

***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 13th day of August, 2024.

M.V.C. No.1006/2023

Shruthi Minor rep. By mother and
natural guardian Smt. Jyothi .. Petitioner

Versus -

Mr. Devanna and others ..Respondents

PARTIES TO I.A.No.I

Shruthi,
Aged about 15 years,
Minor rep. By mother and natural
guardian Smt. Jyothi,
Aged about 48 years,
W/o. Rama Naik,
R/at. Nanchar Tadagalu,
Nachar Post, Nanchar,
Udupi Tq & Dist-576 234. .. Applicant/petitioner

-Vs. -

1. Mr. Devanna,
Aged about 42 years,
S/o. Kulla Naik,
R/at. Seetha Nilaya,
Arbi, Maddoor Post,
Nalkur Village, Brahmavara Tq.,
Udupi Dist – 576 234.

2. Royal Sundaram Alliance Ins. Co.Ltd.,
Subramanyam Building No.1,
Club House Road,
Annasalai Chennai- 600 002.

..Opponents/
Respondents

PARTIES TO I.A.NO.IV

Royal Sundaram Alliance General
Insurance Co.Ltd.,

.. Applicant/
Respondent No.2

- Vs. -

Shruthi Minor rep. By mother and
natural guardian Smt. Jyothi

..Opponent/
Petitioner.

i.	Provision under which the application is filed	IA I - Section 5, 29(2) of Limitation Act read with 166 (4) and Section 159 of Motor Vehicles Act, Rule 150(A) of Central Motor Vehicle Rules Section 94(e) and 151 of C.P.C. IA 4 -Order VII Rule 11(d) r/w 151 of CPC R/W 166(3) of Motor Vehicles Act
ii.	Relief sought for	IA I - To condone delay IA IV – To dismiss petition
iii	The date on which the application is filed	IA I: 07-03-2024 IA IV :31-05-2024
iv	Number of the application	I.A.No.I and IA.No.IV
v	The date on which the objections are filed by different opponents	IA I : Respondent No.1 : 03-04-2024 IA IV: 26-07-2024
vi	The date on which the orders were passed on the said application.	13-08-2024

COMMON ORDERS ON I.A.NO. I FILED UNDER SECTION 5
, 29(2) OF LIMITATION ACT READ WITH 166(4) AND
SECTION 159 OF MOTOR VEHICLE ACT AND RULE 150(A)
OF CENTRAL MOTOR VEHICLE RULES , SECTION 94(e)
AND SECTION 151 OF C.P.C. AND I.A . NO.IV FILED
UNDER ORDER VII RULE 11(d) R/W 151 OF C.P.C. R/W
SECTION 166 (3) OF MOTOR VEHICLES ACT

These two applications are taken up together for common discussion since they are inter-connected and attracts same reasoning.

2. Since there was delay in filing of the petition , counsel for the petitioner filed I.A.No.I seeking condonation of delay of four days in filing of the petition.

3. It is deposed by the petitioner that she could not secure the police documents in time . Hence there is delay and prays to condone the same.

4. Per contra counsels for respondents No.1 filed objection, denied the averments of affidavit and prayed to dismiss the application.

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

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

7. Heard from the counsel for petitioner and counsels for respondent No.1 and 2.

8. The following points arise for determination.

(1) Whether the delay of 4 days in filing of petition can be condoned?”

(2) Whether the petition needs to be rejected on ground of limitation?

9. My answer to the above points is

Point No.1 -In affirmative,

Point No.2 – In negative,

for the following

REASONS

10 . Points No.1 and 2:- These points are take up together for common discussion, since they involve same set of facts and common reasonings.

11. The petition is filed seeking compensation for the injuries sustained by petitioner in R.T.A.. There is delay of 4 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.

12. Question of limitation is a mixed question of law and fact. The delay may be caused for various reasons, which as per the petitioners, in the instant case was for non-availability of the document from the police. Whether this is a probable reason and can be condoned needs to be seen.

13. 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.”

14. 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.

15. 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.

16. 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 sufficient grounds are made out to condone the delay, the above Point No.1 is answered in affirmative. When the delay is condoned, the petition cannot be rejected and needs to be proceeded with. Accordingly, the above Point No. 2 is answered in negative.

17. Hence, the following

ORDER

I.A.No.I filed by the petitioner under Section 5, 29(2) of Limitation Act read with 166 (4) and Section 159 of Motor Vehicles Act Rule 150(A) of Central Motor Vehicle Rules Section 94(3) and 151 of C.P.C. is herewith allowed.

Delay of 4 days in filing of petition is condoned.

I.A. No.IV filed by respondent No.2 under Order VII Rule 11(d) r/w 151 of C.P.C. R/W 166(3) of Motor Vehicles Act is here with rejected.

(Dictated to the stenographer directly in the computer, corrected and then pronounced by me in Open Court on this the 13th day of August, 2024.)

(SHARMILA C.S.)

Senior Civil Judge & AMACT, Karkala.