

KAKP420011852022



**IN THE COURT OF THE  
ADDL. DISTRICT & SESSIONS JUDGE, PRESIDING  
OFFICER, M.A.C.T., KOPPAL (Sitting at Gangavathi)**

**Present: Sri Sadananda Nagappa Naik,  
BAL., LLB**

**Addl. District & Sessions Judge,  
Koppal (Sitting at Gangavathi).**

**Dated this the 10<sup>th</sup> Day of October, 2024**

**M.V.C No.26/2023**

**Petitioner:**

M. Venkateshwarrao S/o M. Nararanarao

**- V/s -**

**Respondents:**

T. Venkateshwarrao S/o Rameshwarro & others

**I.A. No.1**

**Applicant / Petitioner :**

M. Venkateshwarrao S/o M. Nararanarao

**(By Sri MG, Advocate)**

**- V/s -**

**Opponents / Respondents:**

T. Venkateshwarrao S/o Rameshwarro & others

**(R2 by Sri SDP, Adv & R3 by Sri SRH, Adv)**

**ORDER ON I.A. No.1**

The Petitioner has filed the Application in I.A.No.1 U/sec.5 of the Limitation Act R/w Sec.151 of C.P.C praying to condone the delay in filing the Petition.

2. In support of the aforesaid I.A.No.1, the Petitioner has sworn to an Affidavit contending that, he has sustained grievous injuries in the accident. He could not obtained documents due to Covid-19. He was suffering from illness. If the application is not allowed by condoning the delay in filing the Petition, he will put to great hardship and loss which cannot be compensated in terms of money. On the other, if the application allowed, no harm or injustice will be caused to the other side. Hence, he has prayed to allow the Application.

3. Per contra, the Respondent No.3 has filed objections to the aforesaid I.A.No.1 in the form of Memorandum of Facts stating that, there is an inordinate delay in filing the Petition from the date of occurrence of the accident. The Petitioner ought to have filed the Petition within 6 months from the date of the accident, the same is barred by law of

limitation. The contents of the Affidavit filed in support of the I.A are all false and far away from truth. Since the issue regarding the applicability of limitation is pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to grant Stay in the matter, it is just and necessary to dismiss the claim petition. The Petitioner has not assigned any valid reasons to condone the delay in filing the Petition. Hence prayed to dismiss the I.A.No.1.

4. Heard both learned counsels on I.A.No.1. Perused the entire materials on record.

5. Now the only point that arises for my consideration are as under;

1. Whether the Applicant/Petitioner has made a ground to condone the delay in filing the Claim Petition?
2. What Order?
6. My finding on the above Points are as under;

**Point No.1 : In the Affirmative.**

**Point No.3 : As per final order for the following,**

**REASONS**

7. **Point No.1** In the present case, the Petitioner has filed an application for condoning the delay in filing the claim petition. It is not in dispute between the parties that, the accident has occurred on 23.05.2022 and the present Claim Petition came to be filed on 01.12.2022. Therefore, there is a delay in filing the present Petition. It is contended by the Respondent No.3 that as per Sec.166(3) of the Motor Vehicles Act, which came into force from 01/04/2022, no application for compensation has to be entertained unless it is made within 6 months of the occurrence of the accident. Hence, it is contended that, as the present Petition is filed beyond 6 months time, the same has to be rejected.

8. Per contra, it is the contention of the Petitioner that soon after the accident, he was admitted to the hospital and he could not file petition in time due to his illness and Covid-19. Due to Covid-19, he could contact any Advocate for instructing him to file the Claim Petition and also non-available of relevant documents, the delay was caused. It

is pertinent to note that, the Hon'ble Supreme Court of India in the case of the **Collector, Land Acquisition, Ananthanaga V/s.Katiji reported in AIR 1987 SC 1353** - it is held that, power to condone the delay has been conferred in order to enable the court to do substantial justice to parties by disposing of the matters on merits. In the present case, on perusal of the documents filed along with the Petition, it is evident that the Petitioner has sustained severe injuries and he was under treatment. Therefore, the Petitioner has made out sufficient cause to condone the delay in filing the present Claim Petition.

9. It is also pertinent to note that the Hon'ble High Court of Karnataka in the case the **Divisional Manager, United India Insurance Co.Ltd., V/s. Ram @ Ramesh & another in W.P.No.201961/2023 (MV) dated 21/07/2023** - wherein the delay application U/sec.5 of the Limitation Act was filed before the Tribunal, which came to be allowed and the Respondent had challenged the same before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka has dismissed the Appeal

challenging the condonation of limitation and observed that the Motor Vehicles Act is a beneficial Act, the benefit due to the injured cannot be taken away on technical grounds.

10. In the present case, it is not in dispute that the Petitioner has sustained the injuries in the accident and he was under treatment. As the Motor Vehicles Act is a beneficial Act, when the Petitioner had got injured in the accident and come before the Tribunal seeking compensation, his Petition should not be thrown out at threshold itself without adjudicating the rash and negligent act on the part of the driver of the offending vehicle and the compensation to be payable by the owner and Insurance Company of the offending vehicle. Therefore, the Petitioner has made out a ground to condone the delay in filing the Petition. Hence, in the facts and circumstances of the case, I answer the above **Point No.1 in the Affirmative.**

11. **Point No.2 :** In view of my findings on Point No.1 in the Affirmative as above said, I proceed to pass the following,

**ORDER**

**I.A.No.1 filed U/sec.5 of the Limitation Act R/w Sec. 151 of C.P.C by the Applicant/Petitioner is hereby allowed.**

**The delay in filing the Claim Petition is hereby condoned.**

**No order as to costs.**

(Dictated to the Typist, directly on Computer and corrected by me and then pronounced in the open court today, this 10<sup>th</sup> day of October, 2024.)

(Sadananda Nagappa Naik)  
Addl. District and Sessions Judge  
and Presiding Officer, M.A.C.T.,  
Koppal (Sitting at Gangavathi).