

KAUP020038052023

**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 20<sup>th</sup> day of January, 2025

**M.V.C.No.858/2023*****Between:***

Mr. Sushanth Puthran ... Petitioner

AND

Mr. Mehaboob N. and another ... Respondents

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

Mr. Sushanth Puthran ... Applicant/ petitioner

AND

1. Mr. Mehaboob N.
2. The Chola MS Gen. Ins. Co. Ltd. ... Opponent/respondents

(P - Rep. by Sri. S.A., Adv.)  
(R1 -Exparte)  
(R2 - Rep. by Sri. P.R., Adv.)

i.	Provision under which the	Order VII Rule
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	application is filed	11(d) r/w Sec.151 of C.P.C.
ii.	Relief sought for	Barred by Law of Limitation
iii.	The date on which the application is filed	28.03.2024
iv.	Number of the application	I.A.No.II
v.	The date on which the objections are filed by opponent	01.06.2024
vi.	The date on which the orders were passed on the said application	20.01.2025

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Respondent No.2 has filed application under Order VII Rule 11(d) r/w Sec.151 of C.P.C. to dismiss the claim petition as it is barred by Law of Limitation, as accident occurred on 04.12.2022 and the petition is filed on 18.08.2023. i.e. after the expiry of 6 months. In the accompanying memorandum of facts it is stated that the claim petition has been filed on 18.08.2023 and it is not being filed within time and alleged accident took place on 04.12.2022. further Sec.166(3) of IMV Act discloses that,

“No application for compensation shall be entertained unless it is made within 6 months of the occurrence of the accident and since the

claim is being made after the period of 6 months from the date of occurrence of accident and further the respondent No.2 got unnecessarily joined as party in the said proceedings in the capacity of insurer of the vehicle bearing Reg.No.KA0-20-EC-7333 allegedly involved in the said accident. So therefore prays to allow the application and dismiss the petition.

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

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

4. Above points are answered as under:

Point No.1 : In the negative;

Point No.2 : As per the final order

for the following:

### **REASONS**

#### **Point No.1:**

5. On perusal of the application filed by the 2<sup>nd</sup> respondent it can be seen that the application is not supported by the affidavit. But only memorandum of facts. Further this court is of the opinion that the respondent

No.2 has lost sight of the Provisions 166(4) which states that the claim tribunal shall treat any report of accident forwarded to it as an application for compensation under the said act. Further this court likes to place realiance upon the judgment i.e. **Thomas Denial Vs Selvi** reported judgment of Hon'ble High Court of Madras wherein it is clearly held that *where in upon registration of F.I.R., a claimant is entitled to present the petition without the fear of it being thrown out, on the ground of limitation.*

6. 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.*

7. So therefore from the above judgments quoted it is crystal clear that only on the point of limitation it would be not proper to fit the case under Order VII Rule 11(d) and dismiss the petition on this ground. So on bare perusal of the averments of the petition filed under Sec.166 of Motor Vehicles Act is proper and certainly maintainable before this tribunal.

8. So therefore in view of the application under Sec.5 of Limitation Act, the petitioner filed under Order VII Rule 11(d) of C.P.C. deserves to be dismissed. Further the petitioner in this case has led the evidence and got marked the documents only as a matter of reference it can be seen that already an accident report sent to insurance company so much water is flown under the bridge and on bare perusal of the averments of the petition and in view of condoning the delay the application stands to be devoid of merits. Therefore I answer **Point No.1 in the negative.**

**Point No.2 :**

9. 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.

(Dictated to Stenographer, transcribed by her,  
corrected and then pronounced by me in open court on  
this the 20<sup>th</sup> Day of January, 2025)

**(Santhosh Srivastava)**  
Addl. Senior Civil Judge and A.C.J.M.,  
Udupi.