

KARC020027492023



**IN THE COURT OF III-ADDL. SENIOR CIVIL JUDGE &
MACT, RAICHUR.**

: PRESENT:

Smt. Krupaa C.L., B.Sc. L.L.M.,
III-Addl. Senior Civil Judge & MACT.,
Raichur.

Dated this the 28th day of August, 2025

MVC No. 350/2023

PETITIONER:

1. Smt. Ediga Laxmi W/o. Ediga Raghavendra, Age: 35 years, Occ: Household,
2. Ediga Vishnuvardhan S/o. Ediga Raghavendra, Age: 14 years, Minor Student.
3. E Sai Tanvish S/o. E Raghavendra, Age: 12 years, Minor Student.
4. Ediga Deepak S/o. Ediga Raghavendra, Age: 10 years, Minor Student.
Petitioner No.2 to 4 is minor under care and custody of her natural mother next friend petitioner No.1.
5. Ediga Susilamma W/o. Ediga Maruti, Age: 70 years, Occ: Household,
6. Ediga Maruti S/o. E Narasimaswamy, Age: 75 years, Occ: Nil.,
All are R/o. Kowthalam Village,
Kowthalam Mandalam, Kurnool
District, A.P. Now R/o. Yaragera, Tq:
Raichur, Dist: Raichur.

(By Sri. S.P., Adv.)

-Vs.-**RESPONDENTS:**

1. Nadami Sriramulu S/o. N. Basanna,
Age: 41 years, Occ: Owner of Hero HF
Deluxe Motor cycle reg No.AP-39/QF-
8240 R/o. Ward No.3, Urukunda,
Kowtalam Mandalam, Dt Kurnool, A.P.
2. The Branch Manager, TATA AIG
General Insurance Co. Ltd., Iind Floor,
J P & Devi Jambukeshwara Arcade 69
Millers Road, Bangalore.

(R-1 Exparte)

(R-2 by Sri. ASMP., Adv.)

IN I.A. NO.I

Applicant/s : TATA AIG General Insurance Co. Ltd
(Respondent No.2)

-V/s-

Opponent/s : Smt. Ediga Laxmi and others.
(Petitioners)

IN I.A. NO.III

Applicant/s : Smt. Ediga Laxmi and others.
(Petitioners)

-V/s-

Opponent/s : Nadami Sriramulu and another.
(Respondents)

I	Provision under which the application is filed	1) U/o. 7 rule 11 R.w Sec.151 of CPC. 2) Sec. 5 of Limitation Act.
II	Relief sought for	1) Rejection of petition. 2) Condonation of delay.
III	The date on which the application is filed	1) 08.02.2025. 2) 28.04.2025

IV	Number of the application	I.A. No.I IA No.III
V	The date on which the objections are filed by different opponents	1) 10.03.2025 2) 25.06.2025.
VI	The date on which the orders were passed on the said application	28.08.2025

[When the case was posted for petitioner evidence, then respondent No.2 filed IA No.I. When the case was posted for filing of necessary application, then petitioner filed IA No.3]

COMMON ORDERS ON I.A. No.1 AND 3

Respondent No.2 filed a IA No.1 under 7 rule 11 R/w Sec. 151 of CPC and Sec.166 (3) of Motor Vehicle Act-2019 with a prayer to reject the petition as the same is filed after lapse of 6 months from the date of accident.

2. Petitioners filed IA No.III under section 5 of Limitation Act with a prayer to condone the delay in filing the petition.

3. In the memorandum of the facts annexed to the IA No.I, respondent No.2 has stated that, the claim petition is filed on 05.08.2023 before this Hon'ble Court for the consideration, as the accident happened on 20.12.2022 therefore, it is clear that, there is an inordinate delay of almost 1 month 15 days in filing the petition. As per the recent amendment of motor vehicle act 1988 wherein the amendment to section 166 (3) contemplate the limitation of 6 months as to file a claim

petition before the courts. For the ready reference, the very section of 166(3) is reproduced as under:-

“No application for compensation shall be entertain unless it is made within 6 months of the occurrence of the accident”

4. In the instant case, petitioner has filed the petition after 6 month of occurrence of the accident. Therefore, the petition is hit by Section 166(3) of Motor Vehicle Act 2019. Hence, the petition is not maintainable in the eye of law. Thereby, petition may be rejected.

5. The said application is resisted by the petitioners by filing the objections. In the objections petitioners have stated that, the application filed by the respondent No.2 is not maintainable. It is further contended that, the petitioners filed claim petition on 05.08.2023 but the police have filed charge sheet after six month of the accident and copy was applied in concerned court on 24.07.2023, after receiving the copy, the claim petition was filed within 15 days. Hence, application filed by the respondent No.2 may be rejected.

6. In the duly sworn affidavit annexed to the IA No.III, petitioner No.1 has stated that, 1st petitioner's husband died due to the accident, which occurred due to the negligence of respondent No.1. And there is a delay in filing the charge sheet by the police. Further, due to lack of knowledge and mental shock, they could not make out to contact their counsel to file the petition in time. Hence, the application.

7. The said application is resisted by respondent No.2 by filing the objections. In the objections respondent No.2 insurance company has contended that, the facts stated in the affidavit annexed to IA No.1 are false, frivolous and vexatious. It is also contended that, as per section 166 (3) of MV Act, no application for the compensation shall be entertained unless, the same has been made within 6 months of the occurrence of the accident. Thereby, the application filed by the petitioners for condoning the delay is not maintainable. With all these respondent No.2 prayed to dismiss the application.

8. Heard to the learned counsels for both the parties.

9. The following points arise for the determination of IA No.I

1. **Whether the applicant made out grounds to allow the application?**
2. **What Order?**

10. The following points arise for the determination of IA No.III.

1. **Whether the applicant made out grounds to allow the application?**
2. **What Order?**

11. The findings of this Court on IA No.I the above points are;

Point No.1 : In the Negative;
Point No.2 : As per final order, for the

12. The findings of this Court on IA No.III the above points are;

Point No.1 : In the Affirmative;
Point No.2 : As per final order, for the following;

COMMON REASONS

13. **Point No.1 of IA No.1 and 3:-** By avoiding the repetition of the averments made in the application and objections, let us discuss the matter in question.

14. The petitioners filed the present petition seeking the compensation for the death of Sri. Ediga Raghavendra S/o. Ediga Maruti in a road traffic accident.

15. Respondent No.2 filed an application under order 7 rule 11 R/w Sec. 166(3) of MV Act with a prayer to reject the petition as the same is barred by law. In the memorandum of facts annexed to the said application, respondent No.2 has clearly stated that, as per section 166(3) of MV Act no application for compensation shall be entertained unless it is made within 6 months from the occurrence of the accident. Further, the accident in question occurred on 20.12.2022 but the petition has been filed on 05.08.2023, as there is a delay of almost 1 month 15 days in filing the petition, hence petition has to be rejected. The said application has been resisted by the petitioners by contending that, due to lack of knowledge they could not make out to approach their counsel in time, to file the petition within 6 months from the date of accident.

16. Petitioners filed application under section 5 of the Limitation Act with a prayer to condone the delay in filing the petition. As per the version of the petitioners due to lack of knowledge about filing the petition within time, they could not

make out to approach their counsel in time to file the petition within 6 months from the date of accident. The said application of the petitioners has been resisted by the respondent No.2 by contending that, petitioners have not assigned proper reason to allow the application and as per section 166 (3) of MV Act no application for the compensation has to be filed unless it is made within 6 months of the occurrence of the accident. Hence, the application filed by the petitioners may be rejected.

17. As stated above as per the version of the petitioners the accident occurred on 20.12.2022 and the petition has been filed on 05.08.2023 seeking compensation for death of 1st petitioner's husband in a road traffic accident. No doubt, as per section 166 of MV Act no application for the compensation shall be entertained unless it is made within 6 months of the occurrence of accident.

18. It is pertinent to note that, the Hon'ble High Court of Karnataka passed orders in WP No.20132/2024 C/W WP No.201740/2024, WP No.201737/2024 dated: 01.10.2024. The said writ petitions arose out of the orders passed by the respective tribunals in rejecting the application filed under order 7 rule 11 of CPC R/W Sec. 166(3) of MV Act, filed by the respective insurance company. The Hon'ble High Court of Karnataka by passing orders in the said WP No.20132/2024 C/W WP No.201740/2024, WP No.201737/2024, rejected the respective writ petitions filed by the respective insurance

company, by holding that, the condonation of delay granted by the claim tribunal is proper and correct.

19. In the said orders the Hon'ble High Court of Karnataka held that,

“14. Though Sub-Section (3) of Section 166 speaks of a 6- months period for filing of the claim petition, there is no embargo on application of the Limitation Act to the said proceedings and as such, this Court has held that section 5 of Limitation Act would also be equally applicable to a claim petition filed under section 166 of the MV Act.

15. This Court has also dealt with the various amendments which have been made to the MV Act and the Rules, more particularly by Central Motor Vehicles (5th Amendment) Rules, 2022 (hereinafter referred to as “Rules 2022”), whereby Rule 150A has been introduced, which provides for investigation to be conducted by the investigating officer and to file an Interim Accident Report (IAR) in Form No.5 within 50 days of the accident. After obtaining all the other details, a detailed accident report is required to be filed within 60 days in Form-VII which had been required to be submitted to the Claims Tribunal within 90 days from the date of the

accident and the Claims Tribunal is required to treat the detailed accident report as a claim petition for compensation under Sub-section (4) of Section 166 of the MV act.

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20. In the present case, there is a default on part of the jurisdictional police officer in filing the DAR, which is it had been filed would have been within time, the same being required to be filed within 90 days. Therefore, there could be no question of even condonation of delay. The insurance company cannot also take advantage of the default on part of the investigating officer in not filing the accident reports more particularly the DAR.”

20. In the instant case also investigating officer failed to file interim accident report and detail accident report as per law. Hence, as there is no embargo to file an application under section 5 of Limitation Act under section 166(3) of MV Act, petitioners can seek condonation of delay in filing the petition.

21. Moreover, in the duly sworn affidavit annexed to IA No.III it is stated that, due to lack of knowledge, petitioners could

not make out to approach their counsel in time to file the petition within 6 months from the date of accident. The said reasons stated for delay in filing the petition appears to be probable. Hence, in view of the dictum of Hon'ble High Court of Karnataka in WP No.20132/2024 C/W WP No.201740/2024, WP No.201737/2024 and by considering the facts and circumstances I opine to answer point No.1 of IA No.I in Negative as Affirmative and point No.1 of IA No.III in Affirmative.

22. **Point No.2 of IA No.I and IA No.III:** For the forgoing reasons, this Court proceed to pass the following;

ORDER

The IA No.III filed by the petitioner under section 5 of Limitation Act is hereby allowed.

Consequently, IA No.I filed by respondent No.2 under order 7 rule 11 R/W sec. 151 of CPC and Sec. 166(3) of MV Act, is hereby dismissed.

(Dictated to the Stenographer on the computer, transcribed and computerized by him, revised, corrected and then pronounced by me in the open Court on this the 28th day of August, 2025)

**III Addl. Sr. CJ & JMFC,
Raichur.**