

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.657/2025

Dated this the 25th day of June, 2026

Petitioner/s : The Divisional Controller
North West Road Transport
Corporation, Rural Division,
Hubballi.

.Vs.

Respondent/s : Sujith S/o A Krishna Alva and
another.

PARTIES TO I.A. No.I

Applicant/s : The Divisional Controller
Petitioners North West Road Transport
Corporation, Rural Division,
Hubballi.

.Vs.

Opponent/s : Sujith S/o A Krishna Alva and
Respondent another.

- i. Provision under which : Under Sec.5 of Limitation
application is filed Act

- ii. Relief sought for : Seeking an order to condoning delay in filing the present petition.
- iii. The date on which application is filed : 17.09.2025
- iv. Number of the application : I
- v. The date on which objections are filed by different opponents : 12.12.2025 (by R.2)
- vi. The date on which orders were passed on the said application : 25.06.2026

ORDERS ON I.A. No.I

The counsel for petitioner has filed an I.A. No.I 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.I ?”

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, the petitioner has filed this petition for claiming the compensation due to damage caused to the Bus in the course of the accident occurred on 05.04.2021 while bus bearing its No.KA-25/F-3143 was going on from Bengaluru to Hubballi, when the of the bus driving and came near Peenya Flyover on Tumkur road, slowly, cautiously and left side of the road and abide by all the traffic rules at that time the driver of the respondent No.1's private Bus bearing its No.KA-19/AB-7331 came back side of the petitioner's bus rash and negligently, high speed and endanger to human life and dashed to back side of the petitioner's bus, as a result of it the bus was damaged. That their corporation is big corporate body, moreover, its prime motive is public utility service, its business is 'No profit and No losses, decision making for work is not in one hand, hence he is not unable to contact his counsel for getting information about the case, and moreover. Some procedure followed by the petitioner corporation for granting permission from higher authority, hence, delay caused for filing this petition. Delay caused for filing this petition is not intentional but it is bonefide reasons. If the delay is condone there is no loss or hardship would be caused, on the contrary more loss or hardship would be caused to the petitioner corporation if not condone. Hence, prayed to allow the application.

7. On the other hand, the respondent No.2 has filed objections and contended that the above application is not maintainable in law and on facts as the petitioner has to file the above petition within 6 months as per Amended Act. But the petitioner has filed the above petition after 4 years of the alleged accident. The petitioner has no right to file the above petition after 4 years of the accident. In the above case the petitioner not at all stated about the delay is concerned and the petitioner is not at all stated cogent, reasonable and sufficient reasons about to delay in filing the above petition in the petition and the above said application also. The application is not maintainable in law and on facts and there is no sufficient, reasonable and cogent reasons stated in the affidavit to allow the application and hence the same is liable to be dismissed in limine. The alleged accident occurred on 05.04.2021 and the present petition filed by the petitioners in the year 2025, after 4 years of the alleged accident the petitioners have filed the above petition. There is inordinate delay of more than 4 years in filing the above petition before this Court. It is further contended that the above said Ashok Leyland Bus No.KA-19/AB-7331 was not insured with their Company and Accident vehicle i.e., said bus and insured bus are different one. Under the said circumstances the above application and also the petition may be dismissed at the first instance.

8. In the present case on hand, the petitioner examined its Assistant Traffic Superintendent as PW-1 for the purpose of

enquiry on IA.No.II and got marked Ex.P.1 and P.2 the respondent No-2 they made cross examination of PW-1 taken contention that said dispute involving on IA is question of law, therefore they having every right to cross examine the PW-1.

9. On perusal of the same it is noticed to the Court that the above petition is filed by the petitioner due to the damage caused to the Bus 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 28.07.2018 and the present petition has been filed before this court on 18.09.2025, nearly more than 6 years 7 months, delay is caused in filing the present petition.

10. In this case question relates to whether the recent amendment prescribing a six month period applies, the answer depends upon the nature and date of the amendment. Generally unless the statute expressly provides otherwise, a provision prescribing a limitation period is prospective in operation. A cause of action that arose before the amendment is ordinarily governed by the law that existed on the date of the accident. In motor accident claims, it is relevant that Section 166 of the Motor Vehicles Act had earlier contained a limitation period. But that limitation provision was omitted long ago. Consequently, claim petitions could be filed even after a considerable lapse of time. Though delay could be a relevant factor while appreciating evidence. Therefore if the accident occurred in 2018, the right to claim compensation accrued in

2018 and the petition was filed in 2025.

The general principle is that a statute affecting substantive rights is presumed to be prospective unless the legislature expressly or by necessary implication makes it retrospective. A right to seek compensation that accrued on the date of the accident is ordinarily governed by the law then in force.

Therefore, a strong argument is available that the limitation prescribed by the amended Section 166(3) cannot retrospectively extinguish or curtail a cause of action that had already arisen in 2018, before the amendment came into force, unless the amendment specifically provides for retrospective operation. Hence this court is of the opinion that the limitation prescribed under the amended section 166(3) cannot retrospectively extinguish or curtail a cause of action which had already accrued prior to the amendment coming into force, unless the amendment specifically provides for retrospective operation. Admittedly, the accident in the present case occurred in the year 2018, whereas the amendment came into force subsequently. There is nothing in the amendment indicating retrospective applicability. Therefore, the objection regarding limitation is not sustainable and the petition cannot be rejected on that ground.

However, considering the delay in approaching the tribunal, the question of interest for the delayed period shall be considered at the time of final adjudication. The petitioner shall not be entitled to claim interest for the period of delay, subject

to the result of the petition and final orders to be passed therein. Hence application is deserves to be allowed on above conditions. 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. No.I filed by the learned counsel for petitioner under Section 5 of Limitation Act is hereby allowed subject to condition that:

No interest shall be payable for the delayed period, subject to the final outcome of the case.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **25th day of June, 2026**)

(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 Shaheen Kousar Mulla S/o Mohammed
 Hasan Mulla.

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

Ex.P.1 Authorization Letter.

Ex.P.2 Copy of Resolution.

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.