

BEFORE THE MEMBER, M.A.C.T., AKOLA.

M.A.C.P. No.46/2023.

(Smt. Sarika Sunil Mali .Vrs. Pankaj Manohar Deshmukh)

CNR No. MHAK010007992023.

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ORDER BELOW EX.22.

[Passed on 7th April, 2025]

Present application is placed on record by non-applicant No.3, United India Insurance Company Limited. In the said application, non-applicant No.3 stated that the applicant have filed present claim petition under section 166 of the Motor Vehicle Act for grant of compensation on account of death of Sunil Mali, who died of accidental injuries suffered in motor accident. Said motor accident had taken place on 28.07.2016, within the jurisdiction of Civil Lines Police Station, Akola. It is alleged that truck driven by non-applicant No.1 bearing registration No. MH-20-E-5253 owned by non-applicant No.2 and insured with non-applicant No.3, involved in the said incident.

2) Non-applicant No.3 further stated that as per police papers and as per claim petition accident occurred on 28.07.2016. But the claim petition is filed on 27.02.2023. There is delay of 6 Years and 7 Months in filing present claim petition. It further stated that as per section 166(3) of Motor Vehicle Act,

1988 amended in 2019 which came into effect on 01.04.2022, the claim petition must have been filed within 6 months from the date of occurrence of the incident. As such, the non-applicant No.3 stated that the claim petition filed after the period of 6 Years and 7 Months is beyond limitation. As such it prayed for dismissal of petition.

3) Claimants filed their say vide Exh.24 to the said application. They opposed the application contending that the accident occurred on 28.07.2016, FIR lodged within 6 months from the date of accident. At the time of incident there was no limitation for filing claim petition for compensation under the provision of Motor Vehicles Act. They further contended that provisions of amended Motor Vehicle Act came into effect from 01.04.2022. As such they further contended that amended provisions are not applicable to the present matter. As such, they prayed for rejection of application.

4) Heard both sides.

5) In support of application learned advocate for claimants submits that amended provisions of Motor Vehicles Act 1988 are not applicable to the accidents which has taken place prior to the implementation of those amendments. In support of his submissions he placed his reliance on the judgment of Hon'ble Kerala High Court in the case of **Sathy and others Vrs. Dileep I.S. & Others [OP (MAC) No.51/2022 decided on 23.04.2022.]** In para No.10 of the said judgment Hon'ble

Kerala High Court has observed as under -

“Since while introducing the Act of 2019 effective from 1.4.2022, Legislature did not cause any amendment in the repealing and savings clause specifying its applicability in respect of the accidents occurred prior to the introduction of the amendment, in view of the provisions of Section 6 and the observations of the Supreme Court in the judgment in State of Punjab and others v. Bhajan Kaur and others (supra), I am of the view that the applicability of the Act i.e., introduction of the old provisions of sub-section (3) of Section 166, would have a prospective effect and the limitation period of six months would apply after introduction of amendment i.e., post 1st April 2022. In other words, in any accident occurred after 1.4.2022, provisions of the amendment caused in the Act prescribing the limitation to entertain a claim petition, the parties would be governed by the same but not in respect of the persons whom a right had already accrued and was available if the amendment had not been caused.”

6) Thus, from the observations made by Hon’ble Kerala High Court in the case of Sathy (cited supra) amended provisions of sub-section 3 of section 166 of Motor Vehicle Act are not applicable to the case at hand. Therefore, the petition filed beyond the period of six months from the date of occurrence of incident i.e. from 28.07.2016 cannot be said to be barred by limitation. Thus, for the aforesaid reasons, the

application is liable to be rejected. Hence the following order.

Order

The application (Exh.22) is rejected.

Date – 07.04.2025.

[Sanjay P. Shinde]
Member, M.A.C.T., Akola.