

KAMS080015512023



**IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR
CIVIL JUDGE & M.A.C.T. AT MYSURU.**

Presided Over by SRI AFTHAB.K

Dated this 24th day of November 2025

M.V.C./901/2023

Plaintiff/s:

Sri. M. Ramaiah S/o. Late Madaiah,
Age: 73 years, R/at D No.452,
Shankara Nursing Home,
Down North East of N.R.Mohalla,
Mysuru.

(By Sri.M.Ramaiah, Advocate)

Vs.

Defendant/s :

1) Sri. Vishwanath. G,
R/at D No.254/A, 21st Cross,
24th main, 2nd stage,
J.P.Nagara, Mysuru-570008.
Driver of the Scooter bearing No.KA-09/ER-7510

2) New Indian Assurance Co. Ltd.,
J.L.B.Road, Chamaraja Puram,

Mysuru.

Insurer of the Scooter bearing No.KA-09/ER-7510

(R1 – Dismissed)

(R2 – Smt. Shobha.P, Advocate)

* * * *

:- Parties to IA.No. 6 & 7 :-

Sri.M.Ramaiah

Applicant

V/s

New Indian Assurance Co. Ltd.,

Opponent

ORDER ON IA- 2 UNDER SECTION 151 AND UNDER ORDER IX

RULE 7 OF CPC

The application under consideration i.e., IA-2 is filed by respondent No.2 seeking permission filed written statement by condoning the delay in filing the same in interest and justice and equity.

2. In support of the application learned counsel for respondent No.2 has filed a memo stating that the respondent No.2 had already sent a duly signed written statement to the counsel but due to some mixed up, the objection statement could not be submitted to the tribunal earlier. Further the delay filing the written statement is not intentional but for the aforesaid reason. Further the respondent No.2 has a good case on merits, and if the respondent No.2 is not permitted to file its objection statement, the same would cause great prejudice to respondent No.2. On these amongst other grounds it is prayed that the application be allowed.

3. Upon service of copy of application, the petitioner who is the party in person has filed his objections contending that the respondent No.2 has sought to file its objections to main petition after a long delay. Further the facts narrated in support of the application seeking condonation of delay in filing the objection are all false. Further even facts narrated in the objection statement are all false. On these amongst other grounds it is prayed that the application be rejected.

4. Upon perusal of the contents of the memorandum of facts filed in support of the application and objection statement filed before this tribunal, the following points arise for the consideration of this tribunal:

1. Whether the respondent No.2 company has made sufficient grounds to allow the application and to take the objection statement on record by condoning the delay in filing the same?

2. What order?

5. After carefully analyzing the application and objection statement relied upon by either side, this tribunal proceeds to answer the afore raised points for consideration as under:

Point No.1 : In the affirmative

Point No.2 : As per the final orders,

for the following reasons.

REASONS

6. POINT No.1:

As already observed, the application under consideration is filed by respondent No.2 company seeking permission to file objections to main petition. The only ground urged by the respondent No.2 company in

support of the application is that though the respondent No.2 company had signed written statement earlier, the same could not be submitted to the tribunal due to confusion. Per contra, the petitioner in his objections to IA-2 has contended that the ground urged in support of the application are all false and not believable.

7. With this contention in mind when the records are perused, it is relevant to note that the respondent No.2 company was initially placed *ex parte* and later i.e., on 18.06.2025 it appeared through its counsel and after placing appearance the application under consideration is filed along with objections to main petition. Further it needs to be borne in mind that the endeavor of the tribunal must be full and final adjudication of the matter and even the procedural law should be interpreted so as to subserve the purpose of justice. Moreover when the grounds urged in support of the application is perused, it is amply clear that the learned counsel for respondent No.2 company fairly admits that due to mistake on her part, the objection statement could not be filed earlier. Under such circumstances since it is settled principle of law that because of mistake on the part of the counsel, a party should not be made to suffer, this tribunal deems it fit to hold that the applicant has made out sufficient grounds to allow the application.

8. No doubt the matter is of the year 2023 and the respondent No.2 has sought to file the objections now, but when the ordersheet is perused, despite the fact that the matter is of the year 2023 not much water has flown under the bridge, as even after 3 years, the matter is still at the stage of further evidence of petitioner. Since the endeavor of this tribunal must be to give ample opportunities to the parties to putforth their case and

considering the grounds urged in the application, this tribunal deems it fit to allow the application and permit the respondent No.2 company to file its objections to main petition thereby enabling it to contest the case on merits. For the forgoing reasons, *the point No.1 is answered in the affirmative.*

9. **POINT No.2:**

In view of the finding of this court on Point No.I, this court answers the point No.II as under, by passing the following:

ORDER

“The IA-II filed by the respondent No.2 company under section 151 is hereby allowed.

Consequently the respondent No.2 company is permitted to file its objections to main petition and objections statement filed by respondent No.2 company is taken on record.”

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 24th day of November, 2024)

(AFTHAB.K.)

Prl. Judge, Court of Small Causes
& MACT., Mysuru.