

MACC No.717 of 2023

Present : Jayashree Banerjee, Chief Judge

Order No.6, dated 23.04.2025

This is an application under Section 5 of the Limitation Act.

The claimant/petitioner has filed the claim petition for himself, claiming compensation to the tune of Rs.10 lacs. The claim petition as it appears has been admittedly filed after a delay of 3 months 10 days. It has been mentioned in the section 5 application that the claim petition could not be filed within the time limit as the petitioner was in a psychological trauma for his permanent disablement and was so disturbed that he could not able to collect original documents from the proper authority and file the claim case within the specified period. Thus there was considerable delay filing the instant claim petition by the petitioners.

Today the opposite party no.2 files hazira but he did not file any written objection to the application under Section 5 of the Limitation Act.

Having appreciated the submissions of the Ld. Counsel appearing for the claimant/petitioner, this Court is of the opinion the amendment that has been brought in the Motor Vehicle Act cannot denude a Court to exercise its discretion to allow a petition filed beyond the time specified in a particular act until and unless it is mentioned that Court cannot exercise its discretion as regard admitting a claim petition beyond the period mentioned in a particular act. It is relevant to note that Hon'ble High Courts of various States have passed judgment stating that on account of delay, the Court should take a very generous view of the matter so as to rescue the petition from being tumbled down on the ground of limitation and thereby depriving compensation to an innocent victim. Such view was taken by Kerala High Court in Palliyalimusthafali vs N. Subar. In another decision of Gujarat High Court it was the view of the Hon'ble High Court that, "Claim Tribunals is empowered to entertain the application after the expiry of the prescribed period of six months on its being satisfied that the applicant was prevented by sufficient cause from making the application in time subject to one further restriction or limitation which is introduced by the words, "but not later than 12 months." Claims Tribunal can condone delay in making an application for compensation filed beyond the period of six months but up to the period of 12 months only. Such view was expressed by the Hon'ble High Court at Gujrat in Mr. Ramdev Vejunand Bhai vs. Hardas Bhai Parbat Bhai.

Having quoted the observations of the Hon'ble High Courts as above, this Court is inclined to allow the prayer of the claimant/petitioner to condone the delay of 3 months 10 days days in filing the instant Claim Petition.

Hence, it is

Ordered

MACC No.717 of 2023

Contd.. ...order No.6, dated 23.04.2025

that the delay of 3 months 10 days in filing the instant Claim Petition is hereby condoned allowing the petitioner to proceed in the matter accordingly.

Fix 16.07.2025 for hearing of the petition under Section 159 of M.V. Act filed by O.P.2.

To date for serving copy of documents upon O.P.2 and R/O upon O.P. No.1.

Dictated & corrected by me,

Chief Judge.

Chief Judge,
City Civil Court, Calcutta.