

KAUK220007902024



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., ANKOLA, AT: ANKOLA.**

Dated this the 16th day of December, 2025.

PRESENT:

**Smt.Priya Ravi Joglekar. B.Com.LL.M.
Senior Civil Judge, Ankola.**

M.V.C No.294/2024

Petitioner: Prajwal Sudhakar Naik

-Vs-

Respondents: 1. Abhishek Ramachandra Nayak
and another.

I.A.No.I

APPLICANT: The Authorised Person,
Respondent No.2 Shriram General Insurance Co.Ltd.,
Jaipur, Rajasthan.

V/s

OPPONENT: Prajwal Sudhakar Naik.

ORDERS ON I.A.No.I

The respondent No.2 has filed IA No.I under Order
VII Rule 11(d) R/w Section 151 of CPC R/w Section

166(3) of the Karnataka Motor Vehicles Act and prays for reject this petition and dismiss the above said claim petition as it is barred by limitation.

2. In the memo of facts, the learned counsel for the respondent No.2 submitted that the above said petition filed by the petitioner under Sec. 166 of Motor Vehicles Act against the respondents for seeking compensation in a motor accident took place on 07.01.2021 and the said petition was filed on 30.07.2024 i.e., after expiry of 3 years 6 months 23 days from the date of alleged accident. Therefore, there is delay in filing the present petition. Hence, the claim petition is barred by limitation. In view of the provisions of M.V.Act, 1988 (amended as in 2019) the Section 166(3) has come into effect from 1st April 2022 by Central Government as per the notification passed in 25th February, 2022 and as per Section 166 (3) of the said Act "no application for compensation shall be entertained unless it is made within 6 months of the occurrence of accident". Hence, this petition was filed by the petitioner after an expiry period of 6 months from the date of occurrence of accident. Hence, this petition is barred by the time limitation. There is no cause of action against the respondent No.2 Insurance Company and as such this respondent has been unnecessarily joined as a party to

the present proceedings in the capacity of insurer of vehicle involved in the accident. Hence, the above said petition is liable to be dismissed.

3. Per contra, the petitioner filed objection and contended that the present application is not maintainable under law. It is contended that the accident occurred prior to the amendment of MV Act. This application is filed without accompanying the affidavit. At the time of occurrence of accident, the petitioner is minor and he is not in a position to walk independently due to grievous injuries sustained in the alleged accident. When the Doctor advised the petitioner to walk independently, then, he approached the advocate and informed about the accident and given the documents. The delay is not intentional one and delay has been caused due to lack of knowledge and his ill-health. If the application is allowed, he will be put to irreparable loss which cannot be compensated in terms of money. Hence, he prays for dismiss the above said application was filed by the counsel for respondent No.2.

4. Heard both sides.

5. On perusal of the entire records, the only point that would arise for my consideration are:

1] **Whether the applicant has made out sufficient grounds to allow the application?**

2] **What order?**

6. My findings on the above points are as under:

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

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

REASONS

7. **Point No.1** : The applicant has filed this application by stating that the present petition is barred by time limitation. As per the amendment of the MV Act 2019, the Section 166 (3) has come into effect from 1st April 2022 by Central Government as per the notification passed on 25th February 2022 it is stated that "no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident". Hence, this petition is filed by the petitioner after expiry of period of 3 years 6 months 23 days from the date of occurrence of accident. Hence, the petition itself is not maintainable and it is barred by time limitation. Hence, liable to be dismissed.

8. Per contra, the opponent contended accident occurred prior to the amendment of MV Act. This application is filed without accompanying the affidavit. At

the time of occurrence of accident, the petitioner is minor and he is not in a position to walk independently due to grievous injuries sustained in the alleged accident. When the Doctor advised the petitioner to walk independently, then, he approached the advocate and informed about the accident and given the documents. The delay is not intentional one and delay has been caused due to lack of knowledge and his ill-health. Hence, he prays to reject the above said application was filed by the applicant.

9. The petitioner has filed the list of documents along with the certified copies of FIR, complaint, chargesheet, wound certificate, MVI report, mahazar, rough sketch, vehicle seizure panchanama, and the copies of Registration Certificate, Insurance policy, Adhar Card, School Transfer Certificate, SSLC marks card, Canara Pass book front copy, Discharge summary, Invoice,

10. On careful perusal of the documents itself goes to show that the accident occurred on 07.01.2021 before the amendment of the MV Act under Section 166(3) of M.V.Act. Then, the retrospective affect applies to the above said case. Moreover, the Hon'ble Supreme Court of India has held that no motor accident claim should be dismissed as time barred. The Hon'ble Supreme Court had explained that in the interim order before the Motor

Accident Claims Tribunal and High Courts to not to dismiss any motor accident compensation petition as time barred. The Court passed this Order while hearing a petition challenging Section 166(3) of the Motor Vehicles act which prescribes a 06 months limitation period from the date of accident to file a claim petition.

11. Therefore, herein this petition, it is noticed that already this Court has framed issues and the case is posted for petitioner evidence. At this stage, the respondent No.2 filed above said application. The above said issue No.4 is mixed question of fact and law. It cannot be discussed before the commencement of the trial. Further, as per the direction of the Hon'ble Supreme Court of India, the petition should not be rejected solely on the basis of time limitation ground at initial stage. Therefore, it is not necessary to allow the application as per the prayer of the respondent No.2.

12. Therefore, it is necessary to give opportunity to petitioner to proceed the petition against the respondent. Only on the basis of limitation point, this petition cannot be rejected. Therefore, it is necessary to reject the above said application was filed by the applicant. Accordingly, I answer **point No.1 in the Negative.**

13. **Point No.2**: In view of reasons assigned above,
I proceed to pass the following:

ORDER

**I.A.No.I filed by the respondent No.2
under Order VII Rule 11(d) R/w Section
151 of CPC R/w Section 166(3) of the
Karnataka Motor Vehicles Act is hereby
dismissed.**

(Directly dictated to the Stenographer, typed by her, revised by me and then pronounced by me in the open Court on this the **16th day of December, 2025**).

sd/-
(Smt.Priya Ravi Joglekar)
Senior Civil Judge, Ankola.