

KAUK720000972024



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

Dated this the 23rd day of November, 2024

PRESENT

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

MVC. No.73/2024

Petitioner:

Anand Suresh Patagar
Aged about 26 years,
Occ: Coolie
R/o: Bisgod, Hosmane,
Yellapur Taluk (U.K.)

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

V/s

Respondents:

1. Raghavendra Jaiwant Pai
Proprietor: Shree Lakshmi Narasimha
Roofing Products,
Plot No. R-21, Building No.C-1-69,
Industrial Estate,
Hegde road, Kumta,
Kumta Taluk (U.K.)
2. Manager – Legal
H.D.F.C. ERGO General Insurance

Company Ltd., 1st Floor,
Virupakshakrupa,
Opp: KIMS Main Gate
P.B. Road, Vidyanagar,
Hubli 580 021.

(R1 by Sri. G.G.G. - Advocate)

(R2 by Sri. S.M.B. - Advocate)

ORDERS ON I.A.No.I

Present application is filed by the applicant/ petitioner Under Section 5 of Limitation Act with a prayer to condone the delay in filing present petition.

2. I.A. supported with Affidavit of applicant/petitioner stating that, he has filed present petition to claim compensation in respect of injuries sustained by him in the road traffic accident.

3. It is further averred that due to the accident he has sustained several injuries, doctor advised him to take rest and now also he is under treatment, therefore he could not approach his advocate to give information to file the petition. He has no such legal knowledge hence has not approach his advocate within time, but there is not inordinate delay. If the application is not allowed it will be caused great loss, injustice and inconvenience and on the other hand, if the application is allowed no loss will be caused to the other side. Hence, prayed to allow the application.

4. I.A opposed by 1st and 2nd respondent company by filing written objections. The first respondent in his objection contended that, the present application is contrary to law and true facts of the case, as per Motor Vehicles Act the petitioner has to file present petition within 6 months to claim compensation in respect of accidental injuries, the said accident was took place on 26.01.2023 and present petition was filed on 23.02.2024. hence, prayed to reject the application.

5. The 2nd respondent in their objections contended that, no relevant document have been produced to substantiate the contention taken for inordinate delay of filing the petition.

6. That it is manifest that the present claim petition is filed on dated before the Hon'ble Court for consideration, whereas the accident happened on 26.01.2023 and therefore, it is an undisputed fact that the said petition is being filed on 23.02.2024 with an inordinate delay as to seek compensation, which is an eventually abuse of the set process, procedure and contrary to the provisions of prevailing law and therefore lead to impediment for the respondent herein to protest this case effectively.

7. That the recent amendment of M.V.Act, 1988 wherein the amendment to Section 166(3) contemplates the

limitation of 6 (six) months as to file claim petition before the Courts. For the ready reference, the very Section 166(3) is produced before “No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident”. The petitioner has filed the said petition after six months of the occurrence of the accident and amendment to Motor Vehicle Act. Therefore, the applications must be entertained within a period of six months from the date of amendment i.e. 01.04.2022. therefore, the petition is hit by Section 166 (3) of Motor Vehicle (Amendment) Act 2019. Therefore, the petition is not maintainable in the eye of law. Hence, the present petition itself is not maintainable.

8. That the Ministry of Road Transport and Highways has already notified those new amended provisions of the Motor Vehicles Act, which have taken its effect from 01.04.2022, vide extraordinary gazette notification dated 25.02.2022, S.O. 859 (E), wherein the Central Government has notified that Sections 50 to 57 and 93 of the Motor Vehicles (Amendment Act) 2019 which are in concerns to third party insurance and filing of claims before Motor Accident Claims Tribunal. Therefore, the claim petition s itself barred by the applicable provisions of the Motor Vehicles (Amendment Act) 2019. Hence, prayed to reject the application.

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

10. The points that arise for my consideration are as follows

1. Whether the petitioner has made out grounds to allow the I.A.No.I?
2. What order?

11. 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

12. **Point No.1** : The present petition filed by the petitioner under section 166 of Motor Vehicle Act, 1988, claiming compensation for the injuries sustained by him in the road traffic accident.

13. It is the case of the petitioner that, on 26.01.2023 at about 3.30 pm, near Attimane, Shille of Divagi, Kumta Taluk, when he was proceeding as pillion rider on the motor cycle of Ishwar Mahabaleshwar Patagar bearing Reg.No.KA-31/V-9692 from Ragihosalli of Sirsi towards Baad of Kumta Taluk, at that time a TATA Intra Goods vehicle bearing Reg.No.KA-47/A-3620 came

from Kumta towards Sirsi in a rash and negligent manner, endangering to human life, suddenly turned towards right side and dashed to opposite side motor cycle of Ishwar Mahabaleshwar Patagar and thereby caused injuries to him.

14. After the accident petitioner shifted to Kumta Government Hospital and then referred to KMC Hospital, Manipal, for further treatment, and then shifted to Venlock Hospital at Manglore and he took treatment as inpatient from 27.01.2023 to 09.02.2023 even now also he is taking treatment, petitioner sustained head injury and due to which he was mentally ill for about 3-4 months, he sustained grievous injury in the said accident, and doctor advised him six months rest, hence he could not able to approach his advocate to give information with respect to the accident. Hence it is the contention of the petitioner that there is an delay in filing petition.

15. Admittedly in the present case accident took place in the year 2023 and claim petition filed by the petitioner in the year 2024. from perusal of application reveals that the petitioner sustained head injury and he was taking treatment, and has no knowledge to meet legal aspect, hence he could not filed the petition in time. 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. In the present case accident took place on 26.01.2023 and complainant lodged on same day. In the present case the petitioner mentioned that, he was under treatment, and due to COVID-19 he could not able to lodge the complaint in time.

16. It is the contention of the second respondent company that, claim petition is filed after expiry of six months hence the petition is barred by limitation as per the amended provisions of the MV Act. Motor vehicle claims are the beneficiary legislature. It is 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.

17. Hence in view of the same, the petitioner mentioned the grounds for delay and also filed application for condonation of delay, hence, the application filed by the petitioner is deserves to be allowed. Hence **point no.1 answered in the Affirmative.**

18. **Point No.2:** 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 in filing the
petition is hereby condoned.

(Directly dictated to the Stenographer to the computer, corrected
and then pronounced by me in the open court on this date the 23rd
day of November, 2024)

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