

MVC No.439/2024

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

The respondent No.3-Insurance Company has filed IA No.I under the above provision praying to dismiss the petition as barred by limitation.

02. IA No.I has been supported with the affidavit of Sr. Exe-Legal Officer of respondent No.3-Insurance Company.

03. The petitioner has filed the objection on IA No.I.

04. Heard the arguments of both sides.

05. The respondent No.3-Insurance Company has contended that the alleged accident has taken place on 05-03-2024. But the claim petition has filed on 24-10-2024 after lapse of 01 month, 19 days 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.

06. Per contra the petitioner has contended that she has sustained grievous injuries in the road traffic accident occurred on 05-03-2024. She is under the treatment and she is residing in a remote area in Hadikal with age old mother. Due to shock and agony of traumatic injury sustained by the petitioner, she could not come out. After hospitalization she has filed the petition. The MV Act is a social welfare and beneficial law with an intention to provide the compensation to the innocent victims. 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.

07. It is not in dispute that the alleged accident has taken place on 05-03-2024. The petitioner has filed the petition seeking compensation on 24-10-2024 and the petition ought to have been filed on or before 04-09-2024 and there is delay of 01 month and 19 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 month and 19 days the entire petition shall not be dismissed. Hence this tribunal did not found any grounds to reject the IA No.I. More over they 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 respondent No.3- Insurance Company under Order VII, Rule 11 read with section 151 of CPC and section 166(3) of MV Act is hereby dismissed.

Delay of 01 month and 19 days in filing the petition is condoned.

Call on for written statement of respondent No.3 by 24-01-2026.

Sd/-
SENIOR CIVIL JUDGE AND JMFC,
HONNAVAR