



IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 21ST DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.201961 OF 2023 (MV)

BETWEEN:

THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE COMPANY LTD.,
REPRESENTED BY ITS BRANCH MANAGER
THE UNITED INDIA INSURANCE COMPANY
NEAR D.NO.12-10-89/1,
1ST FLOOR, ANAGA COMPLEX,
NEAR CHANDRAMOULESHWAR CHOWK
RAICHUR-584101.

...PETITIONER

(BY SRI. MOHD. ABDUL QUAYUM, ADVOCATE)

AND:

1. RAMU @ RAMESH S/O YALLAPPA,

Digitally signed by
VARSHA N
RASAEKAT
Location: HIGH
COURT OF
KARNATAKA

TRICK AND DISTRICT TRICKER 00102.

2. CHANNABASAV



3. YARIAPPA

...RESPONDENTS

(NOTICE TO RESPONDENTS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 05.07.2023 PASSED BY THE III ADDL. SENIOR CIVIL JUDGE AND JMFC, RAICHUR IN FR MVC NO. 575/2022, THE COPY OF WHICH IS AT ANNEXURE-A AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. In view of the proposed order to be passed, notice to respondents is dispensed with.
2. The petitioner-Insurance Company is before this Court seeking for the following reliefs:
 - i. *Quash the order dated 05.07.2023 passed by the III Addl. Senior Civil Judge and JMFC Raichur in FR MVC No.575/2022, the copy of which is at Annexure-A.*
 - ii. *Issue any other appropriate writ, order or direction as this Hon'ble Court may deem fit to grant in the facts and circumstances of the case, in the interest of justice.*



3. On account of an accident which occurred various persons filed claim petitions before the Trial Court in MVC Nos.575/2022, 576/2022 and 577/2022. The present petition arises out of an order dated 05.07.2023 passed by the III-Additional Senior Civil Judge and JMFC, Raichur in FR MVC No.575/2022 on an application under Section 5 of the Limitation Act, condoning delay of 5 months in filing the claim petition.

4. The submission of Sri Mohd.Abdul Quayum, learned counsel for the petitioner-Insurance Company is that in view of subsection (3) of Section 166 of the Motor Vehicles Act, 1988 (for short hereinafter referred to as 'MV Act') no claim petition can be entertained, unless it is made within six months of the occurrence of the accident. In that view of the matter, he submits that the provision of the Limitation Act would



not be applicable to condone the delay, if any, in filing the claim petition.

5. The submission is that in view of subsection (3) of Section 166 of the MV Act, the operation of Section 5 of the Limitation Act conferring power on the Tribunal to condone the delay is excluded and on this ground, he submits that the impugned order passed by the Tribunal is required to be set aside and consequently, the claim petition liable to be dismissed.
6. Heard Sri. Mohd. Abdul Quayum, learned counsel for the petitioner-Insurance Company and perused the papers.
7. Before advertent to the submission of learned counsel for the petitioner, I would advert to the context of the matter. The claim petition came to be filed by the claimant seeking for compensation on account of an accident where the claimant who is a minor, suffered from fracture on the lateral side of



the left leg, upper right leg and certain other wounds requiring major surgeries and hospitalization of the claimant and the claimant being laid up for a period of two months. Suffice it to say that the claim petition had been filed in order to redress and claim compensation for an accident which has occurred. Whether the accident has occurred and the insurance policy covers the same is a matter of trial. The only issue raised in the present matter is as regards the limitation period.

8. Section 166 of the MV Act provides for a claim of compensation to be made on account of either injury or death being caused due to a motor vehicle accident. It is amply clear that section 166 of the MV Act is a beneficial provision which is contained in the MV Act as amended from time to time to provide benefit to any injured or to the legal representatives of a deceased. The object of section 166 of the MV Act being beneficial, any provision to be applied



relating thereto would also, in my considered opinion, be required to be applied beneficially.

9. Section 5 of the Limitation Act provides for condonation of delay wherever any claim petition, appeal, etc., are filed beyond the period of limitation and provides discretion to the Court to consider the reasons made out in an application filed under Section 5 of the Limitation Act and if sufficient cause is made out to condone the delay. As aforesaid MV Act being a beneficial enactment Section 5 of the Limitation Act being enacted to provide succor to persons who have come to Court late, but with a valid reason, Section 5 of the Limitation Act would also have to be considered beneficially and there being no bar under the MV Act for applying the principles under section 5 of the Limitation Act, I am of the considered opinion that it cannot now be said that there is a blanket embargo under subsection (3)



of Section 166 of the MV Act in entertaining a claim petition filed after the limitation period.

10. There is one other way of looking at this, inasmuch as with the amendments made in the year 2019 and the Rules which have been framed in the year 2022, it is required that the Investigating Officer who registers the First Accident Report (FAR) at the time of the accident is to forward the same to the jurisdictional Court and FAR is required to be treated as a claim petition and the proceedings to commence immediately by issuance of notice to the insurance company.

11. The object of this amendment is also to see to it that claimants either injured or legal representatives of the deceased, who may or may not know the provisions of law, are provided remedy through law automatically instead of they being required to approach the Court. The FAR itself being treated as a



claim petition on the FAR being transmitted to the Court. In the present case, unfortunately, the Investigating Officer has not done so. If the Investigating Officer had forwarded the FAR, it would have been treated as a claim petition and the proceedings started and there could never be any delay in filing a claim petition as now sought to be contended by the insurance company. It is required that all the Police Officers/Investigating Officers registering an FAR relating to an accident adhere to the provision of section 159 of the MV Act and forward all first information reports registered in respect of an accident to the Motor Vehicles Accident Claims Tribunal, so that the same can be treated as the claim petition and the process commenced.

12. By way of amendment to the MV Act in the year 2019, there have been several changes which have been made to the manner in which a motor vehicle



accident has to be handled, how a victim has to be compensated, the grievance redressed, etc.,

13. In terms of Section 159 of the MV Act, the Police Officer shall during the investigation prepare an accident information report to facilitate the settlement of claim in such form and manner within three months and containing such particulars submit the same to the claims Tribunal and such other agencies as may be prescribed.

14. Section 159 of the MV Act reads as under:

159. Information to be given regarding accident.-- The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.

15. In terms of Section 160 of the MV Act, registering authority or officer-in-charge of the police station is required to perform certain duties. The said Section reads as under:



160. Duty to furnish particulars of vehicle involved in accident -- A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

16. In terms of Section 161 of the MV Act, certain interim compensation is contemplated to be paid and a scheme to be notified. The said Section reads as under:

161. Special provisions as to compensation in case of hit and run motor accident -- (1) Notwithstanding anything contained in any other law for the time being in force or any instrument having the force of law, the Central Government shall provide for paying in accordance with the provisions of this Act and the scheme made under sub-section (3), compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(2) Subject to the provisions of this Act and the scheme made under sub-section (3), there shall be paid as compensation,--

(a) in respect of the death of any person resulting from a hit and run motor accident, a



fixed sum of two lakh rupees or such higher amount as may be prescribed by the Central Government;

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees or such higher amount as may be prescribed by the Central Government.

(3) The Central Government may, by notification in the Official Gazette, make a scheme specifying the manner in which the scheme shall be administered by the Central Government or General Insurance Council, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation under this section.

(4) A scheme made under sub-section (3) may provide that,--

(a) a payment of such sum as may be prescribed by the Central Government as interim relief to any claimant under such scheme;

(b) a contravention of any provision thereof shall be punishable with imprisonment which may extend to two years, or with fine which shall not be less than twenty-five thousand rupees but may extend to five lakh rupees or with both;

(c) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of Central Government, by such officer or authority to any other officer or authority.]

17. The Central Motor Vehicles (Fifth Amendment) Rules, 2022 (hereinafter referred to as 'Rules of 2022' for



short) having come into force on 01.04.2022, those Rules which give effect to the amendment in the year 2019, would also have to be read along with and in conjunction with subsection (3) of Section 166 of the MV Act. In my considered opinion, apart from the reasons aforesaid, subsection (3) of Section 166 of the MV Act, is virtually rendered redundant, if not redundant, it is made dependent on the various actions required to be carried out by the different authorities under the Rules of 2022.

18. In terms of Rule 150A, the procedure to be followed for investigation of an accident arising out of use of motor vehicle has been provided for to be in accordance with Annexure-XIII.
19. Annexure-XIII provides for procedure for investigation of Motor Vehicle Accidents.
 - 19.1. Investigation of road accident cases by the Investigating Officer/Police who shall inspect



the site of accident, take photographs, etc., and shall intimate the accident to the claims Tribunal within 48 hours of the accident by submitting the First Accident Report (FAR) in Form-I of the Rules of 2022, which Form-I shall also be provided to the victim, State Legal Services Authority, insurer and shall also be uploaded on the website of the State Police.

- 19.2. The driver's details are required to be furnished in terms of Form-III and owner's details in terms of Form-IV within 30 days of the accident.
- 19.3. An Interim Accident Report (IAR) in terms of Form-V is required to be furnished within 50 days of the accident to the Insurance Company, victim/claimant, State Legal Services Authority, etc.,



- 19.4. The driver and owners' details are required to be verified by the Investigating Officer from the information available in the VAHAN website and a report in terms of Form-X is required to be submitted to the claims Tribunal.

- 19.5. The details of the victim or legal representatives of deceased is required to be submitted in Form-VI and if minor children are involved in terms of Form-VI-A which shall be so submitted to the Child Welfare Committee and the requirement under Juvenile Justice (Care and Protection of Children) Act, 2015 is required to be complied with.

- 19.6. The investigation/criminal cases are required to be completed within 60 days and report under Section 173 of Cr.P.C. is required to be submitted along with Detailed Accident Report



(DAR) which shall be prepared in terms of Form-VII.

19.7. The DAR is also required to be submitted to the claims Tribunal within 90 days from the date of accident. The claims Tribunal is required to treat the DAR as a claim petition for compensation under subsection (4) of Section 166 of the MV Act, if the Investigating Officer were to furnish the details of the claimants. If not so furnished, the claims Tribunal has to register the DAR as a claim petition. after the appearance of the claimants.

19.8. The Insurance Company is required to appoint a designated officer within 10 days from the date of receipt of DAR as nodal officer.

19.9. The Insurance Company verify the claim by appointing an investigator or surveyor whose report shall be forwarded to the Deputy



Commissioner of Police concerned depending upon the investigating officer finding the accident to be true or false, the necessary steps will have to be taken.

19.10. If the claim of the accident were to be genuine, then the Insurance Company is required to submit its offer to the claimants in terms of Form-XI along with report of the surveyor/investigator. If the amounts offered under Form-XI were to be accepted, a consent award is required to be passed. In case of non-acceptance, enquiry to be held in the matter.

19.11. The above indicates the action to be taken by the Investigating Officer, Insurance Company, etc., which would in effect make subsection (3) of Section 166 of the MV Act redundant.

20. It is in that background, subsection (3) of Section 166 of the MV Act, has to be considered. Subsection



(3) of Section 166 of the MV Act provides that no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident. This subsection (3) of Section 166 of the MV Act is required to be applied prospectively from the date on which the amendment came into effect and cannot be applied retrospectively.

21. Be that as it may, subsection (3) of Section 166 of the MV Act would also have to be read in consonance with Sections 159, 160 and 161 of the MV Act among other provisions of the MV Act.
22. Insofar as accident arising after the Rules of 2022 came into effect on 01.04.2022, it is required that the DAR be treated as a claim petition under subsection (4) of Section 166 of the MV Act and the persons, whose details are furnished by the Investigating Officer as claimants, are to be so treated as claimants. If the Investigating Officer were



not to furnish such details, then in the event of claimants appearing before the Court claiming compensation on account of the accident, the DAR is required to register as a claim petition after appearance of such claimants. The time period for submission of the DAR is stated to be 90 days. There is no particular time period fixed for appearance of the claimants if details are not furnished by the Investigating Officer, thus, subsection (3) of Section 166, in my considered opinion, would be rendered redundant by the methodology of carrying out investigation and registering of a claim petition. These aspects would also have to be looked into by the legislature. After the above are implemented, all the documents in terms of Forms and Annexure-XIII can be electronically transmitted among all the stakeholders as also to the Court, if that is done, then the transfer and exchange of the documents being done in an asynchronous manner. That is to say, all the stakeholders receiving the documents



simultaneously at the same or different points of time without following serial order would expedite the matter and further enable Courts to register the DAR as a claim petition, secure evidence electronically and conduct proceedings expeditiously.

23. Thus, for all the above reasons also, I am unable to accept the submission of Sri Mohd.Abdul Quayum, learned counsel for the petitioner-Insurance Company.

24. Though, these Rules of 2022 have come into effect on 01.04.2022, on enquiry, learned counsel for the petitioner-Insurance Company submits that the same has not been given effect to in its entirety. The nature of information as also quantum of information and the interaction between different departments is required to be done in an asynchronous manner and the information from each of the stake holders being required to be shared with the other real time.



25. I am of the considered opinion, that necessary directions would also have to be issued to the Director General of Police, Commissioner of Transport Department, Secretary, Health Department as also Secretary, e-Governance Department as under:

25.1. All of them are required to implement the Central Motor Vehicles Amendment Rules of 2022.

25.2. The State Police IT is directed to integrate the Police IT system with integrated Road Accident Data Base/E-Detail Accident Report (E-DAR) on the Parivahan website set up by the Ministry of Road Transport and Highways (MORTH).

25.3. The Police IT is also directed to integrate with Unique Disability ID (UDID) website set up by the Department of Empowerment of Persons with Disability of Ministry of Social Justice and Empowerment, Government of India, in order to track the disability caused to a



victim of accident and the report issued by the medical board constituted under the disability Act.

25.4.The police IT to integrate with Forensic Laboratory Management System (FLMS) set up under the State of Karnataka as also with the VAHAN website.

25.5.The police IT to integrate with all the Insurance Companies providing insurance service in the country, so as to secure the details of the insurance policy in respect of the vehicles involved in the accident on the basis of vehicle number.

25.6.The police IT to integrate with the Transport Department, so as to secure the details of the vehicle, owner and the driver involved in the accident.

25.7.All the above details to be made available to the Courts by integrating with the Case Information System, used by the Courts.



25.8.A detailed project report to be submitted in this regard in four weeks from the date of receipt of copy of this order.

26. Irrespective of Rules of 2022, in terms of Section 159 of the MV Act, if the Investigating Officer has submitted the First Accident Report in terms of Section 159 of the MV Act, the same would have reached the Court for necessary action to be taken. It is on account of Investigating Officer not having sent the First Accident Report that the above situation has arisen.
27. As afore observed, the MV Act being a beneficial Act, the provisions thereof had to be given beneficial meaning and effect. The benefit under the Act, cannot be taken away on a technical aspect that too of limitation, thus, the Trial Court having applied Section 5 of the Limitation Act to the fact situation, I do not find any infirmity thereof.



28. Learned High Court Government Pleader is directed to inform the above to the Director General of Police, Commissioner of Transport Department, Secretary Health Department, as also Secretary e-Governance Department.
29. Learned Additional Registrar (Judicial) of this Court is directed to forward a copy of this order to the Director General of Police, Commissioner of Transport Department, Secretary Health Department, as also Secretary e-Governance Department.
30. In view of the above, I do not find any infirmity in the order passed by the III-Additional Senior Civil Judge and JMFC, Raichur in FR. MVC No.575/2022, as such, the Writ Petition stands ***dismissed***.
31. Though the above matter is dismissed, to report compliance by the Director General of Police, Commissioner of Transport, Principal Secretary



e-Governance Department, Government of
Karnataka, relist on 28.08.2023 at 02:30 P.M.

32. Compliance report to be filed through the learned
Additional Government Advocate or High Court
Government Pleader.

Sd/-
JUDGE

VNR
List No.: 1 SI No.: 25