



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 200834 OF 2026 (GM-CPC)

BETWEEN:

THE ZUNO GENERAL INSURANCE CO. LTD
THROUGH ITS AUTHORIZED SIGNATORY
KAMALA ARCADE, 1ST FLOOR
NEW NO.71(OLD NO.88/A 26TH MAIN 37TH B CROSS
ROAD JAYANAGARA 9TH BLOCK,
BENGALURU 560069.

...PETITIONER

(BY SRI MOHD NAZEERUDDIN CHENGTA, ADVOCATE)

AND:

1. SUNIL SON OF AMBADAS
AGED ABOUT 30 YEARS,
OCC: MASON (GOUNDI) WORK
(NOW NIL) R/O 1/88, NEAR
MARAGAMMA TEMPLE, CHITTAPUR
DISTRICT KALABURAGI - 585211,
NOW RESIDING AT H.NO.16 ASHRAYA COLONY,
FILTER BED ROAD NEAR FILTER HOUSE,
KALABURAGI 585104
2. CHANDRASHEKHARA SON OF BHIMARAYA
AGE: MAJOR, OCC: BUSINESS,
R/O ITAGA DIGGAON, KALABURAGI - 585211
(OWNER OF THE OFFENDING VEHICLE LMV CRUISER





(FORCE MOTORS) BEARING NO KA/32/M/6943)

...RESPONDENTS

(BY SRI SANTOSH KUMAR MARADI, ADVOCATE FOR R1;
V/O DATED 23.02.2026 NOTICE TO R2 DISPNESED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, A) ISSUE A WRIT IN NATURE OF CERTIORARI AND QUASH THE ORDER DATED 10.02.2026 PASSED IN INTERLOCUTORY APPLICATION NO.IV BY THE I ADDL. SENIOR CIVIL JUDGE AND MACT AT KALABURAGI IN MVC NO.1025/2025 VIDE ANNEXURE-C AND CONSEQUENTLY ALLOW THE SAME, DIRECTING THE TRIBUNAL TO PERMIT THE PETITIONER TO FILE OBJECTION STATEMENT (WRITTEN STATEMENT) TO CLAIM PETITION; B) ISSUE ANY OTHER WRIT ORDER OR DIRECTION AS THIS COURT DEEMS FIT UNDER THE CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE; C) PASS ANY SUCH ORDER OR DIRECTION DEEMS FIT UNDER THE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

Petitioner – Insurance Company is before this Court under Article 227 of the Constitution of India seeking for the following reliefs:

"A) Issue a writ in nature of certiorari and quash the order dated 10.02.2026 passed in interlocutory application No.IV by the I Addl. Senior Civil Judge and MACT at Kalaburagi in MVC No.1025/2025 vide



Annexure-C and consequently allow the same, directing the Tribunal to permit the petitioner to file objection statement (written statement) to claim petition;

B) Issue any other writ order or direction as this court deems fit under the circumstances of the case in the interest of justice;

C) Pass any such order or direction deems fit under the circumstances of the case, in the interest of justice.

2. Heard the learned counsel for the parties.

3. The question that arises for consideration in this Writ Petition has been already considered by the Co-ordinate bench of this Court in W.P.No.203746/2025 disposed of on 25.11.2025 and in paragraph Nos.5 to 8 of the said order it is observed as follows:

"05. The reason assigned by the Tribunal to reject the written statement referring to the Commercial Courts Act, as found at Para No.22 of the impugned order appears to be misplaced and misconceived.

*06. The Apex Court in the case of **Kailash vs. Nanhku and others**, reported in **(2005) 4 SCC 480**, has held that though order VIII Rule 1 of CPC, and the proviso thereto, caste an obligation on the defendant to file written statement within time prescribed therein, the provisions do not deal with nor specifically take away the power of Court to take a written statement on record, though filed beyond time as provided for therein. The provisions are*



directly and not mandatory. The condonation of delay in filing the written statement shall be considered depending on the facts of each case. That in spite of the time limit provided under Order VIII Rule 1 CPC, the Court is not powerless to permit a written statement being filed.

07. In the instant case the petitioner is stated to have entered appearance on 22.02.2025 and written statement is taken as not filed on 22.03.2025 which according to the petitioner was still within the period provided under Order VIII Rule 1 of CPC for filing the written statement and the permission to file written statement is sought on 07.11.2025 specifically on the premise that the petitioner - insurance company was collecting the information through its internal investigation with regard to authenticity otherwise the claim.

08. The issue involved in the matter is of claim for compensation on account of death of Baragali, leaving behind his wife, children and parents, the respondents herein. The payment of compensation will have financial impact of the petitioner – insurance company. The same is to be adjudicated based on the material evidence and pleadings.”

4. In view of the aforesaid, the MACT was not justified in passing the order impugned and rejecting the written statement of the petitioner. Accordingly, the following:

ORDER

- i) The Writ Petition is ***allowed***.



- ii) The impugned order at Annexure-C dated 10.02.2026 passed on I.A.No.II in MVC No.1025/2025 by the Court of I-Additional Senior Civil Judge and MACT, Kalaburagi is quashed.
- iii) The MACT is directed to receive the written statement of the petitioner on record and proceed further in accordance with law and dispose of the claim petition as expeditiously as possible.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE