

**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
JEWARGI.**

PRESENT : Smt. Tayyaba Sultana, *B.A., LL.B.*,
Senior Civil Judge & JMFC.,
Jewargi.

M.V.C NO.1716/2023

Petitioner :

Annaraya S/o Basavantraya Gouda,
Age: 11 years, Occ: Student,
U/g of natural father Basavantraya
S/o Shivasharnappa Gouda,
Age: 43 years, Occ: Agriculture,
R/o Near Basaveshwar Temple,
Naribol village,
Taluk Jewargi, District Kalaburgi.

(By Sri S.A.P., Advocate)

V/s.

Respondents:

1. Hanamanthraya S/o Shivasharnappa Gouda,
Age: Major, Occ: Agriculture,
R/o H.No.E/103, Naribol village, Taluk Jewargi,
District Kalaburagi.
2. The new India Assurance Co., Ltd.,
Through its Divisional Manager,
Near SBI Bank, Sangameshwar Colony,
S.B. Temple road, Kalaburagi.

(R.1 by Sri P.B.M., Advocate)

(R.2 by Sri V.C.M.P., Advocate)

PARTIES TO I.A. NO.1 and 2.

Applicant/ : The New Assurance Co. Ltd.,
Respondent No.2 V/S

Opponent/ : Annaraya.
Petitioner

i.	Provision under which the application is filed	IA No.1 u/s 5 of Limitation Act and I.A No.2 U/o 7 Rule 11 R/w Sec.151 of CPC and Sec.166(3) of Motor Vehicle (Amendment) Act, 2019
ii.	Relief sought for	Condonation of Limitation and Rejection of petition
iii.	The date on which the application is filed	29-11-2023 and 06-12-2024
iv.	Number of the application	IA No.1 and 2
v.	The date of which the objections are filed by different opponents	Nil
vi.	The date on which the orders were passed on the said application	08-10-2025

ORDER ON IA NO.1 AND 2

1. The petitioner has filed application u/s 5 of Limitation Act for condonation of delay of 85 days.
2. The respondent No.2 has filed application under Order 7 Rule 11 R/w Sec. 151 of CPC and Sec.166(3) of Motor Vehicle (Amendment) Act, 2019 to reject/return the petition, since the

petition is barred by limitation.

3. The natural guardian of minor petitioner sworn to the affidavit and contended that, the case was registered against the offending motorcycle in Jewargi Police Station. But the police authorities did not file the charge-sheet in time and the documents were also not handed over to him for filing the present claim petition. Therefore he has no knowledge of legal proceedings and he recently met with his counsel he advice to file the case against the offending vehicle and insurance company for claiming compensation. Therefore there is a delay in filing the case due to the above mentioned bonafied reasons and not an intentional one and prayed for allow the application and condone the delay.
4. The Divisional Manager of respondent No.2 company sworn to the affidavit stating that the victim met with an accident on dated 04-03-2023. It is manifest that the present claim petition is filed on dated 29-11-2023 before the Court for consideration, whereas the accident happened on 04-03-2023 and therefore, it is an undisputed fact that the said petition is being filed with inordinate delay of almost 85 days as to seek compensation, which is an eventually abuse of the set process, procedure and contrary to the provisions of prevailing law and therefore lead ot impediment for the respondent/applicant herein to protest this case effectively. That the recent amendment to Motor Vehicle Act, 1988 wherein the amendment to Section 166(3) contemplates the limitation of 6 months, as to file claim petition before the Courts. For the ready reference, the very Section 166(3) if produced before: "No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident". The

petitioner has filed to said petition after six months of the occurrence of the accident. Therefore, the applications must be entertained within a period of six months from the date of amendment must be entertained within a period of six months from the date of amendment i.e., 01-04-2022. The Ministry of Road Transport and Highways has already notified those new amended provisions of the Motor Vehicles Act, which have taken its effect from 01-04-2022, vide extraordinary gazette notification dated 25-02-2022, So, 859(E), wherein the Central Government has notified that Sections 50 to 57 and 93 of the Motor Vehicles (Amendment) Act, 2019 which are in concerns to third party insurance and filing of claims before Motor Accident Claims Tribunal. Therefore, the claim petition is itself barred by the applicable provisions of the Motor Vehicle (Amendment) Act, 2019. Hence, may kindly return/reject as the said claim application is filed after six months from 01-04-2022 and from the date of occurrence of the accident as per the amendments notified to the motor accident claims. Hence, respondent No.2 prayed for rejection of petition.

5. In-spite of sufficient opportunities given to the respondent No.2 and petitioners, but they have failed to file objection to IA No.1 by respondent No.2 and objection to IA No.2 by petitioner.
6. Heard and perused the material available on record.
7. The following points arises for my consideration are:-

POINTS

1. Whether the IA No.1 filed by the petitioner under section 5 of Limitation Act is deserves

to be allowed?

2. Whether the IA No.2 filed by the respondent No.2 under Order 7 Rule 11 R/w Sec. 151 of CPC and Sec.166(3) of Motor Vehicle (Amendment) Act, 2019 is deserves to be allowed? and whether the petition can be rejected?

3. What Order?

8. The learned counsel for respondent No.2 argued that petition is liable to be rejected in view of the provisions of order 7 Rule 11(d) of C.P.C since statement of the petition are barred by law since petition is filed after laps of six months from the date of accident as well as from the date of amended Act. He further argued that as per section 166(3) of MV Act the present petition is not maintainable since it is barred by limitation. Therefore, he prayed to reject the petition. On urging all these grounds, counsel for respondent No.2 prayed to reject the petition.

9. Though the petitioner counsel did not filed any objection to the IA but argued that the application filed by the respondent No.2 is not maintainable. Therefore, he prayed to reject the application.

10. My findings to the above points, are as follows:

Point No.1	:-	In the Affirmative.
Point No.2	:-	In the Negative.
Point No.3	:-	As per the final order for the following:

REASONS

11. **Point No. 1 and 2**: Admittedly, the petitioner has filed this petition

seeking compensation on account of injury sustained by him in a road accident dated 04-03-2023. The respondent No.1 is stated to be the owner and respondent No.2 is stated to be the insurer of the offending vehicle which caused the accident wherein the petitioner sustained injuries and disability.

12. On perusal of petition averments it shows that, the alleged accident of the petitioner has taken place on 04-03-2023 and whereas, the present claim petition is filed on 29-11-2023. Admittedly, there is delay of around 85 days in filing the petition, but the said fact cannot be a ground for dismissal of the petition as barred by limitation.
13. It is significant to note that, the amendment to section 166 (3) of Motor Vehicle Act was brought in the year 2019 and the said amendment is prospective nature and not retrospective in nature. The present amendment being a beneficial amendment, the respondent No.2 cannot taken shelter of the said amendment.
14. The Hon'ble Hight Court of Karnataka in the case of **Divisional Manager United India Insurance Company Limited - Vs - Ramu @ Ramesh S/o Yallappa** has held in Para No.27 as under ;

"27, As afore observed, the MV Act being a beneficial Act, the provisions thereof had to be given beneficial meaning and effect. The benefit under the Act, cannot be taken away on a technical aspect that, too of limitation, thus, the trial court having applied section 5 of Limitation Act

to the fact situation, I do not find any infirmity thereof."

15. The Hon'ble High Court of Madras in the case of **Malaravan -Vs- Parveen Travels Pvt. Ltd., reported in 2023 ACJ 2062** has held that " The delay in filing the petition needs to be liberally construed." In view of dictum of Hon'ble High Court of Karnataka and Hon'ble High Court of Madras in decisions referred to supra, it is necessary to note that, substantial justice prevails over technicalities.
- 16 In this case as discussed above the accident has occurred on 04-03-2023 and whereas, the petition is filed on 29-11-2023. Even in the affidavit annexed to IA No.1 it is stated that, the petitioner was under medical treatment due to he accident suffered by him. Hence,there is delay of 85 days in filing the petition.
17. **The Hon'ble Apex Court in SLP (Civil) No.11801-11804/2025 and also in another decision of Hon'ble Apex Court reported in 2025 Live law (SC) 339** in which it is held that, "The approach towards condonation of delay has to be liberal and delay cannot be condoned without sufficient cause and merit of the case cannot be discarded merely on technical grounds."
18. Considering the ratio laid down in the decision referred by this Tribunal, this court is of the considered view that, this is not a fit case to reject the petition on the ground of delay and the delay caused in filing the petition requires to be condoned. **Hence, I proceed to answer Point No.1 in the Affirmative and Point No.2 in Negative.**

19. **Point No. 3:-** For the reasons stated above, I proceed to pass the following ;

ORDER

IA No.1 filed by the petitioner u/s 5 of Limitation Act is hereby allowed.

IA No.2 filed by respondent No.2 Under Order 7 Rule 11 R/w Sec.151 of CPC and Sec.166(3) of Motor Vehicle (Amendment) Act, 2019 is hereby rejected.

No order as to cost.

*(Dictated to the Stenographer directly on computer typed by him, corrected and pronounced by me in the open court on this the **08th day of October, 2025**).*

(Smt.Tayyaba Sultana)
Senior Civil Judge & Member
M.A.C.T.IX, Jewargi.