



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND  
JMFC AT N.R.PURA, ITINERATE AT KOPPA**

**Present:** Sri Raghunatha Gowda K.T., B.Com.,L.L.B,  
Senior Civil Judge & JMFC., N.R.Pura, Itinerate at Koppa.

**Dated this the 14<sup>th</sup> day of February, 2025**

**MVC No.390/2024**

**BETWEEN:**

1. Smt. Meena, W/o Late Chalu,  
aged about 73 years,
2. Smt. Padmavathi, W/o Gopal,  
aged about 42 years,

R/at #1-127-16, Thokkate,  
Parvaje, Karkala Taluk,  
Udupi District.

3. Smt. Susheela A.C.,  
W/o Shekar J.P.,  
aged about 42 years,  
R/at Kammarahalli,  
Addagatte Post,  
Asagodu, Koppa Taluk.
4. Sri Krishnappa,  
S/o Late Chalu,  
aged about 41 years,

The petitioner No.1 and 4 are R/at.  
Agalagandi Colony, Agalagandi,  
Koppa Taluk.

...Petitioners.

(Represented by Sri B.C.V.S., Advocate)



V/s.

**AND:**

1. Sri Pruthviraj D.S.,  
S/oShankaranarayana Achari,  
aged about 30 years,  
R/at Bylukoppa, Kulur Village,  
Jayapura Hobli, Koppa Taluk.
2. Sri Rajesha B.V.,  
S/o Venkataramana Achar,  
aged about 38 years,  
R/at Bylukoppa, Kulur post,  
Koppa Taluk.
3. The Manager,  
Cholamandalum M.S. General  
Insurance Company Ltd., 2<sup>nd</sup> Floor,  
Dare House, 2 NSC, Bose Road,  
Chennai.

...Respondents.

(Respondent No.1 and 2 represented by Sri. M.H.S.K., and  
Respondent No.3 Sri J.P.L., Advocate)

**I.A. NO.II**

**BETWEEN:**

The Branch Manager,  
Cholamandalum M.S. General  
Insurance Company Ltd.,

...Applicants/Respondent No.3



V/s.

Smt. Meena and others

...Opponents/Petitioners

**ORDER ON IA NO.II**

When the matter posted for objection to claim petition at this stage the respondent No.3 filed I.A. No.II under Order VII Rule 11(D) of C.P.C. to dismiss the petition against the respondent No.3 as it is barred by law of limitation.

2. In support of this application the respondent No.3 counsel filed memorandum of facts contended that after amendment of Motor Vehicle Act the petition has to be filed within six months from the date of accident. As per the petition avernments the accident has taken place on 24.10.2023, but the petition has instituted on 03.09.2024. Hence the petition cannot be entertained as per new amendment. Hence he prays to reject the petition, if the petition is not rejected and permitted to proceed with the case the respondent No.3 will put into hardship. Hence he prays to reject the petition.



3. Per contra the petitioner counsel filed objection to said application contended that application filed by the respondent No.3 is not maintainable either in law or facts. Further he specifically contended that due to accidental injuries the injured taken treatment at Wenlock Hospital, Mangalore and the son of the 1<sup>st</sup> petitioner by name Keshava S/o Chalu died on 25.10.2023 and the jurisdictional police have not filed the charge sheet with in time and due to shock of death of her husband, she could not contact her advocate to file the claim petition. Further the Motor Vehicle Claims are the beneficiary legislation. Hence he prays to reject the said application.

4. Heard arguments on both side.

5. Upon hearing arguments and on perusal of materials placed on record the following points that would arises for my consideration.

#### **POINTS**

1. Whether the respondent No.3 made out ground to reject the petition?
2. What order ?



6. My findings to the above points are as under.

Point No.1: **In the Negative.**

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

### **REASONS**

7. **POINT NO.1:** Order 7 Rule 11 of CPC postulates for rejection of plaint in the circumstances given therein. In the instant case, Respondent No.3 is trying to invoke Order VII Rule 11(D) of CPC, as claim petitioner is filed after six months from 03.09.2024 and from the date of occurrence of the accident as per the Amendments notified of the Motor Accident Claims. The accident in question was occurred on 24.10.2024 at about 09-45 pm, the son of the 1<sup>st</sup> petitioner by name Keshava S/o Chalu has sustained grievous injuries. Immediately after the accident he was shifted to Wenlock Hospital, Mangalore and he died on 25.10.2023.

8. The petitioner filed the instant petition against the respondents claiming compensation for death caused in the road traffic accident dated 24.10.2023.



9. It is the contention of the respondent No.3 company that, claim petition is filed after six months from 03.09.2024, hence the petition is barred by limitation as per the amended provisions of the M.V. Act.

10. As the amendment carried out to the provision 166 of Motor vehicle Act on the year 2019 and same is prospective effect from 01.04.2022. But the Hon'ble Kerala High Court said that the petition can not be dismissed on point of limitation as per amendment provision, against which as appeal is pending before Hon'ble SC filed insurance companies.

11. Further in view of the judgment passed by the Hon'ble High Court in **W.P. No.201961/23, dated 21.07.2023 in between the Divisional Manager, United India Insurance Company Ltd., Vs. Ramu @ Ramesh** and others at para No.27 the Hon'ble High Court held that "the M.V. Act being a beneficial Act, the provision thereof had to be given beneficial meaning and effect. The benefit under Act cannot be taken away on a technical aspect that too of limitation, thus the trial court having applied Section 5 of Limitation Act to the fact situation. The ratio laid down in the said judgment is applicable to the facts and



circumstances of this case. Hence there is no merit in the said application filed by the respondent No.3. Hence the application filed by the respondent No.3 company is not deserves to be allowed. Hence **point No.1 answered in the Negative.**

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

**ORDER**

I.A. No.II filed by the applicant/  
respondent No.3 under Order VII Rule  
11(D) C.P.C. is hereby dismissed.

No order for cost.

(Dictated to the Stenographer directly on the computer, then corrected and pronounced by me in the open court on this date the 14<sup>th</sup> day of February, 2025)

**Sd/-**

**(Raghunataha Gowda K.T.)**

Senior Civil Judge & JMFC & MACT.,  
N.R.Pura, Itinerate at Koppa.