

**ITINERARY SITTING AT SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 3rd day of October 2025

PRESENT

MADHUSUDHANA D.K.

Itinerary sitting at Senior Civil Judge
Huvinahadagali.

MVC No. 1069/2024

Petitioners: Smt. Nirmalamma and Others

Vs

Respondents: Sri. Prakashnaik and Others.

ORDERS ON IA NO.1

The Petitioners have filed the IA No.1 under Section 5 of the Limitation Act by seeking condoning of delay of 697 Days in filing the above Petition.

2. In support of the IA No.1, the Petitioner Smt.Nirmalamma has filed her Affidavit by deposing on oath. In brief, she has contended that, *she has filed the above Petition by seeking Compensation on account of her husband's death in the Accident and due to mental shock, due to her health problems and also for the reason of securing relevant Documents she could not file the Petition within time* and therefore, she seeks condoning of the delay by allowing her IA No.1.

3. The Respondent No.2 has filed Objections by denying the Affidavit averments of the Petitioner and he has contended that, *as per the Amended Section 166(3) of the IMV Act, a Petition for Compensation can only be filed within 6 Months from the date of the Accident and therefore, this Petition is liable to be dismissed as barred by Limitation* and therefore, the Respondent No.2 has prayed for Rejection of the IA No.1.

4. I have heard the Arguments on IA No.1 and perused the Material placed on Record. The Points that arise for My consideration are as follows:

POINTS

- 1) **Whether the Petitioners show reasons to condone the delay ?**
- 2) **What Order ?**

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

ANSWERS

POINT NO.1: In the Affirmative

POINT NO.2: As per the final Order, for the following:

REASONS

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

7. It is peculiar to note that, the Respondent No.2 Insurance Company has contended in its Objections to the IA No.1 about non-maintainability of a Petition after 6 Months from the date of accident as per the Amended Section 166(3) of the IMV Act. But, the Respondent No.2 has not filed any Application under Order 7 Rule 11 of CPC for Rejection of the Petition as barred by Limitation. 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.**

8. 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.** The Petitioners have filed the IA No.1 under Section

5 of the Limitation Act by seeking condoning of delay in filing the Petition.

9. Therefore, if we consider the above Judgments of the Hon'ble Kerala High Court and the Hon'ble High Court of Karnataka, we can 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 Point No.1 is answered in the Affirmative.**

10. **POINT NO.2:** For the above discussion, I proceed to pass the following:

ORDER

The IA No.1 of the Petitioners filed under Section 5 of the Limitation Act is hereby allowed and the delay of 697 Days in filing the above Petition is condoned.

Posted for evidence on 14.11.2025.

Sd/-

MADHUSUDHANA D K
Itinerary Senior Civil Judge
Huvinahadagali