

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, VATAKARA

Present: Sri.Pradeep P, B.Com, LLB.,

Motor Accidents Claims Tribunal

Tuesday, the 3rd day of September, 2024

IA.No.2/2022 in OP(MV)No.345/2022

Between

Rajesh, S/o Asokan, aged 34 years, Marantavida :
House, Nedumannur, Kayakkodi, Vatakara, Kozhikode. : Petitioner.

And:

1. Moideen Koya, S/o Aboobacker, New Araf House, :
Elathur, Kozhikode. :
2. Promesh K, S/o Devi, Kallikaru Parambath House, Thi- : Respondents
noor Post, Kakkattil, Vatakara. :
- 3 The National Insurance Co.Ltd, Vatakara, Kozhikode. :

This petition coming this day o for hearing before me in the presence of Sri.P.Divakaran, Advocate for petitioner and respondents not appeared and this tribunal passed the followings:

O R D E R

1. This is an application filed by the petitioner for condonation of delay of 1181 days in filing the petition under section 166 of Motor Vehicles Act.

2. The case of the petitioner is as follows:- The petitioner says that initially the case was entrusted to Adv.Kunju Moidu at Thalassery to file claim petition and Adv.Kunju Moidu expired and when enquired about the case it is revealed that he did not file the case till this date, which caused delay in filing petition. So, the petitioner requested to condone the delay of 1181 days in filing the petition and to receive the accompanied petition.

3. Notice is given to the respondents. They did not file any counter statement.

4. The points for consideration is:

Is the petition allowable ?

5. The point:- The accident in the case occurred on 25.7.2018. This petition was filed on 20.4.2022. So, there is delay of 1181 days in the case of the petitioner. It is important to note that the provision which prescribes the limitation of 6 months from the date of accident came into statute only with effect from 1.4.2022. So, it has to be inferred that the petitioner was unaware that a provision as to bar of limitation would be made applicable to his case on 1.4.22. So, the provision as to limitation can be made applicable only to petitions in which the accident took place after 1.4.22. The petitions in which the accident occurred prior to 1.4.22, it has to be interpreted that no limitation is applicable to those cases. Otherwise, there will be injustice. Hon'ble High Court in **Sathy and Others v. Dileep and others(OP(MAC)No. 51 of 2022 dtd. 1.6.22** held that the petitions in which the accident occurred prior to 1.4.22 , there is no limitation. The accident in the case on hand occurred on 25.7.2018. In view of the above, there is no delay in filing the petition. So, the petition is closed observing that there is no delay.

(Dictated to the Confidential Assistant, typed by him, corrected and pronounced by me in open court, this the 3rd day of September 2024).

Sd/-

Motor Accidents Claims Tribunal
Vatakara