

KACM510004702025



**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 27th day of March, 2026

M.V.C No.437/2025

BETWEEN:

Sri. Puttappa ...Petitioner

V/s.

Sri. Yankappa Bhimappa
Thumbaramatti and others

...Respondents

I.A. NO.I

BETWEEN:

Sri. Puttappa ...Applicant

V/s.

Sri. Yankappa Bhimappa
Thumbaramatti 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 52 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 and he was unable to secure the documents and contact his counsel to file the calim petition. 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 notice served to the respondents, but they did not appear before the Court.

4. Further the delay in filing the claim petition for 52 days, hence matter posted for enquiry on I.A. No.I and petitioner examined as PW1 and no documents marked.

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 52 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 09.04.2025 at about 4-45 p.m., the respondent No.1 drove the bus bearing registration No.KA.57 – F.3720 coming from Chikkamagaluru towards Jayapura, the respondent No.1 drove the said bus in a rash and negligent maner and lost the controle and bus was toppled and fell over his house and caused damage to his house. So that reason he filed this claim petition.

8. On 05.12.2025 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 52 days in preferring the present petition. The application is supported with the affidavit of the petitioner. Further the petitioner examined himself as PW1.

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.

10. 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.**

11. **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 52 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 27th day of March, 2026.)

Sd/-

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