

KAHV510067902023



**IN THE COURT OF 1<sup>st</sup> ADDL. SENIOR CIVIL  
JUDGE & AMACT, RANEBENNUR**

**PRESENT: SRI. MANJUNATHA M.S., B.A., LL.B.**  
1<sup>st</sup> Addl.Senior Civil Judge & AMACT,  
Ranebennur.

**Dated this 5<sup>th</sup> day of December, 2025**

**MVC NO. 2271 / 2023**

**PETITIONER :**

Mr. Ningappa @ Lingaraj  
S/o: Muttappa Hadapada, Age: 27 yrs,  
Occ: Barber work, R/o: Janata Colony,  
Hale Kunduwada, Davangere and  
Katenahalli, Tq: Ranebennur, Dist: Haveri.

**(By Sri. S.V.M, Advocate)**

**V/s**

**RESPONDENTS:**

1. Smt. Sumitra Budihal  
W/o: Fakkirappa Budihal,  
R/o: # 23/4, 2<sup>nd</sup> Main, 12<sup>th</sup> Cross, K.T.J Nagar,  
Jayadeva Circle, Davangere.

(Owner of the Car bearing Reg.No.KA.17/MB-2981)

2. The Legal Manager,  
Cholamandalam, MS General Insurance Co., Ltd  
77/1, 1<sup>st</sup> Floor, Kalburgi Square, Deshpande Nagar,  
Hubli.

Policy No : 3311/00894704/000/00.

Valid from : 10-02-2023 to 09-02-2026.

**(R.1 by Sri. S.N.B, Advocate.  
R.2 by Sri. R.S.S, Advocate).**

**PARTIES TO I.A.NO.IV**

**Applicant** : 1. The Legal Manager,  
**(Ori. Rsptd-2)** Cholamandalam, MS General  
Insurance Co., Ltd 77/1, 1<sup>st</sup> Floor,  
Kalburgi Square, Deshpande Nagar,  
Hubli.

V/s

**Opponents** : Mr. Ningappa @ Lingaraj  
**(Ori.Ptr)** S/o: Muttappa Hadapada.

**ORDER ON IA NO.IV**

The respondent No.2 has filed IA.No.IV U/o 7 Rule 11(d) R/W Sec.151 of CPC and & U/Sec.166(3) of IMV Act, praying to dismiss the petition as it has been filed after the expiry of six months from the date of accident.

2. Along with the application, the learned counsel for the respondent No.2 has filed memorandum of facts asserting that, the petitioner has filed instant petition seeking compensation arising out of the injuries sustained by him in the RTA. As per the petition averments, the accident in question took place on 22-04-2023 and instant petition has been filed on 18-12-2023 after lapse of more than six months from the date of accident. As per Section 166(3) of M.V Act, no petition for compensation be

made after lapse of six months from the date of accident in question. Thus, instant petition is barred by Sec.166(3) of M.V Act (Amended Act), as such sought to reject the petition.

3. Learned counsel for petitioner has filed objections to instant application contending that, instant application is a false, frivolous, vexatious and bogus, as such, same is not maintainable either in law or on facts. Further, contended law of limitation is not applicable to the present petition, as the petitioner had filed the present petition under Section. 164 of MV Act, the Amendment of 2019 has applicable only to Section 166 of MV Act. The application is not accompanied by party affidavit and as such, it is hit by Civil Rules of Practice. That at the time of filing the petition, he has filed the application under Sec. 5 of Limitation Act to condone the delay which was caused in filing the petition, but the respondent No.2 without considering the same, has filed the present application only with an intention to give harassment to him. It is further contended that, he being a rustic illiterate person, had sustained severe fracture injuries in the accident and after the accident he was shifted to various hospitals for taking necessary proper treatment and underwent operations. After discharge

from the hospital, he had approached his counsel and given instruction to file present petition. Hence, there is only nine days delay has been caused in filing the present petition. The delay is not intentional one, but it is bonafide reasons. Hence, he sought to reject the application.

4. On the basis of application and objections, the following points are arise for my consideration:

### **POINTS**

*1. Whether the respondent No.2 has made out grounds that, from the statement in the petition it appears that, instant petition is liable for rejection as barred by limitation?*

*2. What order?*

5. Heard learned counsel for the respondent No.2 and petitioner. Perused material on record. My answer to above points is as under:

**Point No.1 : In the Negative.**

**Point No.2 : As per final order for the following:**

### **REASONS**

6. **Point No.1**: At the outset, petitioner filed instant petition seeking compensation arising out of injuries sustained by him in RTA. It is the specific case of

respondent No.2 that, instant petition has not been filed within the period prescribed under Section 166(3) of the M.V Act (Amended). In view of above, this Tribunal carefully perused Section 166(3) of the Act, which envisages that, no application for compensation be entertained unless it is made within six months of the occurrence of the accident. No doubt, in the present petition the accident was took place on 22-04-2023 and present petition is filed on 18-12-2023 and there is a delay of 55 days in filing the present petition. Admittedly, the petitioner has filed separate application U/Section 5 of Limitation Act, to condone the delay in filing the present petition. This Court by considered order allowed the application filed under Section 5 of Limitation Act and condoned the delay in filing the present petition. Once this Court condoned the delay by allowing the application U/Section 5 of Limitation Act, the present application would becomes infructuous.

7. Moreover, as per Rule 253 and 254 of the Karnataka Motor Vehicle Rules, 1989 reveals that, the claims tribunal shall have powers of Civil Court for the purpose of the execution of award, as if the award is a decree of Civil Court and Sub Rule 2 of Rule 253 also empowers the claim tribunals to exercise all or

any of the powers of the Civil Court as may be necessary in any of case for discharging its functions under the Act and Rules made thereunder. Similarly, Rule 254 provides that, some of the provisions of the code of Civil Procedure are made applicable to proceedings before the claims tribunal. As per Rule 254 only Order VII Rule 10 of CPC., is applicable to the proceedings before Claim Tribunal but not Order VII Rule 11 of CPC. Thus, provision of Order VII Rule 11 of the Code of Civil Procedure is not applicable to the proceedings before claims tribunals. Apart from this, there is no provision either under M.V Act 1988 or Central Motor Vehicles Rules or under Karnataka Motor Vehicles Rules empowering this tribunal to reject the instant claim petition, as such, instant application is liable to be rejected even on this count. In view of above, this tribunal is of view that, respondent No.2 has not made out sufficient grounds to allow this application. Accordingly, this Court answers **point No.1 in the negative.**

8. **Point No.2:** For the foregoing reasons, I proceed to pass the following;

**ORDER**

**IA No.IV filed by the respondent  
No.2 U/Order VII Rule 11(d) R/w 151  
of CPC and Sec.166(3) of MV  
(Amendment) Act, is hereby rejected.**

(Directly dictated to the Stenographer through computer, then corrected and pronounced by me on this **5<sup>th</sup> day of December, 2025**).

**(Manjunatha M.S.)  
1<sup>st</sup> Addl. Sr. C.J & AMACT.,  
Ranebennur.**