

KAUP020044642023



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND
CJM., UDUPI

**Present: Sri. Vignesh Kumar,
B.A.(Law), LL.M.**

Prl. Senior Civil Judge & CJM.,Udupi.

Dated : This the 2nd day of March, 2024

M.V.C.No.1052/2023

Between:

Mr. Dinesh Acharya : **Petitioner**

(Rep. by Sri. S.A., Advocate)

-Versus-

Mr.Shodhan Y : **Respondents**

**(Rep. by Sri.M.R., Advocate for R2.
R1 – Exparte)**

I.A. No.II

Between:

Shriram General Ins.Co.Ltd., : **Applicant/Res.no.2**

-Versus-

Mr. Dinesh Acharya : **Opponent/Petitioner**

i.	Provision under which the application is filed	Order VII Rule 11(d) r/w. 151 of CPC r/w Section 166(3) of Motor Vehicles Act.
ii.	Relief sought for	To reject the claim petition as barred by limitation.
iii.	The date on which the application is filed	07.02.2024
iv.	Number of the application	I.A.No. II
v.	The date on which the objections are filed by different opponents	23.02.2024
vi.	The date on which the orders were passed on the said application	02.03.2024
vii	Stage of the case, when IA is filed	Written statement of R2

ORDERS ON I.A. No. II

This is an application filed by the respondent no.2 insurance company under Order VII Rule 11(d) r/w. 151 of CPC praying to reject the claim petition as barred by limitation.

2. In the affidavit annexed to the I.A. the official of the respondent no.2 insurance company has averred that the petition is filed much beyond 6 months from the date of occurrence of the accident. As such the claim petition is liable to be dismissed for being barred under Section 166(3) of Motor Vehicle Act 1988 as amended vide notification dated 25-02-2022.

3. Per contra, the learned counsel for the petitioner has filed objections by contending that there is no bar contemplated under Section 166(3) of Motor Vehicles Act and the delay if any is not intentional. Hence, it is prayed to dismiss the application with exemplary cost.

4. Heard both sides.

5. The following point would arise for my consideration;

“Whether the claim petition is barred by Section 166(3) of Motor Vehicles Act and therefore the petition is liable to be rejected under Order VII Rule 11(d) of CPC?”

6. My finding to the above point is in the **negative** for the following:

REASONS

7. Admittedly the accident involved in the present claim petition has taken place on 21.03.2023; whereas the petition is presented on

13.10.2023. Therefore, the petition is filed after 6 months and 23 days from the date of accident. Therefore, there is almost delay of 23 days in preferring the claim petition as provided under Section 166(3) of Amended M.V. Act.

8. The Motor Vehicles Act is a welfare legislation and the provisions have to be interpreted in favour of the claimants. The purpose of introducing the amendment to the Motor Vehicles Act is only with an intention to expedite claim procedures and it is not intended to deprive the compensation to the claimants.

9. As rightly argued by the learned counsel for the petitioner, the investigating officer is required to submit First Accident Report(FAR) in form no.I within 48 hours to the jurisdictional MACT. Further the said Investigating officer has to submit Form no.II details to the victims within 10 days. The offending driver is required to submit Form no.III within 30 days to the Investigating Officer and the owner is required to submit Form no.IV within 30 days to the Investigating Officer. Ultimately within 50 days the Investigating Officer is required to submit the Interim Accident Report(IAR) in Form no.V to the M.A.C.T. Further, a Detailed Accident Report (DAR) has to be submitted by the Investigating Officer within 90 days from the date of the accident. The MACT is required to register the FAR as a miscellaneous application and the IAR as well as DAR is required to be taken on record in the same

miscellaneous application. If in case the charge sheet under Section 173 of Cr.P.C. is not filed at the time of filing of the DAR, the MACT has to wait till filing of the said charge sheet, so as to satisfy itself regarding the aspect of negligence. As per Section 166(4) of Amended Motor Vehicles Act the claim Tribunal is required to treat such reports of accident as an application for the compensation under this Act.

10 In the case in hand, the Investigating Officer has failed to submit IAR or DAR till this date to the jurisdictional MACT. Upon verification of the records through the office, so far the police have not submitted FAR before the Hon'ble principal MACT, Udupi. The aim and object of the amended MV Act is not to deprive the compensation, but to expedite process of compensation. For the fault of the investigating officers the claimant cannot be deprived of the compensation amount. Therefore, merely because the claim petition is preferred beyond 6 months from the date of the accident, it cannot be said that the claim petition is liable to be dismissed in limine. In this connection, I am guided by the decision of Hon'ble High Court of Kerala in the case of *Akshaya Raj V/s. Ministry of Law and Justice and Others* **2023 ACJ 940**, wherein it is held that the petition cannot be dismissed in limine and the provisions of Limitation Act is applicable. Already the petitioner has filed application under Section 5 of Limitation Act. The aspect of delay can be considered along with the main petition.

With these observations, the above point is answered in the **negative** and this Tribunal deems fit to pass the following:-

ORDER

I.A.No.II filed by the respondent no.2 under Order VII Rule 11(d) r/w. 151 of CPC r/w. Section 166(3) of M.V. Act is hereby dismissed.

No order as to costs.

(Dictated to the Stenographer, transcribed by her, corrected, signed and then pronounced by me in the open court on this the 2nd day of March,2024]

(Vignesh Kumar)
Prl. Sr. Civil Judge and CJM.,
Udupi.