

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

MVC. No.360/2024

Dated this the 19th day of September, 2025

Petitioner/s : Shivanna @ Shivu S/o Mukkanna
Kurubar.

.Vs.

Respondent/s : M/s. Wintech Protein Recovery
Plant LLP and others.

PARTIES TO I.A. No.II

Applicant/s : Shivanna @ Shivu S/o Mukkanna
Petitioner Kurubar.

.Vs.

Opponent/s : M/s. Wintech Protein Recovery
Respondents Plant LLP and others.

- i. Provision under which : Under Sec.5 of
application is filed Limitation Act
- ii. Relief sought for : Seeking an order to
condoning delay in
filing the present
petition.
- iii. The date on which : 04.05.2024
application is filed

- iv. Number of the : II application
- v. The date on which : 05.07.2025 (by R.2) objections are filed by different opponents
- vi. The date on which : 19.09.2025 orders were passed on the said application

ORDERS ON I.A. No.II

The counsel for petitioner has filed an I.A. No.II under Sec.5 of Limitation Act seeking an order to condoning delay in filing the present petition.

2. *The respondent No.2 has filed objections to the said application.*

3. *Heard arguments.*

4. *The following point is arises for disposal off the application.*

“Whether the petitioner made out sufficient cause to condone the delay in filing the present petition as per I.A. No.II?”

5. *My finding to the above point in the Affirmative for forgoing;*

REASONS

6. *In the affidavit in support of the present application it is stated that, this claim petition against the respondents for a grant of compensation for the injuries sustained by petitioner during the motor vehicle accident. It is further averred that*

petitioner is uneducated and not at all aware of the legal procedure and unaware of the legal provisions and moreover after the accident, the respondent No.1 have assured to bear all the medical expenses of petitioner and requested to avoid the legal procedure and likewise they have initially took the responsibility and gave some medical expenses but when they came to know that, petitioner will be permanently disabled and there is huge medical expenses. They had withdrawn themselves from bearing the medical expenses. Therefore, without having any other alternative way petitioner have filed the police complaint on 17.10.2023. The delay caused in filing this petition is not due to intentional one but due to bonafide and prayed to allow the application.

7. The objections of the respondent No.2 is that as per Section 166(3) of the amended Motor vehicle Act is came in to force from 01.04.2022 and per the said provisions of the act, No application for compensation shall be entertained unless it is made within six months of the occurrence of accident. It is submitted that there is no any inclusionary provision so as to condone the delay if any in filing the claim petition as such the intention of the statutory is clear and unabbiguous that the claim petition must be filed within 6 months from the date of accident and no claim petition is maintainable if it is filed beyond statutory petition. It is further submitted that the law of limitation may harshly affect a particular party but is has to be applied with all its vigour when the statute so prescribes and that the court has no power to extend the period of

limitation on equitable grounds. The petitioner have not given valid and cogent reasons for condonation of delay and no documents have been produced to prove that the delay was not intentional one. Hence, prayed to dismiss the I.A.

8. On perusal of the same it is noticed to the Court that the above petition is filed by the petitioner due to the injuries sustained in the road traffic accident. The counsel for petitioner filed the present application along with the petition seeking condonation of delay in filing the petition, on perusal of the petition, the date of accident is 18.06.2022 and the present petition has been filed before this court on 06-05-2024, nearly more than 1½ year, delay is caused in filing the present petition. In this regard this court already observed the counsel for respondents taken specific contentions regarding delay is concerned.

9. The amendments made in the year 2019 and the rules which have been framed in the year 2022. Further it is required that, the investigating officer who registers the First Accident Report (FAR) at the time of accident is to forward the same to the jurisdictional court and FAR is required to be treated as a claim petition and the proceedings to commence immediately by issuance of notice to the insurance company. But in the present petition on hand, there is no material regarding FAR has been transmitted to the court. Any how, in this regard I would like to refer the decision of **Hon'ble High Court of Karnataka, Kalburgi Bench in writ petition No.201961/2023 dt:21-07-2023 in between the Divisonal**

Manager, United India Insurance Company Vs. Ramu @ Ramesh and others. Wherein this decision the Hon'ble High Court of Karnataka, Kalburgi Bench clearly held that, “ Section 5 of the Limitation Act provides for condonation of delay wherever any claim petition, appeal, etc., are filed beyond the period of limitation and provides discretion to the Court to consider the reasons made out in an application filed under Section 5 of the Limitation Act and if sufficient cause is made out to condone the delay. As aforesaid MV Act being a beneficial enactment, Section 5 of the Limitation Act being enacted to provide succor to persons who have come to Court late, but with a valid reason, Section 5 of the Limitation Act would also have to be considered beneficially and there being no bar under the MV Act for applying the principles under Section 5 of the Limitation Act, I am of the considered opinion that it cannot now be said that there is a blanket embargo under subsection (3) of Section 166 of the MV Act in entertaining a claim petition filed after the limitation period.”

10. Therefore, in the present case on hand, the natural guardian of the petitioner examined as PW-1 for the purpose of enquiry on IA.No.II and the respondent No.2 has cross examined the P.W.1. Anyhow, the grounds urged in the said application as well as the law laid down under the above said decision. This Court is of the opinion that if the delay in filing the present petition is condoned no hardship would be caused to other side because the above said petition is for beneficial one and petitioner has shown sufficient cause to condone delay in filing the said petition. Hence this court is of the

opinion that if the application is allowed on cost no hardship caused to the other side, application is deserves to be allowed on cost. Hence I answer the **point No.1 in the affirmative.**

11. **Point No.2:-** For the above said reasons, I proceed to pass the following :

ORDER

I.A.II filed by the learned counsel for petitioner under Section 5 of Limitation Act is hereby allowed on cost of Rs.1,000/-.

Resultantly delay in filing the present petition for the period of 535 days is hereby condoned.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **19th day of September, 2025**)

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.

ANNEXURE

1.List of witnesses examined for the Petitioner/s:

P.W.1 Vijayalaxmi W/o Mukkanna Kurabar.

2.List of documents exhibited for the Petitioner/s:

Ex.P.1 & Bank Statements.
P.2

3.List of witnesses examined for the respondent/s:

-NIL-

4.List of documents exhibited for the Respondent/s:

-NIL-

sd/-

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.