

IN THE COURT OF ADDL.SENIOR CIVIL JUDGE AT UDUPI.

Present: **Sri. Santosh Srivastava** B.A., LL.B.,
Addl. Senior Civil Judge, Udupi.

Dated this the 22nd day of February, 2025

M.V.C.No.457/2024

Between:

Master Ajay Basavaraj

... Petitioner

AND

Koteppa Menasinkayi and another

... Respondents

In I.A.No.II***Between:***

United India Insurance Co. Ltd.

... Applicant/

2nd Respondent

AND

Master Ajay Basavaraj

... Opponent/

Petitioner

(P - Rep. by Sri. K.P.K.S., Adv.)

(R1 -Rep. by Sri. B.S.H., Adv)

(R2 - Rep. by Sri. A.M., Adv.)

ORDERS ON I.A.No.II

Respondent No.2 has filed application under Order VII Rule 11(d) r/w Sec.151 of C.P.C. wherein it is submitted that, to dismiss the claim petition in the interest of justice

as it is barred by Law of Limitation. As the accident occurred on 26.08.2023 and the petition ought to be filed within 6 months from the date of cause of action i.e. before 25.02.2024 and petition is being filed on 03.05.2024 after expiry of 2 months and 7 days.

2. It is submitted in the affidavit that the petitioners herein by filing the present petition or compensation of Rs.12,95,000/- admits injury sustained in alleged road accident that occurred on 26.08.2023, from 2nd respondent i.e. insurer of Tata Ace bearing registration No.KA-26-A-0689 and as per the documents on record it is pertinent to note that the alleged accident occurred on 26.08.2023 and claim petition is being filed on 03.05.2024 and there a inordinate delay on the part of the claim in filing the claim petition on 03.05.2024 and it is not being filed within the time limit as specified under the provision of M.V.Act.

3. Further in view of the provisions of IMV Act, 1988, Sec.166(3) has come into effect from 1st April, 2022 centrally governed as per the notification passed on 25.02.2022 and in accordance with the said amendment, the petition need to be filed within the period of 6 months from the date of occurrence of accident and this petition is being filed at a belated stage from the date of occurrence of the accident and petition is totally barred by Limitation.

4. Objections came to be filed, wherein the petitioner has relied upon **United India Insurance Co.Ltd Vs. Ram @ Ramesh** wherein it was held that Sec.166(3) of IMV Act is provided for settlement of the claim and providing documents by the investigating agency and not applicable to the claim tribunal. Further still the amendment in its full acceptance stands pending. So therefore respondent cannot take shelter of Sec.166(3) of IMV Act to dismiss the petition.

5. Heard on both sides. Following points are taken for my consideration:

1. Whether the respondent No.2 made out grounds to allow the application filed under Order VII Rule 11(d) of C.P.C.?
2. What order?

6. Above points are answered as under:

Point No.1 : In the negative;

Point No.2: As per final order
for the following:

REASONS

Point No.1:

7. This claim petition is being filed on dated 03.05.2024 under Sec. 166 of I.M.V. Act and at this stage, the petitioner has

produced the documents along with the claim petition which goes to show that the F.I.R. got registered for the offences punishable under Sec.279, 337, 338 on the strength of the complaint. On perusal of this documents the accident occurred on 26.08.2023 and on the same day the F.I.R. got registered. Further produced panchanama report. Further produced wound certificate, insurance policy and Aadhar cards.

8. On perusal of this documents it can be seen that soon after the report of the accident the F.I.R. got registered. No doubt Sec.166(3) of I.M.V. Act bars the petitioner from filing the petition if the period of 6 months is over. But does not mean the claim petition be rejected at drop of hat. Taking into consideration the arguments posed by both parties on record.

9. At this stage this court likes to place reliance upon the judgment **Malavaran V/s Praveen Travels Pvt. Ltd.**, wherein the MACT ordered that petition is returned as per limitation barred. Hence the present Revision Petition was being filed. Further after perusal of the judgment quoted by the petitioner, this court finds strength in the submission of petitioner that issue of 6 months limitation will arise only if the F.I.R. is not being registered by the police. Here in this case the F.I.R. is being registered for the offence punishable under Sec.279, 337, 338 of I.P.C. on 26.08.2023 and accident is taken place on 26.08.2023. Wherein it can be seen that offending vehicle is bearing Reg.No.KA-26-A-0689 and it is insured under United India Insurance Company

Ltd., branch Udupi. Accident occurred on 26.08.2023, so therefore relying upon the said judgment it is crystal clear that merely there is a delay in filing the application will not come in way to entertain the petition on record.

10. Another reported judgment **Gohar Mohammad Vs. State of Uttar Pradesh State Road Transport Corporation SLP 3244/2018 in S.L.P. (C). No.32448 of 2018** reading of this judgment goes to show that *the Police are no more playing a mere role of an Investigating Authority and stopping with mere parting of information. They are mandated by the Parliament to file reports with the Claims Tribunal, which should treat the same as a claim petition. The claimants have been freed from the shackles and are no more burdened to search for the documents necessary for filing a claim. The duty to report is now with the police and the duty to process the said information given by the police, and uploaded on to the website lies on the Tribunal. When access is given to the Tribunal to an FIR and the other details which have been uploaded by the police the claimant need not be made to run around or suffer from a fear that his petition is barred by time. It is the duty of the Claims Tribunal to access the information available to it and process the claim and give succour to the victims. It is not an adversarial system as was practiced before 01.04.2022 in other parts of India (before 12.09.2017 in Tamil Nadu) but today it is a people oriented justice delivery Tribunal.*

11. So therefore relying upon the said judgment quoted it is crystal clear that Sec.166(3) of IMV Act will only come into play if the F.I.R. is not registered within time. So therefore in the light of the above judgment and reasoning given the case on hand, the F.I.R. is registered, so merely on the technical ground the claim petition does not deserved to be dismissed. Therefore I answer **Point No.1 in the negative.**

Point No.2 :

12. In view of the above discussion, proceed to pass the following:

ORDER

Application filed under Order VII Rule 11(d)
of C.P.C. stands dismissed.

(Santhosh Srivastava)

Addl. Senior Civil Judge and A.C.J.M.,
Udupi.