

KAUK720000102025



**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL.
JMFC AND ADDL. M.A.C.T., KUMTA, AT: KUMTA,
UTTARA KANNADA.**

Dated this the 03rd day of September, 2025

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

MVC. No.16/2025

Petitioner: Mamata, W/o. Ramachandra Patagar,
Aged about 48 years,
Occ: Bakery work,
R/o: Devagundi, Kalabhag,
Kumta Taluk, (U.K.).

(By Sri. V.S.P. - Advocate)

V/s

Respondents: 1. Somanath Jatti Mukri,
Aged about 29 years,
Occ: Driver,
R/o: Hosaheravatta,
Heravatta Post,
Kumta Taluk, (U.K.)

(Driver of Ambulance bearing Reg.No. KA/34-A-5767)

2. Sheeba Ullas Kumar,
Aged about 24 years,
Occ: Nurse,
R/o: Mission Colony, Hosaheravatta,

Kumta Taluk, (U.K.)

(Owner of Ambulance bearing Reg.No.: KA/34-A-5767)

3. Manager-Legal,
Shriram General Insurance
Company Ltd.,
1st Floor, Kalburgi Hallmark Building,
Desai Cross, Pinto Road,
Hubli-580020.

(R1 by Smt. R.G.N. Advocate)
(R3 by Sri. S.M.B. - Advocate)
(R2 - Exparte)

COMMON ORDERS ON I.A.No.I and III

The present I.A.No.I is filed by the applicant/ petitioner
Under Section 5 of Limitation Act with an prayer to condone
the delay of 14 days in filing present claim petition.

2. I.A. No.II filed by respondent no.3 company under
order VII rule 11 (d) R/w. Sec.151 of C.P.C., R/w. Sec.166(3)
of Karnataka motor vehicle Act with an prayer to dismiss
the instant claim petition as it is barred by limitation as the
accident occurred on 29-06-2024 as alleged in the petition
and the present petition is filed on 10-01-2025 after the
expiry of 6 months.

3. **I.A.No.I** supported with Affidavit of applicant/petitioner stating that, she is the petitioner in this case, she filed this petition claiming compensation for the injuries sustained in the accident. She was sustained grievous injuries in this accident, the doctor advice her to take rest and she is still undergoing treatment, hence she was not able to approach her lawyer within the stipulated time and provide necessary documents to her advocate with respect to the accident and she was not aware of law. The delay in filing this petition is not intentional one. Hence if the application is not allowed hardship will be caused to her. Hence if the present application is not allowed she will be put to great hardships and loss, hence prays to allow the application.

4. **I.A.No.I** opposed by the third respondent company by filing written objections contending that, the present application filed on behalf of the petitioner U/Sec. 5 of Limitation Act is contrary to law and true facts of the case and the same is not tenable either on law or on facts of the case. The averments of the application or in the Affidavit

filed along with the application are not true and correct and this Respondent is not admitted the contents and absolutely there are no genuine grounds made out either in the delay. application or in the Affidavit filed in support of the application to condone the delay. The petitioner has clearly admitted that there is a delay in filing the petition and stated that she was under treatment and no knowledge regarding limitation and she could not collect necessary documents and approach her advocate within time to file petition. But no documents are produced before this Court regarding the contention taken by her in the Affidavit.

5. The petitioner has to take suitable Orders at the earliest stage from Hon'ble Principal M.ACT to condone the delay and pressing the application at this belated stage is not maintainable and liable to be dismissed.

6. The petitioner has filed instant petition U/Sec 166 of M.V. Act against the respondents for compensation. The accident as alleged in the petition was caused on 29-06-2024 and the present petition is filed on 10-01-2025 which is after the expiry of six months from the date of accident.

And there is inordinate delay in filing the present petition. The amendment to M.V. Act came in to force on 01-04-2022 and as per Sec. 166(3) of amended M.V. Act "No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident" Hence the present petition itself is not maintainable. The petitioner has filed present application U/Sec. 5 of Limitation act and the General Clauses Act is not applicable to the M.V. Act. Hence the present application is not maintainable and liable to be dismissed. If the present application is allowed, then the Respondent Insurance Company will be put to great loss, injustice and inconvenience and on the other hand no injustice or inconvenience will be caused to the petitioner if the present application is not allowed. Hence prays to dismissed the application with costs.

7. **IA.No.III** supported with the Memo of Facts submitted by learned counsel for third respondent company, contending that, the petitioner has filed this petition against the Respondents for compensation. The Respondent No.2 is

the Insured and this Respondent is the Insurer of the vehicle involved as alleged in the petition.

8. The petitioner has filed present petition U/Sec. 166 of M.V. Act against the Respondents for compensation for the injuries sustained in an alleged Motor Accident took place on 29-06-2024. This Respondent is the Insurer of vehicle bearing Reg. No.K.A-34/A-5767 which was involved as alleged in the petition.

9. The alleged accident was occurred on 29-06-2024 as per the documents available on record. And claim the petition has been filed on 10-01-2025. i.e. after the expiry of 6 months from the date of alleged accident and there is an inordinate delay on the part of claimant in filing the claim petition and it has not been filed within time limit as specified under the provisions of M.V. Act. Hence the claim petition filed by the petitioner is barred by limitation and therefore it cannot be entertained and hence the petition may kindly be dismissed.

10. In view of the provisions of M.V. Act 1988 (amended as in 2019) the Section 166 (3) has come in to effect from 1st April 2022 by Central Government as per the notification passed in 25th February 2022. And Sec. 166 (3) reads as "No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident". And the present claim has been made at a belated stage i.e. after the lapse of 6 months from the date of the occurrence of the accident and hence it is not a surviving claim and is totally barred by limitation as per the amended provisions of MV. Act and hence the petition is liable to dismissed in toto. At present there is no cause of action against this Respondent 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 allegedly involved in the accident took place on 29-06-2024. But since the claim petition is filed after a delay of 6 months thus not tenable and maintainable in the eyes of law. Hence prays to allow the application.

11. **I.A.No.III** opposed by petitioner by filing written objection contending that the present application filed by

the 3rd respondent company is not maintainable under law. The petitioner at the time of filing of her petition has filed application U/s. 5 of Limitation Act and mentioned the reason for delay.

12. Further contended that, she sustained grievous injuries in the above said accident, the doctor advised her to take rest and still she is undergoing treatment, hence she could not able to meet her lawyer within the stipulated time and provide the necessary documents and she was not aware of law. Hence the delay in filing the petition is not intentional one. Hence, prayed to dismiss the application.

13. Heard both respective counsels on I.A.No.I and III Perused application, annexed affidavit, objections and other material on record.

14. The points that arise for my consideration are as follows;

1. Whether the petitioner has made out grounds to allow I.A. No.I and to condone 14 days of delay in filing the claim petition?

2. Whether the respondent No.3 company made out grounds to reject the petition under order VII rule 11 (d) R/w. Sec.151 of C.P.C., R/w. Sec.166(3) of Karnataka motor vehicle Act?

3. What order?

15. My answer to the above points are as under

Point No.1 : In the Affirmative,

Point No.2 : In the Negative,

Point No.3: As per the final order,
for the following

REASONS

16. **Point No.1** : In the present case the petitioner filed I.A.No.I to condone the delay and respondent No.3 company filed application to reject the petition as it is barred by limitation.

17. Section 166(3) of the Motor Vehicles Act (MV Act) mandates that no application for compensation shall be entertained by the Claims Tribunal unless it is filed within six months of the accident. The limitation as prescribed was six months from the date of accident.

18. Clause (3) of Section 166 of the Act, which was introduced by the Motor Vehicles (Amendment) Act, 2019,

provides that a claim for such compensation must be filed before the Tribunal withing six months from the date of accident.

19. Peitioner filed petitioner for compensation filed under Section 166 of the Motor Vehicles Act, 1988. Pettioner filed petition on 10.01.2025. Third respondent company has filed application raising issue of maintainablility with prayer to dismiss the claim petition on the ground that accident being occurred on 29.06.2024 and the claim petition filed on 10.01.2025 which is after the period of six months of occurrence. The delay in filing could not be condoned in view of the Motor Vehicles (Amendment) Act, 2019.

20. Learned counsel for respondent No.3 submits that, alleged Motor Accident took place on 29-06-2024. This respondent is the insurer of vehicle bearing Reg.No. KA-34/A-5767 which was involved as alleged in the petition. As per the documents on record, the alleged accident was occurred on 29-06-2024. And claim the petition has been filed on 10-01-2025. i.e, after the expiry

of 6 months from the date of alleged accident and there is an inordinate delay on the part of claimant in filling the claim petition and it has not been filed within time limit as specified under provisions of M.V.Act. In view of the provisions of M.V.Act 1988 (amended as in 2019) the section 166(3) has come in to effect from 1st April 2022 by Central Government as per the notification passed in 25th February 2022. Sec. 166(3) reads as” No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident”. Hence since the claim has been made at a belated stage i.e., after the lapse of 6 months from the date of the occurrence of the accident and hence it is not a surviving claim and is totally barred by limitation as per the amended provisions of M.V.Act and hence the petition is liable to be dismissed. The claim petition is filed after a delay of 6 months thus not tenable and maintainable in the eyes of law. hence prayed to allow the application.

21. On the other hand the learned counsel for petitioner submits that, the petitioner filed this case for

seeking the compensation for the injuries sustained by petitioner in the Motor Vehicle Accident. After the accident the petitioner took treatment and the doctor advice for rest still the petitioner undergoing treatment and as she not having legal knowledge, and has no knowledge of the application has to be filed before the 6 months of the accident. If any delay in filing this case is bonafide one and there is no malafide intention. Hence she could not able to approach her advocate in stipulate time and not provided necessary document to her advocate, hence there is a delay of 14 days in filing the petition.

22. Admittedly prior to 01.04.2022 there was no limitation for filing claims seeking compensation for injury or death. Clause (3) of Section 166 of the Act, which was introduced by Motor Vehicles (Amendment) Act, 2019, provides that a claim for such compensation must be filed before the Tribunal within six months from the date of accident. But in this case the accident occurred in the year 2024 and the amendment came into effect in

the year 2022, that is after the accident. Moreover Section 166 is to provide necessary compensation to the victims of the road traffic accidents and the said enactment is a benevolent legislation.

23. From perusal of application reveals that the petitioner sustained injury and she was taking treatment, and has no knowledge to meet legal aspect, hence she could not filed the petition in time. Moreover the Motor Vehicle Act is a beneficial legislation aimed at providing relief to the victims, or their families. The ratio laid down in Dhannala case is applies to the present case. Moreover the petitioner stated the resons for delay in filing this petition. Petitioner stated that she was under treatment. The respondent No.3 company submits that the petition is barred by limitation, but the limitation point is mixed question of law and fact. The petitioner stated the reason for delay.

24. Moreover it is held in a decision in 2023 ACJ 940 (Akshay Raj V/s Ministry of Law and Justice and others)- Lordships held that,- Motor Vehicles Act, 1988,

Section 166(3) and 166(4) (as amended by Motor Vehicles (Amendment) Act, 2019) read with Central Motor Vehicles Rules, 1989, rule 150-A-Annexure XIII (as inserted by GSR 164 (E) dated 25.02.2022) and Limitation Act, 1963, section 29(2)-Claim application – Limitation – Whether provisions of section 29(2) of Limitation Act would be applicable for entertaining the claim application filed beyond the limitation of six months provided under section 166(3) of MV Act and claim application cannot be dismissed in limine-Held:yes: there is no provision under MV Act excluding the applicability of provisions of section 29(2) of Limitation Act: moreover, as per Sl.No.21of Annexure XIII to rule 150-! Tribunal shall treat Detailed Accident Report as claim application and Sl.No.17 provides extension of time to file DAR therefore no discrimination can be made against claimants for filing claim application beyond the period of six months when statute does not oust the applicability of provisions of Limitation Act.

25. It is also held in the following decision that,

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- held- 24. As a fall out of my findings, the impugned orders are set aside, it is held that the provisions of the limitation Act would be applicable for entertaining the petitions for claiming the compensation even beyond the period of six months, for, by taking into consideration, rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act. In other words, it is held that the claim petitions, if filed beyond the period of six months cannot be dismissed in limine.

The provisions of the Motor Vehicles Amended Act the Rules to ensure the mandate of law so that the litigants are not made to suffer for having not filed claim petitions within a period of six months. And all the MACT's are directed to entertain the petition and decide the same, in accordance with law.

And it is also held by Hon'ble Karnataka High Court, in WRIT PETITION NO.201961 OF 2023 (MV) Between The Divisional manager United India Insurance Company Ltd., V/s Ramu @ RameshS/o Yallappa. - Held- 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.

26. Hence in view of the same, the petitioner explained and mentioned the grounds for delay in filing present petition, hence, the application filed by the petitioner is deserves to be allowed and application filed by the respondent No.3 company not deserves to be allowed. Hence **point No.1 answered in the Affirmative, point No.2 answered in the Negative.**

27. **Point No.3:** In view of the discussions made above this court proceeds to pass the following:

ORDER

I.A.No.I filed by the applicant/
petitioner Under Section 5 of Limitation
Act is hereby allowed, delay of 14 days in
filing petition is hereby condoned.

I.A.No.III filed by the applicant/
respondent No.3 under order VII rule 11
(d) R/w. Sec.151 of C.P.C., R/w.
Sec.166(3) of Karnataka motor vehicle Act
is hereby dismissed.

(Directly dictated to the Stenographer to the computer, corrected and then pronounced by me in the open court on this date the 03rd day of September, 2025)

(B.S.Rayannawar)
Senior Civil Judge & Prl. JMFC &
AMACT, Kumta.