

M.A.C. Case No. 272 of 2023

Order No : 13

Dated 04.04.2025.

Today is fixed for hearing of the application filed by the OP Insurance co. on 11.12.2024 u/s 166 (3) of the MV Act, challenging the maintainability of the claim petition on the ground of limitation.

Both the claimant and the OP Insurance co. have filed their respective hazira.

Heard the Ld. Advocate for both the sides.

Perused the application filed by the OP Insurance co. on 11.12.2024 u/s 166 (3) of the MV Act and the materials on record.

On perusal it appears that the present claimant being injured has filed the claim petition u/s 164 of the MV Act, praying for compensation on the allegation that he sustained injury on a road accident took place on 29.08.2021. The present claim petition has been filed on 22.08.2023, after about two years since the date of alleged accident.

The OP Insurance co. has come forward with the application, challenging the maintainability of the claim petition on the ground of limitation, relied upon the amended provision of u/s 166 (3) of MV Act.

According to the amended provision of section 166 (3) of Motor Vehicles Act, no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident. But the amended provision of section 166(3) of Motor Vehicles Act has come into force with effect from 01.04.2022. In the instant case the alleged accident occurred on 29.08.2021. Prior to amendment of section 166 of MV Act, introducing a provision for limitation for filing application for compensation, there was no such specific provision for limitation for filing claim application.

The right of preferring an application for compensation accrues on the date of alleged accident.

In the present case the alleged accident took place on 29.08.2021. On 29.08.2021 there was no such provision of amended section of 166(3) of MV Act. The embargo of period of limitation as introduced by way of amendment of the provision of section 166 (3) of MV Act was not in existence on the date of alleged accident on 29.08.2021.

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A right which has been accrued in favour of any person, that cannot be waived by way of any subsequent amendment, until and unless the legislation shows it's clear intention specifically that the amendment is to take effect retrospectively.

Considering the above it appears that the alleged accident took place on 29.08.2021 and the amended provision of section 166(3) of MV Act introduced with effect from 01.04.2022, accordingly the present claim application cannot be said to be barred under the provision of the section of 166(3) of MV Act and the application filed by the OP Insurance co. is liable to be rejected.

Hence it is

O R D E R E D

that the application filed u/s 166(3) of MV Act by the OP Insurance co. on 11.12.2024 is dismissed on contest.

To : 14.05.2025 for framing of issue.

D/C by me,

Judge, MACC

Judge, M.A.C.C.  
FTC-1, Islampur, U/Dinajpur.  
JO Code WB-00688