CNR: KAHC010088482024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 4492 OF 2024 (GM-CPC)

BETWEEN:

1. RAGHU MALLEGOWDA
S/O M.R.SHIVANNA,
AGED ABOUT 42 YEARS,

2. K.S.REVANNA
S/O M.R.SHIVANNA,
AGED ABOUT 38 YEARS,

BOTH ARE R/AT: WARD NO.1,
VIJAYA BANK ROAD, CHANNAPATNA,
HASSAN-573 201.

...PETITIONERS

(BY SRI. GIRISH.B.BALADARE., ADVOCATE)

AND:

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA

1. KARNATAKA STATE ROAD
TRANSPORTATION CORPORATION,
MYSORE RURAL DIVISION,
MYSORE,
REPRESENTED BY
THE DIVISIONAL COMMISSIONER,
K.S.R.T.C., HASSAN DIVISION,
HASSAN-573 201.

2. THE MANAGER,
NEW INDIA GENERAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE,
11-672100, 4TH FLOOR, TOWER BLOCK,
UNITY BUILDING, J.C.ROAD,
BENGALURU-560 024.
REGISTERED UNDER THE COMPANIES ACT.

REPRESENTED BY
THE MANAGER,
THE NEW INDIA GENERAL
INSURANCE CO. LTD.,
CHANDANA COMPLEX,
HARSHA MAHAL ROAD,
HASSAN-573 201.

…RESPONDENTS

(BY SMT. RENUKA.H.R., ADVOCATE FOR R1;
SRI. C.R.RAVISHANKAR., ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT QUASHING THE ANNEXURE-J THAT THE ORDER DATED 28.01.2022 PASSED BY THE ADDL.SENIOR CIVIL JUDGE AND COMMISSIONER FOR EMPLOYEES COMPENSATION AT HASSAN IN ECA NO.4/2017 ON IA NO.VI FILED UNDER ORDER 22 RULE 3 CPC CONSEQUENTLY ALLOW THE APPLICATION.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. The challenge in the present petition is to an order dated 28.01.2022 passed by the Addl. Senior Civil Judge and Commissioner for Employees Compensation, Hassan in ECA No.4/2017 (hereinafter referred to as the 'Impugned Order'). By the Impugned Order, an application I.A.No.VI filed under Order 22 Rule 3 of the CPC was

dismissed, since it was not accompanied by an application for setting aside abatement and for condonation of delay.

2. The claim arises out of a motor vehicle accident in which a young boy passed away. The claim petition was originally filed by his parents and thereafter even his parents have passed away. Thus, an application was filed for bringing on record the brother of the deceased as his legal representative.

3. After some arguments, learned counsel for the petitioners submits that the petitioners were not properly advised and hence they did not file an application for setting aside the abatement as well as condoning the delay. He submits that if only one opportunity is granted to the petitioners, that he would do the needful within two weeks from today.

4. The learned counsel for the respondent on the other hand submits on instructions that the respondent/KSRTC has in any event, already deposited the amounts due.

5. The facts are not in dispute. However, in the interest of justice, the learned Trial Court could have given an opportunity to the petitioners to file necessary applications for condoning the delay and setting aside the abatement before dismissing the petition. The defects in the application Under Order 23 Rule 3 CPC which have been pointed out in the Impugned Order, were curable defects. The Motor Vehicles Act is a beneficial legislation and often the victims are poor and uneducated people who may not be getting proper legal advice.

6. Given the aforegoing, this Court deems it apposite to grant one opportunity to the petitioners to make the requisite applications for condonation of delay and to set aside the abatement. If such applications are filed within three weeks from today, the learned Trial Court shall examine the applications and pass appropriate orders, in accordance with law.

7. The parties shall appear before the learned Trial Court on **15.12.2026**. The learned Trial court shall

endeavour to take up and decide these applications on the next date of hearing, in accordance with law. The petition is ***disposed of*** in the aforegoing terms. All pending applications stand closed.

8. It is clarified that this Court has not examined the matter on merits. The rights and contentions of both parties are left open.

Digitally signed by TARA VITASTA GANJU
Location: HIGH COURT OF KARNATAKA

(TARA VITASTA GANJU)
JUDGE

KS
List No.: 1 Sl No.: 35