

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.279/2025

Dated this the 28th day of October, 2025

Petitioner/s : Faizanahmed S/o Hussain Sab
Dafedar.

.Vs.

Respondent/s : Abdul Mujahid Mouli and
another.

PARTIES TO I.A. No.II

Applicant/s : Faizanahmed S/o Hussain Sab
Petitioner Dafedar.

.Vs.

Opponent/s : Abdul Mujahid Mouli and
Respondents another.

- 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 : 09.04.2025
application is filed
- iv. Number of the : II
application
- v. The date on which : 04.09.2025 (by R.2)
objections are filed by
different opponents
- vi. The date on which : 28.10.2025
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, the petitioner has filed the present petition*

claiming compensation for the injuries sustained by him in the road traffic accident which was caused on 26.10.2023 by the rash and negligent driving of the driver of the respondent. To that extent case was registered before Nelogi Police Station against the vehicle. The IO even after conducting the investigation, has filed the charge sheet on 17.02.2024. Due to the injuries sustained by him and he was sustained fracture and he was under treatment in the various Hospitals. Therefore, he could not contact his counsel to give instructions to file the petition. It is further submitted that, he was injured, his father is a retired age old person and was unable to travel from Hubballi to Gulbarga to collect the necessary documents. Hence, the delay is caused in collecting the documents from the Nelogi Police Station. If the delay is not condoned, he will be put to untold hardship and the very purpose of preferring appeal will be frustrated on the contrary no loss or hardship will be caused to the other side. Hence, prayed to allow the I.A.

7. The objections of the respondent No.2 is that the application filed by the petitioner is not maintainable since the Motor Vehicle Act 1998 Amended Act doesn't permits to file application for delay condonation. As per Sec.166(3) M.V. Act amended act which is came force from 01.04.2022 and as 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. 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 unambiguous 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. The law of limitation may harshly affect a particular party but it has to be applied with all its vigours when the statute so prescribes and that the Court has no power to extend the period of limitation on equitable grounds. The hardship caused to an individual, cannot be a ground for not giving effective and grammatical meaning to every word of the provision, if the language used therein, is unequivocal. Without prejudice to above contention the petitioner have not given valid and cogent reasons for condonation of delay and no documents produced to prove that the delay was not intentional one. Hence, the application is liable to be dismissed.

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 24.10.2023 and the present petition has been filed before this court on 09.04.2025, nearly more than 6 months, 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.”

Further the counsel for the petitioner relied upon a decision of **Hon'ble High Court of Kerala in reported in (2023) ACJ 940: (2023) 1ILR (Kerala) 750: (2023) 1KerLJ 629: (2023)2 KHC 70: (2023) 1 KLT 700: (2023) 1 TNMAC 182: in between the Akshay Raj Vs. Ministry of law and justice.**

Wherein this decision the **Hon'ble High Court of Kerala held that** provisions of limitation act are applicable to claim petitions under section 166 of the motor vehicles act unless specifically excluded by the Act. The amendment to section 166(3) does not exclude the applicability of the limitation act.

10. Therefore, in the present case on hand, 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 348 days is condoned.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **28th day of October, 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 Faizanahmed S/o HussainSab
Dafedar.

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

-NIL-

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.