

KAUK720003592024



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

Dated this the 13th day of May, 2025

PRESENT

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

MVC. No.444/2024

Petitioner:

1. Smt. Nagaveni W/o Sukrappa Naik
Age: 59 years, Occ: Coolie,
R/o. Kagal,
Taluk-Kumta, (U.K).

(By Sri. B.D.S. - Advocates)

V/s

Respondents:

1. Nagesh Krishna Naik ,
Age: 45 years,
R/o. Alavalli, Muroor,
Tq: Kumta,
Dist: Uttara Kannada – 581362.
2. Divisional Manager,
United India Insurance Co.Ltd.,
Divisional office, Kaikini road,
Radha Govinda Complex,
Kaikini Road, Karwar(U.K).

(R1 by Sri. J.P.N. - Advocate)

(R2, by Sri. V.G.H. - Advocate)

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

I.A.No.I is filed by the applicant/ petitioner Under Section 5 of Limitation Act and U/s 166(3) R/w. 34 of M.V.Act for condone the delay in filing present petition.

I.A.No.II filed by the Applicant/2nd respondent company, Under Sec.166(3) of Karnataka Motor Vehicles Act to dismiss the claim petition as it is barred by limitation.

2. I.A.No.I supported with Affidavit of applicant/petitioner stating that, she is the petitioner in this case and well conversant with the facts of the case. She sustained injury in the road traffic accident that is took place on 12.04.2022 near Holangadde Bus Stand, Kumta. She is under treatment, she took treatment at different hospitals, hence it took time to collect the medical documents from said hospitals, hence she could not able to file petition in time. Now she came to know that the police have filed the charge sheet to the court. Documents of offending vehicle yet to be collect. Hence the delay in filing

the petition is not intentional one, hence If the application is not allowed. If the application is not allowed he 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.

3. I.A No.I opposed by 2nd respondent company by filing written objections denying the averments made in the accompanying affidavit, further contended that the Application filled by the petitioner under section 5 of Limitation Act is not tenable. Under Section 166(3) of M.V Act restricted to entertainment of Application unless it is made with in 6 months of time from the date of the accident. Herein accident was occouured on 12-04-2022 and application came to the filed on 15-10-2024. Hence petitioner came to the filled after 6 months. Hence the application is deserved to be dismissed with cost.

4. I.A.No.II supported with affidavit of Memo of facts, contending that, herein accident was occurred on 12-04-

2022 and claim application came to be filed even after expiry of 6 months. Hence U/s. 166(3) Amended Act 2019 applicable to this case and said case was filed even beyond the limitation period. Hence prays to dismiss the petition with cost.

5. In spite of sufficient opportunity petitioner not filed objection to I.A.No.II.

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

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

1. Whether the petitioner has made out grounds to condone the delay in filing petition ?
2. Whether the 2nd respondent company made out grounds to reject/dismiss the petition under section 166(3) of Karnataka Motor Vehicles Act.
3. What order?

8. 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

9. **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 her in the road traffic accident.

10. It is the case of the petitioner that, on 12.04.2022 at 10.30pm the petitioner, along with her goods, was travelling in auto rikshaw bearing Reg.No.KA 47/475 from Kagal to go to Kumta at that time the one TATA ACE bearing Reg.No.KA 47/5895 came from Kumta side towards Aghanshini with great speed in rash and negligent manner and dashed against the auto rikshaw, and caused the accident in which the petitioner sustained injury.

11. Admittedly in the present case accident took place on 12.04.2022 and claim petition filed by the petitioner 25.10.2024. Admittedly there is a delay in filing petition. Hence learned counsel for petitioner also filed application for condonation of delay. The learned counsel for second respondent company submits that, the claim petition filed after the expiry of 6 months from the date of alleged accident and there is an 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 the MV Act. Hence, the claim filed by the petitioner is barred by limitation and therefore, it cannot be entertained.

12. The MV Act 1988 (amended as in 2019) the section 166(3) has come in to effect from 1st April by the Central Government as per the notification passed on 25th February 2022. Sec. 166(3) says No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.

13. Learned counsel for petitioner submits that, the petitioner sustained greivous injury in the accident and she was under treatment, and has no knowledge to meet legal aspect, hence she could not filed the petition in time, the same is not intentional one hence prays to allow the application.

14. It is the contetion of the insurance company that as the petition not filed within six months, hence the petition is not maintainable. But in the follwoing decision it is held that-

2023 ACJ 940(Akshay Raj Vs Ministry of Law and Justice and others)-Held- Motor Vehicles Act, 1988, sections 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-Limitaiton-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. 21 of Annexure XIII to rule 150-A 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.

2023 ACJ 1809 (Santhi and others Vs. Suresh and another)-Held-Motor Vehicles Act, 1988, section 166 (3) [as inserted by Motor Vehicles (Amendment) Act, 2019 w.e.f. 1.4.2022]-Claim application-Limitation-Retrospective application-Accident occurred on 15.1.2019 and claim application was filed on 13.4.2022-Tribunal relying on sub-section (3) of section 166, providing a period of six months to file a claim application, dismissed the claim application on the ground that it was time-barred-Whether in a case where accident occurred prior to insertion of section 166 (3) the period of limitation provided thereunder is to be reckoned from the date of filing of claim application and not from the date of accident-Held: yes; amendment cannot have retrospective effect; amended provisions cannot infringe the right guaranteed under the provisions which were in force at the time of

accident; on the date of accident the period of limitation was not in force; Tribunal directed to decide the claim application on merits.

2023 Acj 2062 (Malaravan Vs. Praveen Travels Pvt. Ltd. and others)-Held-Motor Vehicles Act, 1988, sections 166 (3) and 159 [as inserted and amended by Motor Vehicles (Amendment) Act, 2019 w.e.f. 1.4.2022] read with section 166 (4) and Central Motor Vehicles Rules, 1989, rule 150-A, Annexure XIII, Sl. No. 21 [as inserted by Central Motor Vehicles (Fifth Amendment) Rules, 2022 w.e.f. 1.4.2022]-Claim application-Limitation-Delay of 8 days in filing claim application-Accident occurred on 11.10.2022 and F.I.R. was lodged within 2 days of accident but injured filed claim application on 19.4.2023-Tribunal returned the claim application being time-barred-Conjoint reading of section 159, 166 (3) and 166 (4) of MV Act and rule 150-A of Central Rules, 1989, shows that claim application need not be commenced only by way of application under section 166; it is statutory duty of police to file Detailed Accident Report (DAR) before jurisdictional Tribunal containing details like F.I.R., First Accident Report and Interim Accident Report and it is mandatory on Tribunal to start the compensation mechanism on receiving DAR from police; application under section 166 is only a reminder to Tribunal to perform its duty under Sl. No. 21 of Annexure

XIII to rule 150-A, Central Rules, 1989-Section 166 (4) speaks about 'any report' therefore even an F.I.R. has to be treated as claim application-Whether issue of limitation will not arise as F.I.R. was lodged within 2 days of accident and was accessible by the Tribunal to register the same as claim application-Held; yes; Tribunal directed to take up the application for trial.

15. Moreover The Hon'ble Bench of Justice Amit Rawal interpreted Rule 17 of Annexure XIII framed under Rule 150A of the central Motor A Vehicles Rules 1989 and 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. Hon'ble Madras High Court held that Motor Accident Claim. Tribunals cannot dismiss claim petitions on the ground of limitation, rules. The tribunals were statutorily mandated to commence the compensation proceedings immediately after receipt of First Information Reports from the police without waiting for formal claim petition.

25 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 reasons for delay in filing this petition. The petitioner shows the reasons in her application, that she was taking treatment at hospital, and trying to get the document with respect to offending vehicle.

16. And 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 Annesure 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.

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

2023 LiveLaw (Ker)50-Hon'ble High Court Kerala

- 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.**

18. 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 second respondent company is not deserves to be allowed. Hence **point no.1 answered in the Affirmative point no.2 answered in the Negative.**

19. **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 petition is hereby condoned.

I.A.No.II filed by the applicant/2nd
respondent under 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 13th day of May,
2025)

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