

**IN THE COURT OF SR. C.J. AND MACT-XIII H.B.HALLI,
ITINERARY SITTING AT SENIOR CIVIL JUDGE,
HUVINAHADAGALI**

Dated this the 16th day of August 2025

PRESENT

MADHUSUDHANA D.K. B.A. LL.B.
MACT-XIII & Sr.Civil Judge, H.B.Halli
Itinerary sitting at Senior Civil Judge
Huvinahadagali

MVC No. 490/2024

Petitioner : Smt. Fathima Bee D.

Vs

Respondents : Sri. N. Dada Peer and Another.

ORDERS ON IA NO.1 AND IA NO.3

The Petitioner has filed the IA No. 1 dated 09.05.2024 under Section 5 of Limitation Act by seeking condoning the delay of 1 Year 3 Months and 20 days in filing the Claim Petition. The Respondent No. 2 Insurance Company has filed the IA No. 3 dated 04.01.2025 under Order 7 Rule 11(d) of CPC read with Section 166(3) of the IMV Act for Rejection of Claim Petition as barred by Limitation.

2. To the IA No. 1 and IA No. 3, the respective Parties have filed their respective Affidavit by deposing on Oath. In the IA No. 1, the Petitioner has contended that, *after she has sustained the Injuries in the Accident, she had taken the treatment in the Hospitals at Itagi and in Koppal District and due to severe Injuries to her Head and her Back, she was unable to move around and the delay was caused due to securing of the Documents.* Therefore, the Petitioner seeks for condoning of the delay.

3. The Assistant Manager of the Respondent No. 2 Company has filed his Affidavit by deposing on Oath that, *in the Amended Section 166(3) of the IMV Act, a Petition for Compensation could be filed only within 6 Months from the Date of the Accident. But, the Petitioner has filed this Petition in respect of the Accident that had taken place on 18.01.2023 and the Petition was filed only on 15.05.2024 and therefore, there is a delay of 9 Months and 24 days in filing the Petition.* Therefore, the Respondent No. 2 seeks Rejection of the Claim Petition.

4. The Rival Parties have filed their respective Objections to the IA No. 1 and IA No. 3 by denying the contents of the Affidavits.

5. I have heard the arguments of the Rival Parties and perused the Material placed on Record.

6. On appreciation of facts and Legal Aspects involved in the above Applications, the Points that arise for My consideration are as follows:

POINTS

- 1. Whether the Respondent No.2 shows reasons to Reject the Petition as barred by Limitation?**
- 2. Whether the delay in filing the Petition could be condoned?**
- 3. What Order?**

7. Now, My answers to the above Points are as follows:

ANSWERS

POINT NO.1 : In the Negative

POINT NO.2 : In the Affirmative

**POINT NO.3 : As per the final Order,
for the following:**

REASONS

8. **POINTS NO.1 AND 2** : I have already narrated the Case of the the Respondent No.2 and the Petitioner at the inception of the above Orders and therefore, to avoid repetition, the same will not be reiterated here.

9. Before commencement of My discussion, it would be convenient for Me to reproduce the Provisions of the Law under which this IA No.3 is filed. The Provisions of Order 7 Rule 11 of CPC provides as follows:

Rejection of plaint.- The plaint shall be rejected in the following cases:—

- (a) Where it does not disclose a cause of action;**
- (b) Where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;**
- (c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;**

- (d) Where the suit appears from the statement in the plaint to be barred by any law;**
- (e) Where it is not filed in duplicate;**
- (f) Where the plaintiff fails comply with the provision of Rule 9.**

10. The Respondent No.2 has contended that, as per the Amended Section 166(3) of the IMV Act, only 6 Months time is prescribed to file a Petition for IMV Compensation and there is a delay of more than 9 Months in filing this Petition and therefore, the Petition is liable to be Rejected as barred by time. The Petitioner has filed the IA No.1 under Section 5 of the Limitation Act by seeking condoning of delay of 1 Year 3 Months and 20 Days in filing the Petition.

11. In the Case reported in **2023 LiveLaw (Ker) 50** in between **Akshay Raj Vs Ministry of Law and Justice Legislative Department**, the Hon'ble Kerala High Court has held that, *the Provisions of the Limitation Act would be applicable for entertaining the Petitions for claiming Compensation even beyond the period of six months, for, by taking into consideration, Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules, 1989.*

12. In the Reportable Judgment of the Hon'ble High Court of Karnataka in the Case of **the Divisional Manager Vs Ramu @ Ramesh and Others**, the Hon'ble High Court of Karnataka has clearly held in Paragraph No.27 of the said Judgment that, *as afore observed, the MV Act being a beneficial Act, the Provisions thereof had to be given beneficial meaning and effect. The benefit under the Act cannot be taken away on a Technical Aspect that too of Limitation, thus the Trial Court having applied the Section 5 of Limitation Act to the fact situation, I do not find any*

infirmity thereof. The Petitioner has filed IA No.1 under Section 5 of the Limitation Act by seeking condoning of delay in filing the Petition.

13. Therefore, if we consider the above Judgments of the Hon'ble Kerala High Court and the Hon'ble High Court of Karnataka, we could see that, both the Hon'ble High Courts have laid down that, *delay in filing the Petition for Compensation can be condoned by allowing the Application under Section 5 of the Limitation Act.* Therefore, the filing of the IA No.1 by the Petitioner for condoning of delay will negatives the contentions of the Respondent No.2 and he did not make out any Case to dismiss the Petition as barred by Law of Limitation. Therefore, ***the Point No.1 is answered in the Negative and the Point No.2 is answered in the Affirmative.***

14. ***POINT NO. 3 :*** For the above discussion, I proceed to pass the following:

ORDER

The IA No.3 of the Respondent No.2 filed under Order 7 Rule 11(d) of CPC read with Section 166(3) of IMV Act is hereby Rejected.

The IA No.1 of the Petitioner filed under Section 5 of the Limitation Act is allowed and delay in filing the Petition is condoned.

Case is posted for Evidence on 20.09.2025.

Sd/-

MADHUSUDHANA D K

MACT-XIII & Sr. C.J. H.B.Halli
Itinerary Sr.C.J., Huvinahadagali