



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
PRINCIPAL J.M.F.C., TARIKERE**

Present:

SRI VAIDYA SHREEKANT,
B.Sc, LL.B.
SENIOR CIVIL JUDGE & PRL. JMFC.,
Tarikere.

Dated this 22nd day of July 2025

MVC NO.264/2023

PETITIONER/S :

1. Smt.Sowmya H.K. W/o Late
Dhananjaya H.R., aged about 28
years, housewife,

2. Prajwal H.D. S/o Late Dhananjaya
H.R., aged about 10 years,

3. Sudeep H.D. S/o Late Dhananjaya
H.R., aged about 7 years,

Petitioner No.2 and 3 are minors,
Represented by his natural guardian
mother Smt. Sowmya H.K.

4. N.R. Ramachandrappa S/o
Ramappa, aged about 55 years,
agriculturist,

5. Smt. Rangamma W/o K.R.
Ramachandrappa, aged about 50
years, housewife,

All are R/o Heggadehalli village,
Begur Post, Ajjampura Hobli & Taluk,
Chikkamagaluru District (Formerly
Tarikere Taluk, Chikkamagaluru
District).

**(By Sri. S.R. Basavarajappa,
Advocate)**

- Vs -

KACM700014092023



RESPONDENT/S:

1. B.R. Pradeep S/o late Rajappa M., aged about 45 years, agriculturist, R/o Benakunase village, Katenagere Post, Ajjampura Taluk, (Formerly Tarikere Taluk, Chikkamagaluru District) Chikkamagaluru District. Driver of Tractor Engine bearing No.KA-18/TB-0374 and Trolley bearing No.KA-18/TB-0375.

2. B.R. Shekarappa S/o B.T. Ramappa @ Ramaiah, aged about 63 years, agriculturist, R/o Arisinaghatta village, Ajjampura Taluk, Chikkamagaluru District (Formerly Tarikere Taluk, Chikkamagaluru District). Owner of Tractor Engine bearing No.KA-18/TB-0374 and Trolley bearing No.KA-18/TB-0375.

3. Manager, The IFFCO TOKIO General Insurance Company Ltd., Ganesh Tractors, Shankar Math Road, Shivamogga, Policy No.MN 271247, policy valid from 31.12.2021 to 30.12.2022. Insurer of Tractor Engine bearing No.KA-18/TB-0374 and Trolley bearing No.KA-18/TB-0375.

-: PARTIES TO IA NO.I :-

APPLICANT/S : Smt.Sowmya H.K. and others

- Vs -

OPPONENT/S : B.R. Pradeep and others

KACM700014092023

**:- PARTIES TO IA NO.III :-**

APPLICANT/S : IFFCO TOKIO General
Insurance Company Limited
- Vs -
RESPONDENT/S: Smt.Sowmya H.K. and others

COMMON ORDER ON IA NO.I AND III

The IA No.I has been filed by the petitioners under Sec.5 of Limitation Act praying to condone the delay of 69 days caused in filing the claim petition. Likewise, the respondent No.3 company filed application under Order VII rule 11 of CPC praying to reject the petition for the reasons that it is filed beyond the prescribed period of limitation.

2. In the memo of facts annexed to the application filed at IA No.I, the counsel for applicants stated that the petitioners could not furnish necessary documents for filing the claim petition. Due to this bona-fide reason there is delay of 69 days and it is not intentional one. If delay is not condoned the petitioners would put to untold hardship.

3. The respondents did not file any objection statement to the said application. However, the respondent No.3 filed IA No.III praying to reject the

KACM700014092023



claim petition for the reasons stated above. In the objection statement filed to IA No.III, the petitioners contended that the application is not maintainable either in law or on facts. The petitioner No.1 is the widow and she has to look after the welfare of her minor children. She is residing in a remote village and she has no legal knowledge. Hence, there is some delay in filing the claim petition. If the delay is not condoned, the petitioners would be put to untold hardship. The application under Sec.5 of Limitation Act was considered by the Hon'ble District and Sessions Court, Chikkamagaluru and allowed the same. Hence, again considering the application does not arise etc.

4. Heard the counsel for the petitioners and respondent No.3 on both applications.

5. The following points arise for my consideration;

1. Whether the petitioners have made out reasonable grounds to condone the delay?
2. Whether the respondent No.3 has made reasonable grounds to reject the claim petition?
3. What order?

6. My answers to the above points are hereunder:

Point No.1 : In the Affirmative



Point No.2 : In the Negative

Point No.3 : As for the final order
for the following;

REASONS

7. **POINT No.1 AND 2:** Since both these points are inter connected with each other and findings given on one point have direct impact on another point, I have taken both points together for common discussion.

As discussed above, IA No.I filed by the present petitioners before the Hon'ble Prl. District and Sessions Court, Chikkamagaluru under Sec.5 of Limitation Act praying to condone the delay of 69 days. The petition was registered and transmitted to this court for disposal. As per the petitioners, they are residing in a remote village and due to lack of knowledge and legal consequences, they could not file the claim petition within stipulated period. The respondent No.3 contended that since the petition is filed beyond the period of limitation, it is fit to be rejected. Accordingly, IA No.III has been filed by the respondent No.3 praying to reject the claim petition in exercise of the powers conferred under Order VII Rule 11 of CPC.

8. The counsel for the petitioners brought the notice of this court towards the reportable order passed by the Hon'ble High Court of Karnataka dated 21.07.2023



passed in ***Writ Petition No.201961/2023 (MV) (United India Insurance Company Limited Vs. Ramu @ Ramesh)***, wherein, it has been held thus;

“As afore observed, the MV Act being a beneficial Act, the provisions thereof had to be given beneficial meaning and effect. The benefit under the Act, cannot be taken away on a technical aspect that too of limitation, thus, the Trial Court having applied Section 5 of the Limitation Act to the fact situation, I do not find any infirmity thereof”.

9. The Hon'ble High Court of Karnataka in the above order clearly held that the claim petition filed after stipulated period of 6 months may be entertained in order to give beneficial meaning and effect to the enactment. The benefit under the Act cannot be taken away on a technical aspect that too of limitation. Furthermore, no material is available on record to show that the Hon'ble District and Sessions Judge Court already allowed the application filed under Sec.5 of Limitation Act. Hence, I am of the opinion that the application filed under Sec.5 of Limitation Act deserves to be allowed. However, the delay caused in filing the application may be compensated by imposing reasonable cost on the petitioners. Since IA No.I is allowed, there is no scope for rejection of the claim

KACM700014092023



petition. **Accordingly, I answer point No.1 in Affirmative and Point No.2 in Negative.**

10. **Point No.3:** For the reasons stated above, I proceed to pass the following;

ORDER

The application filed by the petitioners under Sec.5 of Limitation Act at IA No.I is hereby allowed on cost of Rs.1,000/- and the delay caused in filing the claim petition is condoned.

Resultantly, IA No.III filed by the respondent No.3 under Order VII Rule 11(d) of CPC is hereby rejected.

(Typed to my dictation directly on the computer by the Stenographer, corrected and then pronounced by me in open court on this the 22nd day of July, 2025.)

Sd/-
(VAIDYA SHREEKANT)
SENIOR CIVIL JUDGE & MAMACT.,
TARIKERE.