HC-KAR

NC: 2026:KHC:63583
MFA No. 8532 of 2017

CNR: KAHC010456272017

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 17TH DAY OF NOVEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAVI V HOSMANI**

**MISCELLANEOUS FIRST APPEAL NO.8532 OF 2017(MV-D)**

**BETWEEN:**

B S VIJAYA
S/O SOMEGOWDA,
AGD ABOTU 37 YEARS,
OCC:TAXI DRIVER
SHABAREESH PROVISION STORES
KOTTIGEHARA VILLAGE AND POST
MUDIGERE TALUK
CHIKKAMAGALUR DISTRICT - 577 101.

...APPELLANT

(BY SRI GURURAJ R., ADVOCATE FOR
SRI AVINASH R., ADVOCATE)

**AND:**

KRISHNA
S/O KUPPAN
SINCE DEAD BY HIS LRS

Digitally signed by ANUSHA V
Location: High Court of Karnataka

1. SMT.VIJAYA
W/O GUNASHEKARA
AGED 50 YEARS,
COOLIE, R/O GUMMANKHAN ESTATE
HIREBYLU VILLAGE AND POST,
MUDIGERE TALUK
CHIKKAMAGALURU DIST - 577 101.

2. SMT.MANJULA
W/O LATE TASI
AGED ABOUT 43 YEARS
COOLIE, R/O BALANOOR TEA ESTATE
MOORUGADDE VILLAGE,

DURGADABETTA POST
KOPPA TALUK
CHIKKAMAGALUR DIST - 577 101.

3. GANDHI
W/O KRISHNA
AGED ABOUT 60 YEARS,
R/O BALANOOR TEA ESTATE
MOORUGADDE VILLAGE,
DURGADABETTA POST,
KOPPA TALUK
CHIKKAMAGALUR DISTRICT - 577 101.

4. SRI B G ASHOK
S/O GOPALASHETTY
AGED 36 YEARS,
R/O INDIRANAGARA
BANAKAL VILLAGE AND POST
MUDIGERE TALUK
CHIKKAMAGALUR DIST - 577 101.

…RESPONDENTS

(R1 - R3 - SERVED; V/O/D 12.11.2026 NOTICE TO R4 IS H/S)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.09.2015 PASSED IN MVC NO.660/2012 ON THE FILE OF THE PRINCIPAL DISTRICT JUDGE AND MMACT, CHIKKAMAGALURU, AWARDING COMPENSATION OF RS.2,21,000/- WITH INTEREST AT 9% P.A. FROM THE DATE OF PETITION TILL REALIZATION.

THIS APPEAL, COMING ON FOR HEARING ON I.A., THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

**ORAL JUDGMENT**

Challenging judgment and award dated 30.09.2015 passed by Principal District Judge and MACT at Chikkamagaluru, this appeal is filed.

2. There is a delay of 681 days in filing appeal. IA no.1/2017 is filed for its condonation.

3. In affidavit filed in support of application, it is stated as follows:

> *"3. The Respondents 1 to 3 herein filed MVC. No.660/2012 on the file of Principal District Judge and MACT Chikkamgaluru U/Sec 166 of Motor Vehicles Act seeking awarding of compensation amount of Rs.20,00,000/- for the death of one Subramanya in the road traffic accident which occurred on 7.9.2011.*
>
> *4. I filed objections denying the averments in the petition and TMS contended that the accident did not occur due to rash and negligent driving of the driver and vehicle is covered by insurance policy and compensation claimed is excessive and prayed for dismissal of the petition.*
>
> *5. However, tribunal on erroneous grounds allowed the claim petition and awarded compensation of Rs.2,21,000/- fastening the liability on us. Mercier*
>
> *6. It is against the said judgment and award the above appeal has been filed by me. Before the tribunal I filed my objections and due to lack of communication and bonafide reasons I could not contest the matter. In view of that the tribunal passed an award against us and same suffers from serious infirmities.*
>
> *7. After passing of award I could not immediately contact my local advocate for taking further steps in the matter as I have suffered huge loss in my petty business and*

*accident has come as a rude shock to me and I could not come out of that shock immediately. In the meanwhile, claimants filed Execution case No.227 of 2016 on the file of Principal District Judge and MMACT Chikkamgaluru for recovery of the compensation amount wherein I was forced to make small payments. It has become very difficult for me to lead my daily life along with my family members without any supportive income. However, in the last week of October 2017 I contacted my local advocate who advised me to challenge the judgment and award passed by tribunal before this Hon'ble Court.*

8. *Thereafter, certified copies of judgment and award were applied on 04.10.2017 and same was ready on 7.10.2017 and obtained on 7.10.2017. Subsequently, arranging all the papers and funds steps have been taken to file the present appeal. I am poor person residing in rented house and I have no immovable property.*

9. *The delay occurred is due to bonafide reasons as stated above supra and it is not intentional. If delay in filing the appeal is not condoned I will be put to great hardship and injury, on the other hand no hardship would be caused to the other side if same is condoned. I am advised to submit that I have got good case on merits."*

4. Learned counsel for appellant submits that since sufficient cause is shown, delay may be condoned.

5. Notice was issued to respondents were served, no objections are filed.

6. However, perusal of application and affidavit would indicate that there is a huge delay of 681 days in filing appeal. Perusal of impugned award would indicate that appellant had

engaged counsel and contested matter before Tribunal. Though he states that he suffered loss in business and was unaware about passing of impugned award, he states that claimants had filed Execution Case no.227/2016 and in which, he had appeared and made payments. Despite that he states that he approached his counsel only in October 2017, obtained certified copies and was thereafter advised to prefer appeal which indicate lethargy and negligence rather than a cause beyond control of appellant. On ground of failure to show sufficient cause, IA no.1/2017 is rejected. Consequently, appeal is also ***rejected***.

Amount in deposit is ordered to be transmitted to Tribunal for payment.

**Sd/-**
**(RAVI V HOSMANI)**
**JUDGE**

GRD
List No.: 1 Sl No.: 8