koppa.