

15-7-2024

**ORDER ON IA No.2 FILED U/S 5 OF THE
LIMITATION ACT**

The counsel for the petitioner filed application for delay in filing claim petition.

2. The petitioner filed affidavit in support of application contending that he has filed petition for compensation on account of injuries sustained by him in the motor vehicle accident and he has taken treatment. Further submits that he had unable to given complaint before the concerned police station as he was taking treatment. After discharge from hospital he has filed private complaint before the Civil Judge and JMFC Savadatti in PCR No.327/2022 and criminal case has been registered as CC No.990/2023. Thereafter he has contacted his counsel to file claim petition against the respondent. Thereby there is delay in filing application. Hence prayed to allow the application.

3. The respondent has filed objection and opposed the application.

4. Heard. Perused the application and materials placed on record.

5. The petitioner has filed claim petition U/s 166 of M.V.Act as he has sustained injuries in the motor vehicle accident took place

on 25-6-2021. He submits that due to taking treatment he could not file complaint before the police and thereafter he filed private complaint before Civil Judge and JMFC Savadatti in PCR No.327/2022 and court has taken cognizance and registered criminal case as CC No.990/2023. Thereafter he approached the counsel to prepare claim petition. Thereby there is delay in filing the complaint.

6. In support of application he has relied the following decisions.

i) WP No.201961/2023 (MV) of Hon'ble High court of Karnataka Kalaburgi bench between The Divisional Manager United India Insurance Co., Ltd., Vs. Ramu @ Ramesh S/o Yallappa and others.

ii) MAC No.6/2023 of Hon'ble High court of Kerala at Enakulam between Akshay Raj Vs.Ministry of Law and Justice Legislative department and others.

I have gone through both judgments. The Hon'ble High court of Karnataka held 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 Section 5 of the Limitation Act to the fact situation, I do not find any infirmity thereof. Therefore, the claim

petitions U/s 166 of MV Act are come under the beneficiary legislation of MV Act. Therefore, by considering the reasons mentioned in the affidavit accompanying with application the delay in filing application is to be condoned. Hence, I proceed to pass the following:

ORDER

Application I.A.No.2 filed by petitioner U/s 5 of the Limitation Act is hereby allowed.

The delay in filing petition is hereby condoned.

III Addl Sr. CJ, Dharwad.

ORDER ON I.A.NO.4

The counsel for R.2 filed I.A.No.4 U/o 7 Rule 11 of CPC to reject the claim petition as it is filed after 6 months from 1-4-2022.

The petitioner filed objection.

I have perused the records.

The petitioner has filed application in I.A.No.2 for condonation of delay in filing petition. The same was allowed and delay is condoned. Therefore, this application does not survive for consideration. Hence, accordingly I.A.No.4 filed by R.2 is hereby dismissed.

For issues by 20-8-2024

III Addl Sr. CJ, Dharwad.