

KAUP020035682023



***BEFORE THE ADDITIONAL MOTOR ACCIDENTS
CLAIMS TRIBUNAL & PRINCIPAL SENIOR CIVIL JUDGE
AND CJM., UDUPI.***

Present: Sri.M.Purushothama,
B.B.M, M.S.W., L.L.M.,P.G.D.H.R.M.
Prl. Senior Civil Judge & CJM.,
Udupi.

Dated this the 6th day of September, 2025.

M.V.C.No. 808/2023

Petitioner : Manjunatha Acharya,
Aged about 43 years,
S/o. Janardhana Achari,
R/at. 3-14B,
Bijantla House,
Kunjarugiri post,
Kurkalu,
Katapadi,
Udupi taluk and district.

[Both are rep. by Sri.P.S., Advocate]

Respondents : **V/s**
1. Sadashiva Acharya,
Aged about 52 years,
S/o. Janardhana Acharya,
Bijantla House,

Kunjarugiri post,
Kurkalu,
Katapadi,
Udupi taluk and district.

2. United India Insurance Co.Ltd.,
Head Office:
Chennai,
Having its branch Office at
Udupi,
Maruthi Veethika,
Near Bhima Jewellery,
Chitharanjan Circle,
Udupi taluk and district.

**[Rep.by Sri. A.S.H., Advocate for R2.
R1 : Placed exparte]**

In I.A. No.I

Manjunatha

: Applicant/ petitioner

Vs.

1. Sadashiva Acharya

2. United India Ins. Co.Ltd.

: Opponents/respondents

Order on I.A. No.I

The petitioner has filed petition under Section 5 of Limitation Act and prayed this court to allow the application by condoning the delay **162 days** in filing the petition.

2. On the other hand Opponents/respondents have not filed objection to the above application.

3. Heard .

4. The points that would arise for my consideration are;

1. Whether the petitioner shown sufficient grounds to allow the petition?

2. What order?

5. My answer to the above points are as follows:

Point No.1: In the Affirmative

Point No.2 : As per final order

for the following:

REASONS

6. The petitioner has filed the petition u/s. 166 of IMV Act seeking compensation of Rs.10,00,000/- with interest at 12% p.a.

7. According to the petitioner the accident occurred on **21-08-2022**. Admittedly the present petition was filed on **04-08-2023**.

8. Section 166 of IMV Act reads as follows:

Application for compensation. - (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made

(a)by the person who has sustained the injury;

or

(b)by the owner of the property; or

(c)where death has resulted from the accident,
by all or any of the legal representatives of the
deceased; or

(d)by any agent duly authorised by the person
injured or all or any of the legal representatives
of the deceased, as the case may be:Provided
that where all the legal representatives of the
deceased have not joined in any such
application for compensation, the application
shall be made on behalf of or for the benefit of
all the legal representatives of the deceased and
the legal representatives who have not so
joined, shall be impleaded as respondents to the
application.[Provided further that where a
person accepts compensation under section 164
in accordance with the procedure provided
under section 149, his claims petition before the
Claims Tribunal shall lapse.]

[(2) Every application under sub-section (1)
shall be made, at the option of the claimant,
either to the Claims Tribunal having

jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:[***]]

(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]

(4)The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.]

[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]”

9. On plain reading of Section 166(3) of IMV Act, it is very clear that no application for compensation shall be entertained unless it is made within 6 months of the occurrence of the accident. The word used in the provision is shall, but the legislature did not stopped to that extent, but they continued to say in (4) of Section 166 of IMV Act which says that the claim Tribunal shall treat any report of accident forwarded to it under Section 159 as an application for compensation under this Act. From this it is very clear that if any accident occurred then, the police shall send the Accident information report to the Tribunal and Tribunal shall treat the said report as application to the compensation. It is the duty of the Tribunal to send notice to both parties based on the accident information report. In the case on hand the police have not sent the detailed accident report to the court to treat the said report as application and as such the Tribunal has not known whether accident occurred and petitioner sustained injuries. There is no scope to the Tribunal to register the application for compensation in the absence of DAR report.

10. The Hon'ble High Court of Madras in a citation between Malaravan Vs.Praveen Travels Pvt. Ltd. In Cr.P.No.2558/2023 dated 18-8-2023 held that the claim petition need not be commenced only by way of presentation of the petition under

Section 166. This is clear from Section 166(4) which states that a report filed by the police including the stake holders Insurance Companies and Jurisdictional Motor accident claims Tribunal, should be treated as claim petition. The main object to include (3) of Section 166 is the victims of Motor Accident need not depend upon stake holders in court for the initiation of proceedings. The proceeding itself is initiated on the basis of report filed by the police authorities. The limitation of 6 months will arise only in case where no report has been sent/uploading. In the present case also the report is not sent to the court and as such there is no scope for the court to treat the said report as application for compensation. Hence, the limitation of 6 months does not applicable.

11. The Hon'ble High court in writ petition 201961/2023 between divisional Manager United India Insurance Co. Ltd. Vs. Ramu and others held that Section 166 of the MV Act is a beneficial provision which is contained in the MV Act as amended from time to time to provide benefit to any injured or to the legal representative of deceased. The object of amendment is to see that the claimants either injured or legal representatives who may or may not know the provision of law are provided remedy through law automatically instead of they being required to approach the court. It is required that the

police officers registering an FAR relating to an accident Adhere to the provision of Section 159 of the M.V.Act and forward all first information reports registered in respect of the accident to the Claim Tribunal. The jurisdictional police have sent the FAR to the concerned jurisdictional magistrate, but have not filed either FAR or DAR to the Tribunal to register it as an application. Hence, this court is of the opinion that the respondent No.2 has urged before this Tribunal regarding 166(3) of IMV Act, but forget to mention Section 159 of IMV Rules. If the application filed by the petitioner for compensation is rejected, then the very ambit of the objective of the legislation passed by the legislature is defeated. The Hon'ble High Court of Karnataka in **W.P. No.202613/2024 in between Sriram General Insurance Company Ltd. Vs. Anil and another** held that the DAR is also required to be submitted to the Tribunal within 90 days from the date of accident. The Hon'ble High Court rejected the writ petition filed by the insurance company. The ratio laid down in the said case is aptly applicable to the present case. Hence, the petitioner has made out grounds to allow the claim petition as barred by limitation. **Accordingly, I answered the point No.1 in the affirmative.**

12. Point No.2:- In view of the above discussion, I proceed to pass the following:

ORDER

The application i.e. I.A. No.I filed by the petitioner is hereby allowed.

(Dictated to the Stenographer, computerized by her, corrected, signed and then pronounced by me in the open court on this the 6th day of September, 2025).

(M.Purushothama)

Prl. Sr. Civil Judge & ADDL.MACT, Udupi.