

**Order on IA No.I under section 5 of
Limitation Act read with section
166(3) of MV Act and IA No.II under
Order VII, Rule 11(d) read with
section 151 of CPC read with section
166(3) of MV Act**

The petitioner has filed IA No.I under the above provision praying to condone the delay in filing the petition. On the other hand the respondent No.2-Insurance Company has filed IA No.II under the above provision praying to dismiss the petition as barred by limitation.

02. IA No.I has been supported with the affidavit of the petitioner and IA No.II has been supported with the memo of facts of counsel for respondent No.2-Insurance Company.

03. The respondent No.2 has filed objection on IA No.I. The petitioner has not filed objection on IA No.II.

04. Heard the arguments of both sides.

05. The petitioner has contended that her minor daughter has sustained injuries in the road traffic accident. She has received the notice in Misc. No.144/2022 from this court and he has appeared in the said case. She was under the impression that said Misc. case may be continued as a Motor vehicle case. She does not know the knowledge about filing of claim petition. The delay is not an intentional one and only due to lack of knowledge of procedure of court. Hence she requested to condone the delay.

06. Per contra the respondent No.2- Insurance Company has contended that the alleged accident has taken place on 11-10-2022. But the claim petition has filed on 07-01-2025 after lapse of 02 years, 02 months and 27 days from the date of occurrence of alleged accident and there is an inordinate delay on the part of the petitioner. It has not been filed within the time limit as specified under the provisions of MV Act. As per the provision of section 166(3) of MV Act "No application for compensation shall be entertained unless it is made within 06

months of the occurrence of the accident”. Hence they prayed to dismiss the application.

07. It is not in dispute that the alleged accident has taken place on 11-10-2022. The petitioner has filed the petition seeking compensation on 07-01-2025 and the petition ought to have been filed on or before 10-04-2023 and there is delay of 01 year, 08 months and 27 days in filing the petition.

08. At this juncture it is benefit to refer the recent decision of Hon’ble High Court in ***WP No.201961/2023 in between The Divisional Manager V/s Ramu @ Ramesh and others*** wherein the lordship of Hon’ble High Court in para-27 it is held as here under:

Para-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 the Limitation Act to the fact situation, I do not find any infirmity thereof.

09. As per the decision of Hon’ble High Court since MV Act is a beneficial act and the

benefit under the act cannot be taken away only on the technical aspect of limitation. Hence this tribunal of the view that merely because petition has filed after 01 year, 08 months and 27 days the entire petition shall not be dismissed. Hence this tribunal did not found any grounds to reject the IA No.I. More over she could not file the petition in time because due to lack of knowledge. Hence delay in filing the petition is required to be condoned. Hence this tribunal did not found any grounds to dismiss this petition on the ground of barred by limitation. Accordingly, I proceed to pass the following:

ORDER

IA No.I filed by the petitioner under section 5 of Limitation Act read with section 166(3) of MV Act is hereby allowed.

IA No.II filed by the respondent No.2- Insurance Company under Order VII, Rule 11(d) read with section 151 of CPC read with section 166(3) of MV Act is hereby dismissed.

Delay in filing the petition is condoned.

For Issues by 16-09-2025.

Sd/-
SENIOR CIVIL JUDGE AND JMFC,
HONNAVAR