



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

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

Dated this the 18th day of November, 2025

M.V.C No.460/2024

BETWEEN:

Sri. Francisco Mario Rolins ...Petitioner
V/s.

Sri. Mahaboob Pasha @
Mahaboob Basha and another ...Respondents

I.A. NO.I

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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 343 days to filing the present petition.

2. I.A. No.I is supported with the affidavit of the natural guardian of petitioner, she has stated that due to accidental



injury her son she filed this petition seeking compensation. Further she contended that due to accidental injuries her son suffering from several physical ailment and he was shifted Surji Hospital, Shivamogga and she is also sustained injuries in the road traffic accident so that reason she was taken treatment at Gutthi Malnad Hospital, Shivamogga. Further she contended that her son has not completely recovered due to accidentally injuries and delay in filing the chargesheet it is not possible to file the claim petition, so that reason she could not able to collect the documents and gave instructions to her counsel for filing the claim petition within a time. Further she contended that if the delay is not condoned then great hardship will be caused to her. Otherwise if delay is condoned no hardship will caused to the other side. Hence, prayed to allow the application.

3. The notice served to the respondents, the respondents are not filed any objection to the said application.

4. Further the delay in filing the claim petition for 343 days, hence matter posted for enquiry on I.A. No.I and petitioner examined as PW1 and no documents marked. The respondents have not lead any evidence on 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 343 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 15.05.2023 at about 4-00 p.m. the petitioner and her son were traveling in a vehicle passenger auto bearing registration No.KA.18 – C.8798 from Shettykoppa Village to her house at Kumbarakoppa Hosakere, Nagalaprua Village, the respondent No.1 riding the said vehicle Shivamogga – N.R.Pura Road near Hirebisu junction, Karagunda Village, with a rash and negligent manner and lost of the controle the said vehicle fall down on the



road, due to accidental injuries herself and her son have sustained grievous injuries and due to take rest she could not collect the document in time. Hence there is a delay to file the present petition.

8. On 24.10.2024 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 343 days in preferring the present petition. The application is supported with the affidavit of the petitioner. Further the petitioner examined herself as PW1, the learned counsel for respondent No.1 cross-examine the said witness, but nothing as elicited in mouth of this witness. Wherein she contended that due to take rest and she could not secured the documents in time, she was unable to contact her 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 her. 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 343 days preferring present petition is hereby condoned.

Further directed the petitioner to deposit the cost before the TLSC, N.R.Pura.

(Dictated to the Stenographer directly on the computer, then corrected and pronounced by me in the open court on this date the 18th day of November, 2025.)

Sd/-
(RAGHUNATHA GOWDA K.T.)
Senior Civil Judge and J.M.F.C.,
N.R. Pura.