

KAKP420014882023



**IN THE COURT OF THE
ADDL. DISTRICT & SESSIONS JUDGE, PRESIDING
OFFICER, M.A.C.T., KOPPAL (Sitting at Gangavathi).**

**Present : Sri.Sadananda Nagappa Naik,
BAL., LLB**

**Addl. District & Sessions Judge,
Koppal (Sitting at Gangavathi).**

Dated this the 27th Day of November 2024

M.V.C No.412/2022

Karegouda **.....Petitioner**

- V/s -

Ramesh & others **.....Respondents**

I.A. No.3

United India
Insurance Co. Ltd.

(R3 by- Sri SRH Adv.,)

- V/s -

**.....Applicant /
Respondent No.3**

Karegouda

(By Sri MJ Advocate)

**.....Opponents /
Petitioners**

ORDER ON I.A. No.3

The Respondent No.3 has filed the Application in I.A.No.3 u/o.VII Rule 11 R/w sec.166(3) of the Motor Vehicles (Amendment) Act, 2019 and sec.3 of Limitation Act praying to reject the Claim Petition, as barred by law of limitation.

2. In support of I.A.No.3, the Counsel for Respondent No.3 in his memo of facts has stated that, the present petition is filed claiming compensation for the injuries sustained in the accident on 15.08.2021. As per Sec.166(3) of Motor Vehicle (Amendment) Act, 2019 which came into force on 01.04.2022, the same prescribes 6 months limitation for filing the Claim Petition. The present Petition is filed on 10.11.2022, after lapse of statutory period of 6 months from the date of occurrence of the accident occurred on 15.08.2021. The same is barred by law of limitation.

3. Per contra, the learned counsel for the Petitioner has filed detailed objections to the aforesaid I.A.No.3

contending that, the Petitioner has filed the claim petition in respect of the accident which is occurred on 15.08.2021, which is prior to the commencement of the new provisions of Motor Vehicle Act. Hence, the present application is not maintainable. Hence, prayed to dismiss the I.A.No.3.

4. Heard both learned counsels on I.A.No.3. Perused the entire materials on record.

5. Now the only point that arises for my consideration is;

1. Whether the Applicant/Respondent No.3 has made out sufficient grounds for rejecting the Claim Petition, as prayed in I.A.No.3?

2. What Order?

6. My finding on the above Points are as under;

Point No.1 : In the Negative.

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

R E A S O N S

7. **Point No.1:** Order VII Rule 11 empowers the court to reject the plaint/Petition in case the plaint does not

disclose a cause of action, where the relief claimed is undervalued and in spite of time given by the court to correct the valuation within time, the plaintiff fails to do so and where the relief claimed is properly valued but the court fee actually paid is insufficient and the deficiency is not made good in time, in spite of time granted by the court or where the Suit is barred by law, if the plaint is not filed in duplicate or where the provisions of Order 7 Rule 9 have not been complied with.

8. While deciding an application under Order 7, Rule 11 it is not necessary to call for the written statement. It may be decided merely by going through the averments made in the plaint. Order VII, Rule 11 of the Code casts a duty on the Court to reject the plaint for non-disclosure of cause of action if the court comes to the conclusion that even if all the allegation set out in the plaint are proved, the plaintiff would not be entitled to any relief. In such case, the court can reject a plaint even without issuing summons to defendant. Irrespective of any objection taken by the

defendant, it is the duty of the Court to see if the plaint really discloses any cause of action or if the plaint is barred under the provisions of any law. Order 7 Rule 11 is one of the provisions that provides for rejection of plaint, if it is barred by any law. This being one of the exceptions must be strictly construed. The Court cannot be justified in rejecting a particular portion of the plaint. It can reject the entire plaint.

9. It is the duty of the Court to frame the issue regarding limitation and if it comes to the conclusion that the plaint is time barred, it must reject the plaint though limitation has not been set up as defence (Sec.3 Limitation Act 1963). An application for rejecting the plaint can be filed at any stage of the proceeding. However, it should be done at the earliest.

10. Keeping these principles in mind, let be analyse that, whether the Respondent No.3 is able to establish before the court that the claim petition is liable to be rejected as barred by law of limitation or otherwise.

11. In the present case, it is not in dispute between the parties that, the accident has occurred on 15.08.2021 and the present Claim Petition came to be filed on 10.11.2022. Therefore, there is a delay in filing the present Petition. It is contended by the Respondent No.3 that as per Sec.166(3) of the Motor Vehicles Act, which came into force from 01/04/2022, no application for compensation has to be entertained unless it is made within 6 months of the occurrence of the accident. Hence, it is contended that, as the present Petition is filed beyond 6 months time, the same has to be rejected.

12. Per contra, it is the contention of the Petitioner that soon after the accident, he was under treatment and the present petition is filed in respect of accident that has occurred prior to commencement of the new provides of Motor Vehicle Act. It is pertinent to note that, the Hon'ble Supreme Court of India in the case of the **Collector, Land Acquisition, Ananthanaga V/s.Katiji reported in AIR**

1987 SC 1353 - it is held that, power to condone the delay has been conferred in order to enable the court to do substantial justice to parties by disposing of the matters on merits. In the present case, on perusal of the documents filed along with the Petition, it is evident that the Petitioner has sustained severe injuries and he was under treatment.

13. It is also pertinent to note that the Hon'ble High Court of Karnataka in the case the **Divisional Manager, United India Insurance Co.Ltd., V/s. Ram @ Ramesh & another in W.P.No.201961/2023 (MV) dated 21/07/2023** - wherein the delay application u/s.5 of the Limitation Act was filed before the Tribunal, which came to be allowed and the Respondent had challenged the same before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka has dismissed the Appeal challenging the condonation of limitation and observed that the Motor Vehicles Act is a beneficial Act, the benefit due to the injured cannot be taken away on technical grounds.

14. In the present case, it is not in dispute that the Petitioner has sustained the injuries in the accident and he was under treatment. As the Motor Vehicles Act is a beneficial Act, when the Petitioner had got injured in the accident and come before the Tribunal seeking compensation, his Petition should not be thrown out at threshold itself without adjudicating the rash and negligent act on the part of the driver of the offending vehicle and the compensation to be payable by the owner and Insurance Company of the offending vehicle. Further, the accident in this has occurred on 15.08.2021 and there was no time limit mentioned for filing the claim petition prior to coming into force of Motor Vehicles (Amendment) Act, 2019, which came into force on 01.04.2022. Therefore, the Respondent No.3 has not made out sufficient grounds for rejection of the claim Petition of the Petitioner. Hence, in the facts and circumstances of the case, I answer the above **Point No.1 in the Negative.**

15. **Point No.2 :** In view of my findings on Point No.1 in the Negative as above said, I proceed to pass the following,

O R D E R

I.A.No.3 filed u/o.VII Rule 11 R/w sec.166(3) of the Motor Vehicles (Amendment) Act, 2019 and sec.3 of Limitation Act by the Applicant/Respondent No.3 is hereby dismissed.

No order as to costs.

(Dictated to the Typist, directly on Computer and corrected by me and then pronounced in the open Court today, this 27th day of November, 2024.)

(Sadananda Nagappa Naik)
Addl. District and Sessions Judge
and Presiding Officer, M.A.C.T.,
Koppal (Sitting at Gangavathi).