

**THE COURT OF THE SENIOR CIVIL JUDGE**  
**& J.M.F.C.,AT : CHINCHOLI**

Present : Smt.Jyoti.Shantappa.Kale

L.L.M.,

Senior Civil Judge & JMFC, Chincholi.

DATED : THIS THE 07<sup>th</sup> DAY OF APRIL - 2025

**M.V.C.No.1523/2023**

**Petitioner/s**

Saibanna S/o Bhimmanna

**V/s**

**Respondent/s:**

Shivaputra S/o Adappa & Another.

**-: I.A.No.II :-**

**Applicant/s:**

IFFCO TOKIO General Insurance Company.

**V/s.**

**Opponent/s:**

Saibanna S/o Bhimmanna

**Order On Interim Application No.I Filed By Respondent No.2**  
**Under Order VII Rule 11 R/W Section 151 Of Civil Procedure**  
**Code, 1908 And Section 166 (3) Of Motor Vehicle (Amendment)**  
**Act 2019**

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1. The respondent No.2 company has filed the interim application No.II under the provisions of Order I Rule 11 R/W Section 151 Of Civil Procedure Code, 1908 And Section 166 (3) Of Motor Vehicle (Amendment) Act 2019 praying to reject the petition as time barred.

2. The application is accompanied with an affidavit sworn by the Legal Manager of Respondent No.2 company stating that present claim petition is filed by the petitioner for the injuries sustained in the accident dated: 06-12-2022 and claim petition is filed on 15-09-2023. The present petition is filed after inordinate delay of 100 days to seek compensation. As per the recent amendment to Motor Vehicle Act 1988 wherein the amendment to section 166 (3) contemplates the limitation of 6 months to file claim petition before the court. It is further stated that the petitioner has filed the present petition after 100 days from the date of accident and therefore the petition is not maintainable as it is barred by limitation. It is further stated that the Ministry of Road Transport and Highways have already notified the new amended provisions of Motor Vehicle Act which is taken effect from 01-04-2022 vide Gazzette notification dated: 25-02-2022 wherein the Central Government has notified that Section 50 to 57 and 93 of the Motor vehicle (Amendment) Act 2019 which are concerned to third party insurance. Therefore it is stated that the claim petition is barred by provisions of Motor vehicle (Amendment) Act 2019 and on these grounds the respondent No.2 company prayed to allow the application and reject the claim petition of the petitioner.

3. On the contrary the petitioner filed objections to IA.No.I contending that the application is not maintainable. It is contended that the petitioner is illiterate and does not have knowledge regarding filing of the claim petition with 6 months. After the accident petitioner has undergone mental agony and was suffering from ill-health. It was unable for him to collect the documents and meet the advocate for filing the petition. The delay caused in filing the claim petition is not deliberate and not intentional. If the application is rejected no loss will be caused to the other side whereas if the application is allowed more irreparable loss will be caused to the petitioner. Hence with this contention the petitioner prayed to dismiss the petition filed by the respondent No.2.

4. Heard learned counsel for respondent No.2 and learned counsel for the petitioners on I.A.No.I. The points that arise for my consideration are:

1. Whether the claim petition instituted by the petitioner is liable to be rejected under the provisions of Order VII Rule 11 of Civil Procedure Code, 1908 and as per provisions of Motor vehicle (Amendment) Act 2019 ?
2. What order?

5. My findings on the aforesaid points are as under;

- Point No.1** : In the Negative  
**Point No.2** : As per final order for  
the following;

### **REASONS**

6. **Point No.1** :

a. The petitioner have filed this petition U/Sec: 166 of Motor Vehicle Act of 1989 seeking compensation for the injuries in motor accident dated: 06-12-2022.

b. It is stated by the respondent No.2 company that present petition is time barred and not maintainable as per the amended provisions of U/Sec: 166 of Motor Vehicle amendment Act 2019.

c. *The provisions of Section 166 of Motor Vehicle amendment Act 2019 states as: No application for compensation shall be entertained unless it is made within six months of the occurrence of accident.*

d. As per the above said provisions the time limit of six months is mandatory for filing the claim petition from the date of accident. In the present case the petitioner has filed application I.A.No.1 U/Sec: 5 of Limitation Act for Condonation of delay of 100 days in filing the claim petition.

e. The records shows that the accident occurred on 06-12-2022 and as per the above said provisions the claim petition ought to

have been filed within 06-05-2023 but the present claim petition is filed on 15-09-2023 and therefore there is delay in filing the claim petition. The petitioner has stated that after the accident he had undergone treatment and therefore he was not able to collect the documents and file the claim petition within statutory period. The record further shows that accident occurred on 06-12-2022 complaint filed on 06-12-2022 and chargesheet is filed by the concerned police station to the court on 14-02-2023.

f. The learned counsel for the petitioner in support of his case relied upon the judgment in ***WP.No.201732/2024 clubbed with WP.No.201740/2024 and WP.No.201737/2024 dated: 01-10-2024 between New India Assurance Company Limited Kalaburagi V/s Sakkubai W/o Eshwar of Hon'ble High Court of Karnataka Kalaburagi Bench*** wherein it is held that the condonation of the delay granted by the claim tribunal is proper and correct and also the Order passed by the claims tribunal rejecting the application filed by the insurance company U/o 7 Rule 11 R/w 151 and with Section 166 (3) of MV Act.

g. In view of the principles mentioned in the above decision, and looking to the reasons assigned by the petitioners for delay in filing the application is acceptable. No doubt there is delay of 100 days in preferring the petition but the reasons shown for the said

delay appears to be genuine and the said reason is accepted by this court. The said delay is to be condoned to give an opportunity to the petitioner to putforth his case for final adjudication of rights of the parties. Hence the reason for the delay given by the petitioner is accepted. In the interest of justice and equity, opportunity is to be given to the petitioner to maintain his claim petition. The delay caused in filing the appeal can be condoned.

7. Therefore going through the entire petition averments, there are no sufficient materials to reject the petition as sought by the respondent No.2 in his application. Accordingly I answer point No.1 in the Negative.

8. **Point No.2** : In view of my findings on above points, I proceed to pass the following ;

**--: ORDER :-**

The interim application No.1 filed by the respondent No.2 under the provisions of Order VII Rule 11 R/w Section 151 of Civil Procedure Code, 1908 and Section 166 (3) of Motor vehicle (Amendment) Act 2019 is hereby rejected.

(Dictated to Typist typed by her corrected by me, signed and pronounced by me in the open court on **07<sup>th</sup> day of April - 2025**)

**(Smt. Jyoti Shantappa Kale)**  
**Senior Civil Judge & JMFC.,**  
**Chincholi.**