

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
AMACT, KARKALA**

Present: Smt.Sharmila C.S., B.A.L., LL.M.,
Senior Civil Judge and AMACT, Karkala.

Dated: This the 22nd day of May, 2025.

M.V.C. No.279/2024

Sri.. Nagesh Prabhu .. Petitioner

Versus -

Sri. Anil Kumar and others ..Respondents

PARTIES TO I.A.NO.II

Tata AIG General Insurance Company Ltd.,
15thh Floor, Tower and Peninsula
Business Park, Ganapat Rao Kadam Marg
of Senapathi Bapat Marg, Lower Parel,
Mumbai-400 013. ..Applicant/3rd respondent

- Vs. -

Sri. Nagesh Prabhu,(43 years)
S/o. Keshava Prabhu,
R/a. Door No.2-174, Belenje Village,
Hebri taluk, Udupi District,
Post Belenje 576 112. .. Opponent/petitioner

i.	Provision under which the application is filed	Order VII Rule 11(d) r/w Section 151 of CPC
ii.	Relief sought for	To dismiss petition
iii	The date on which the application is filed	15-02-2025
iv	Number of the application	I.A.No.II
v	The date on which the objections are filed by different opponents	04-04-2025
vi	The date on which the orders were passed on the said application.	22-05-2025

ORDER ON I.A.NO. II FILED UNDER ORDER VII RULE
11(d) R/W SECTION 151 OF C.P.C.

The counsel for respondent No.2 filed I.A.No.II seeking rejection of the petition on the ground that there is delay in filing of the petition.

2. Per contra, the Counsel for the petitioner filed objection,denying the averments of affidavit of the respondent No.3 and prayed to dismiss the I.A.

3. Heard from the counsel for petitioner and counsel for respondent No.3.

4. The following points arise for determination.

“ Whether the petition needs to be rejected on the ground of limitation?”

5. My answer to the above point in ‘negative’,
for the following

REASONS

6. The petition is filed seeking compensation for the injuries sustained by the petitioner in R.T.A.. There is delay of 238 days in filing of petition, which ought to had been filed

within 6 months from date of accident. The objection of the counsel for the respondent is based upon the recent amendment to the M.V.Act, where the period of limitation for filing of the petition is prescribed for 6 months. Thus whether the delay needs to be condoned or not is to be seen.

7. Question of limitation is a mixed question of law and fact. The delay may be caused for various reasons. Whether this is a probable reason and can be condoned needs to be seen.

8. It would be pertinent to refer here, the authority of the Hon'ble Supreme Court of India reported in (2021)4 SCC 381 in 'Gohar Mohammed Vs. Uttar Pradesh State Road Transport Corporation and others', where it was held that

“The 2019 amendment to the Motor Vehicles Act casts the role of a facilitator on the police officer and he has to act in a time bound manner and perform his duties as per the 2019 Amendment Act scrupulously, omission to perform his duties has a consequence provided under State Police Act.

And further in authorities reported in

(1) 2023 Livelaw (Ker) 50, where it is held that,

“The provision of the Limitation Act would be applicable for entertaining the petitions for claiming the compensation even beyond the period of six months. Claim petitions, if filed beyond the period of six months, cannot be dismissed in limine.”

(2) (2021) 6 SCC 512, where it is held that,

“Interpretation of a beneficial legislation must be remedial and must be in furtherance with the purpose which the statute seeks to serve. A beneficial legislation should receive a liberal construction so as to promote its objectives. The Motor Vehicles Act is a beneficial piece of legislation enacted to give solace to the victims of motor accident who suffer bodily injury or die ultimately, strict compliance of procedure can be relaxed in order to ensure that victims receive just compensation.”

(3) AIR ONLINE 2023 MAD 1405 in ‘Malaravan Vs. Praveen Travels private Limited Kancheepuram, where it is held that,

“If an FIR is registered within six months of accident, claimant can present their petition without concern about being barred by limitation period – Tribunal to treat the application filed on as reminder for plea of compensation

under section 166(4) and proceed with application for trial.”

9. As observed in the above authorities, the present petition is also filed seeking compensation for the injuries sustained by the petitioner, who has been put to hardship and inconvenience. This cannot be compensated in terms of awarding monetary compensation or damages, but can be pacified to a little extent for which the Motor Vehicle Act supports. Only on the ground of limitation which the parties might not be aware of, the parties cannot be rejected with the compensation, if they are entitled to. Loosing of a person or getting injuries due to the mistake of another needs to be compensated and cannot be the ground for litigation.

10. It is also stated in the above authorities that if the F.I.R. is registered within six months of the alleged accident, the claimant would be at liberty to file the petition without concern about being barred by limitation. In the instant case the F.I.R. is lodged within six months from the date of accident which absolutely comes within the limitation period as

observed in *AIR Online 2023 Madras 1405* , noted supra. Therefore in this situation this Motor Vehicles Act being beneficial legislature cannot be ruled out only on the basis of non-filing of the petition within the limitation period.

11. When the authorities clearly goes to show that the F.I.R., would be the consideration for date of cause of action which has to be filed within six months, the question of again subjecting the petitioner into enquiry does not arise at all. Consequently holding that the delay needs to be condoned and the petition cannot be rejected and needs to be proceeded the above point is answered in negative.

12. Hence, the following

ORDER

I.A.No.II filed by the respondent No.3 under Order VII Rule 11(d) r/w Section 151 of CPC is here with rejected.

(Dictated to the stenographer directly in the computer, corrected and then pronounced by me in Open Court on this the 22nd day of May , 2025.)

(SHARMILA C.S.)
Senior Civil Judge & AMACT, Karkala.