

KAUK720000262026



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

Dated this the 15th day of May, 2026

PRESENT

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

MVC. No.23/2026

Petitioner:

Saraswati Lokeshwar Harikantra
Aged about 43 years,
Occ: Fisheries
R/o: Vannalli, Kumta. (U.K.)

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

V/s

Respondents: 1. Prakash S/o. Krishna Deshabhandari
Aged about 53 years,
Occ: Driver,
R/o: Navilgon, Honnavara Taluk.

(Driver of FORD FIGO 1.4 TDCI ZXI vehicle
bearing Reg.No. KA-19-MD-7874)

2. Jagadish S/o. Nagesh Shetty
Aged about 49 years,
Occ: Business,
R/o: Goudaragadde, Kaikini,
Bhatkal Taluk.

(Owner of FORD FIGO 1.4 TDCI ZXI vehicle
bearing Reg.No. KA-19-MD-7874)

3. The Manager,
I.F.F.C.O. Tokio General
Insurance Company, Ltd.,
3rd floor, Lalbhag Tower,
Lalbhag, M.G.Road, Mangalore.

(Policy No.1-2 LZ 6109 P400 MN606622, Date: 20-
01-2022 to 19-01-2023)

(R1 by Sri. S.G.C. – Advocate)
(R3 by Sri. S.M.B. – Advocate)
(R2 -Exparte)

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

The present **I.A.No.I** is filed by the applicant/ petitioner
Under Section 166(3) of Motor Vehicles Act and Under
Section 5 of Limitation Act with an prayer to condone the
917 days delay in filing present claim petition.

2. **I.A.No.I** supported with affidavit of
applicant/petitioner that, she is the petitioner in the present
case, she is aware of the facts of the case. Further stated
that she had sustained injuries due to the accident and she
is the only person to look after her household needs and
taken treatment in Karwar Hospital, and she was visited

several times to Karwar Hospital to take further treatment. Hence she could not able to contact her Advocate in time to give instructions for filing this petition. Hence there is a delay in filing the said application. The said delay is not intentional one. Hence if the present application is not allowed she will be put to great hardships and loss, if the application is allowed no hardship caused to the other side. Hence prays to allow the application.

3. **I.A.No.I** opposed by the 3rd respondent company by filing written objections contending that, the present application filed on behalf of the petitioner U/Sec. 166(3) and Sec. 5 of Limitation Act is contrary to law and true facts of the case and the same is therefore deserves to be dismissed in limine.

4. Further denied the application averments and absolutely there are no genuine grounds made out either in the application or in the Affidavit filed in support of the application to condone the delay.

5. The petitioner has clearly admitted that there is a delay in filing the petition and stated that she has sustained

injuries due to the accident and she is the only person to look after her household needs and taken treatment in Karwar Hospital, and she was visited several times to Karwar Hospital to take further treatment. Hence she could not able to contact her Advocate in time to give instructions for filing this petition. Hence there is a delay in filing instant petition. The grounds urged for condoning the delay are totally false and baseless. The petitioner has not produced any documents in support of the grounds averred in the affidavit in order to substantiate her contention.

6. 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.

7. 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 occurred on 17-12-2022 and the present petition is filed on 19-01-2026 which is after the expiry of six months from the date of accident and there is an 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.

8. The petitioner has filed present application U/Sec. 5 of Limitation Act and it is submitted that the General Clauses Act is not applicable to the M.V. Act. Hence the present application is not maintainable and liable to be dismissed.

9. 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 dismiss the application with cost.

10. Respondent No.3 company also filed **I.A.No.II under order VII Rule 11(d) R/w. Section 151 of CPC R/w. section 166(3) of the Karnataka Motor Vehicles Act** with an prayer to dismiss the claim petition as it is barred by

limitation as the alleged accident occurred on 17-12-2022 and the present petition is filed on 09-01-2026 after the expiry 6 months, in the interest of justice.

11. **IA.No.II** supported with memo of facts of respondent no.3 company stating that, the petitioner has filed this petition U/Sec. 166 of M.V. Act against the Respondents for compensation for the injuries sustained by her in a Motor Accident took place on 17-12-2022. The Respondent No-2 is the insured and this Respondent is the insurer of the vehicle involved as alleged in the petition.

12. Further submits that the alleged accident has taken place on 17-12-2022 and the present petition has been filed on 09-01-2026 i.e. after the expiry of 3 year 23 days from the date of alleged accident. Therefore it is submitted that there is an inordinate delay on the part of the petitioner in filing the present 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 may be dismissed.

13. It is submitted that 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, it is stated that 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 it is submitted that since the claim petition has been made at a belated stage i.e. after an expiry period of 6 months from the date of occurrence of the accident.

14. 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 in toto. Hence it is prayed that the Tribunal be pleased to allow the accompanying application.

15. **I.A.No.II** opposed by petitioner by filing written objection contending that the present application filed by the 3rd respondent company is not maintainable.

16. Further contended that, the petitioner was suffered mental and physical pain because of accidental injuries and she went to the hospital several times for treatment. She underwent several treatments for said injury, she was unable to move and as she is only earning member in her family, facing financial problem, she spent all her hard earned money for her treatment, hence she could not able to approach her advocate in time, hence there is some delay in filing this petition. Hence, prayed to dismiss the application.

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

18. 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 delay in filing the claim petition?
2. Whether the respondent No.2 company made out grounds to dismiss the petition under order VII rule 11 (d) R/w. Sec.151

of C.P.C., R/w. Sec.166(3) of Karnataka motor vehicles Act?

3. What order?

19. 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

20. **Point No.1** : In the present case the petitioner filed I.A.No.I to condone the delay and respondent No.3 company filed IA No.II to dismiss the claim petition as it is barred by limitation.

21. The 3rd respondent company filed IA No.II U/o. 7 rule 11(d) of CPC. The conditions enumerated under ORDER 7 Rule 11 of CPC to the exercise of power for rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out. Whether the averments disclose a cause of action or whether the suit is barred by any law. The question as to whether the suit is barred by any law, would always depend upon the facts and circumstances of each case.

22. 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.

23. 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.

24. Petitioner filed petitioner for compensation filed under Section 166 of the Motor Vehicles Act, 1988. Petitioner filed petition on 09.01.2026. 3rd respondent company has filed application raising issue of maintainability with prayer to dismiss the claim petition on the ground that accident being occurred on 17.12.2022 and the claim petition filed on 09.01.2026 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.

25. Learned counsel for respondent No.3 submits that, alleged Motor Accident took place on 17.12.2022. As per the documents on record, the alleged accident was occurred on 17.12.2022. And claim the petition has been filed on 09.01.2026. i.e, after the expiry of 3 year 23 days 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 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.

26. 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. In the accident he has sustained grievous injury and petitioner stated the reasons for delay in filing this petition.

27. As per the Amendment Act, 2019, and As per the judgment passed by the Hon'ble Supreme Court Cited in Citation 2023(1) TAC 353(SC), the concerned police within whose jurisdiction the accident took place have to submit all necessary information's to the concerned Tribunal and the same may be registered as Misc. Application. After registering the same, the concerned Tribunal will issue copy of the same to all the necessary parties. From the date of Registration of Misc. Application the Limitation starts because of all the parties have got knowledge about the accident.

28. In Para No. 40 of the same judgment, the Hon'ble Supreme Court held that on perusal of the scheme of the Act, it is clear that the first recourse by not pleading or establishing proof of wrongful Act, neglect or default of the owner or driver of the vehicle, the compensation can be claimed U/S 164, but such compensation is of limited amount to the tune, as specified in case of death or grievous injury. The second recourse available to the claimant(s) before the Claims Tribunal by opting the jurisdiction at a place specified under Sub Section (2) but such claim must be filed within 6 months from the date of accident and be adjudicated by the Tribunal. The third recourse has been prescribed by introduction of section 149 of Motor Vehicles Amendment Act. Which in the case, claimant(s) have failed to take recourse either U/s 164 or 166 within the prescribed period of limitation, the report submitted by the investigating officer to claims Tribunal, within whose jurisdiction the accident occurred may be treated as claim application U/s 166(4) and would not debar the claimant(s) to seek compensation if he/they could not file the

application U/s 166(1) of the Act.

29. In para No. 42 - as per the rules, except in cases U/s 164, for the claims either U/s 149 or 166, the procedure prescribed in the Motor Vehicles Amendment rules is required to be followed by the claims tribunal. As specified, on receiving the FAR, the claims tribunal is required to register such FAR as Misc. Application. On filing the IAR and DAR, it shall be attached and be made part of the Misc. Application. The Claims Tribunal is required to examine the FAR, IAR or DAR as the case may be and in proceedings of the said Misc. Application appropriate direction for production of requisite forms prescribed in the rules through claimant(s), driver(s), owner(s) or Extension of time, as specified, may be directed. It should be kept in mind by the Claims Tribunal that the said DAR may be treated as an application U/s.166 as per Sub Section (4) thereof. In case the Claimant(s) have taken the recourse Us 166(1) and (2) and filed a separate claim petition, the said DAR may be tagged with the said claim petition, otherwise the proceeding U/s 149 shall continue.

30. The Hon'ble Supreme Court has also stated in the said judgment of Para No.49 that the procedure carved out U/s 149 of the Amendment Act is de-novo on filing the FAR before the Claims Tribunal and Tribunal is required to register such proceeding as Misc. Application. On filing IAR and DAR by the Police Officer within the time as specified, it shall be made part thereof. If the Claimant(s) has not opted for taking recourse U/s.166(1) within the time limit of 6 months, such Misc. Application may be treated as an Application U/s.166(4) of Motor Vehicles Amendment Act. and be adjudicated in accordance with law. Therefore, the procedure as prescribed U/s 149 is in addition to the proceedings of Section 164, 166 of Motor Vehicles Amendment Act and such mandate of Law is required to be followed in the true sense and spirit.

31. In para No. 51, it is directed that on initiation of the proceedings U/s 149 registering as Misc. Application, the Claims Tribunal in whose jurisdiction the accident occurred would continue till the proceeding U/s 166 had been filed by the claimant(s) separately. In the event of filing

a separate application and on receiving the information in this regard either from the claimant(s) or the investigating officer or Insurance Company the proceeding U/s 149 shall be deemed as closed and tagged with the proceedings of Section 164/166 filed by the claimant(s).

32. In para No.53 - The Misc. Application would continue until it is tagged with the claim petition if any filed U/s 166 of the Motor Vehicles Amendment Act. It is also made clear that if the claimant(s) have not taken any recourse U/s 166, then the Misc. Application be treated as Claim Application U/s.166(4) of the MV Amendment Act and the Claims Tribunal is duty bound to decide such claim by allowing the procedure in accordance with law.

33. The question involved in Gohar Mohammed (supra) was that the counsel representing the party expressed concern regarding the delay in disposal of the claim petitions by the trial court at an appellate stage. In this regard the objects and reasons of the Motor Vehicles (Amendment) Act, 2019, a benevolent legislation, was brought to the notice of the apex Court. By referring to the

aforementioned provisions, the Supreme Court in para 39 and 40 noticed the various provisions of the Act and found that an application under section 166(4) of the Motor Vehicles Act can be treated as a claim petition to be adjudicated in accordance with law as the procedure prescribed under section 149 of the Act is in addition to the proceedings of section 166(4) of the amendment Act. It also dealt with the role of the Investigating Officer in preparing the Detailed Accident Reports and submissions to the Claims Tribunal within the specified period and beyond. Various directions in para 62 of the judgment are culled out. Direction (xi) would be relevant for adjudication.

34. As per the judgment passed in the High Court of Kerala at Ernakulam in OP(MVC) No. 6 of 2023 and others: decided on 23-01-2023 stated that the provisions of sub-section (4) of section 166, there is not a single whisper, viz., exclusion of the Limitation Act, thus, would not exclude applicability of provisions of section 29(2) of the Limitation Act, 1963. The aims and objects of the Act, to be referred later. Leaves no manner of doubt that the legislature had

incorporated and caused the amendment by re-amending sub-section (3) of section 166 for ensuring that the claim for compensation on the death of the claimant does not abate and can continue by the legal representative but within six months from the date of occurrence of the accident.

35. 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.

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.**

36. Hence in view of the above decisions, as 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.**

37. **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 166(3) of M.V Act and 5 of Limitation Act is hereby allowed, delay in filing petition is hereby condoned.

I.A.No.II 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 vehicles 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 15th day of May, 2026)

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