

KAUK220008382024



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

Dated this the 20th day of December, 2025.

PRESENT:

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

M.V.C.No.350/2024

Petitioner: Govind Buddu Gouda

-Vs-

Respondents: 1. Prabhakar Buddu and another.

I.A.No.I

Applicant: Govind Buddu Gouda

V/s

Opponent: The Divisional Manager,
Respondent No.2 United India Insurance Co.Ltd.,
Karwar, Uttara Kannada.

.....

ORDERS ON I.A.NO.I

This application is filed by the petitioner under Section 5 of Limitation Act praying to condone the delay in filing the above said petition before this Court.

2. In the affidavit of the petitioner, he submitted that he has filed the petition for the compensation in view of grievous injuries sustained by him in a motor vehicle accident which caused on 29.08.2016. He was admitted to Hospital for the injuries sustained by him and after discharge from the Hospital, he was in his house for some months and bed-ridden and not in a position to walk independently. Thereafter, after few days back after taking advise from the Doctor, he visited his Advocate and informed about the accident and gave some necessary documents. Hence, the delay has been caused in filing the petition. The said delay is not intentional one and the delay is caused due to lack of knowledge and his ill-health. There is no malafide intention for the delay in filing the petition. If the application is not allowed, great injustice and hardship will be caused to him. If the application is allowed, no hardship will be caused to the other side. Therefore, prays for allowing the above said application by condoning the delay.

3. Per contra, the learned counsel for the respondent No.2 filed objection stating that the application is contrary to law and true facts. He denied the averments made in the application. It is further contended that the claim petition is not maintainable under the provisions of MV act as the alleged accident took place on 29.08.2016. Whereas the present petition is filed on 29.08.2024 which is after expiry of more than 7 years

from the date of accident. As per Sec.166(3) of amended MV act, "No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident". The petitioner manoeured and managed to file a criminal case colluding with the respondent No.1 the brother of the petitioner for a wrongful gain and as such the petition is collusive one and further the charge sheet is filed against the accused even though there is no evidence against the accused. There is inordinate delay in lodging the complaint and the delay is not properly and satisfactorily explained. Therefore, it is just and necessary to hold an enquiry framing an additional issue treating the same as preliminary issue. Hence, prays to dismiss the application.

4. Heard both sides and perused the IA No.1, objections and case records.

5. The following points arise for my consideration.

1. Whether petitioner has made out sufficient cause to condone the delay in filing the appeal?

2. What order?

6. My answer to the above points are as under:-

Point No.1 : In the affirmative

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

REASONS

7. **Point No.1**: The petitioner has filed the petition for the compensation in view of grievous injuries sustained by him in a motor vehicle accident which caused on 29.08.2016. He was admitted to Hospital for the injuries sustained by him and after discharge from the Hospital, he was in his house for some months and not in a position to walk independently and bed-ridden. Thereafter, after few days back after taking advise from the Doctor, he visited his Advocate and informed about the accident and gave some necessary documents. Hence, the delay has been caused in filing the petition. The delay is not intentional one. Hence, he prays for condone the delay for filing the above said petition.

8. Per contra, the respondent No.2 filed objection to the above said IA on 11.8.2025. The respondent No.2 denied all the contents of the above said application and contended that the petitioner has filed this petition after the expiry of six months from the date of accident 29.08.2016. As per the amendment of MV Act dated 1.4.2022, Section 166(3) explains about that "No application for compensation shall be entertained unless it is made within six months after the occurrence of accident". Hence, this petition is not maintainable and liable to be dismissed. Further, he contended that General Clause is not applicable to MV

Act and hence, the present application is not maintainable and liable to be dismissed.

9. On careful perusal of the records, it is clearly noticed that the accident occurred on 29.08.2016 and he was hospitalized at Kasturba Hospital Manipal from the date of 29.08.2016 to 12.09.2016. In this regard, the petitioner produced the wound certificate and other relevant documents before this court. Further, it is also noticed that the petitioner proceeded the above said petition and this court posted the case for framing issues. The above said application was filed by the petitioners before the Hon'ble District Judge and Prl. MACT U.K., Karwar. Thereafter, the Hon'ble MACT Tribunal had given permission to the petitioners to proceed this petition. Thereafter, this MVC case is registered against the respondent. Even though the petitioner filed the above said interim application before the Hon'ble District Judge and Prl. MACT Karwar, the respondent No.2 kept mum from the year of 2024 to 2025. Thereafter, suddenly the respondent No.2 filed objections to the interim application No.1. After the lapse of near one year, when the Hon'ble District Judge and Prl. MACT permitted to the petitioners to proceed the case against the respondents. Then this is not a stage to file the objection before this court by stating that the above said petition is barred by time limitation.

10. Moreover, it is also noticed that as per the Motor Vehicle Act, the cause of action typically arise as on the date of accident. The alleged accident occurred on 29.08.2016. Then alleged accident occurred before the amendment of the M.V Act dated 1.4.2022. Before the above said amendment of the Act, there is no strict rule to file the alleged petition within a period of six months. For taking into consideration of the all these aspects, it is necessary to condone the delay for filing the above said petition and also allow the petitioner to proceed the case against the respondents. **Moreover, the respondent No.1 filed objection after the filing of written statement.** Therefore, at this stage, filing the objection the respondent No.2 should not deprive the rights of the petitioner to seek the compensation from the MACT Tribunal. Hence, there is genuine reason to believe the contention of the petitioner to file the above said petition after the period of six months of the accident. Accordingly, I answer this **point No.1 in the affirmative.**

11. **POINT No.2:-** In view of the reasons and answers on point No.1, I proceed to pass the following:

ORDER

**The I.A.No.I filed by the
petitioner under Section 5 of**

**Limitation Act is hereby allowed
with costs of Rs.200/-.**

**The petitioner is hereby
permitted to proceed the above
said petition against the
respondents by condoning the
delay.**

(Directly dictated to the Stenographer, typed by her, corrected and revised by me and then pronounced in the open Court on **20th December, 2025**)

sd/-

(Smt.Priya Ravi Joglekar)

**Senior Civil Judge and Addl.MACT,
Ankola.**