

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

MACA.No. 128 of 2012

**AGAINST THE AWARD IN OP(MV) 1956/2007 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL, KOTTAYAM DATED 31-01-2011**

APPELLANT(S)/PETITIONER IN O.P(MV) NO.1956/07 OF MACT, KOTTAYAM:

**KURIAN JACOB @ SHAJI,
S/O.SRI.P.C.KURIAN, PUTHENPARAMBIL HOUSE
KARIMBANAKULAM, KARIKKATTOOR P.O.
MANIMALA NOW DOING BUSINESS AT PUTHENPARAMBIL CATERS
PULICKAL KAVALA, VAZHOOR, KOTTAYAM.**

BY ADV. SRI.T.K.RADHAKRISHNAN

RESPONDENT(S)/RESPONDENTS IN OP(MV) NO.1956/07 MACT KOTTAYAM:

- 1. JINS B.BABU
KOCHUPARAMBIL HOUSE, POOVATHOLI P.O., KARIKKATTOOR
MANIMALA - 686 544.**
- 2. LUKOSE BABU
KOCHUPARAMBIL HOUSE, POOVATHOLI P.O., KARIKKATTOOR
MANIMALA. 686 544.**
- 3. THE NATIONAL INSURANCE CO.LTD.,
KOTTAYAM-685612.**

**ADDL.4 SRI.SATHYAN,
7, ROOX LINE, IX/83
MUNNAR, IDUKKI DISTRICT 685612.**

ADDL.R4 IS IMPEADED AS PER ORDER DATED 12-02-2015 IN IA.578/2015

**R3 BY ADVS.SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW
BY ADV.SRI.GEORGE**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.B.SURESH KUMAR, J.

M.A.C.A. No.128 of 2012

Dated 12th February, 2015.

J U D G M E N T

The claimant in an original petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. The original petition for compensation was instituted by the claimant alleging that he sustained injuries in the accident took place on 23.10.2006. It is alleged in the petition that the second respondent is the owner of the vehicle involved in the accident. The first respondent was the driver and the third respondent was the insurer of the said vehicle.

3. The third respondent filed objections to the petition for compensation contending that the second respondent is not the owner of the vehicle and that the policy for the vehicle was issued by them in favour of one Sathyan. Despite the specific contention raised by the third respondent, the claimant has not taken any steps to implead the person in whose favour the policy stands, in the proceedings. Consequently, the petition for compensation was dismissed by the Tribunal. It is aggrieved by the said decision of the

Tribunal, this appeal is preferred.

4. In this appeal, the appellant has submitted an application as I.A.No.578 of 2015 seeking orders to implead the person in whose favour the policy is issued, alleging that on subsequent enquiry, it was revealed that he is the owner of the vehicle involved in the accident.

5. The appellant being the victim of a motor accident, his inability to locate and implead the owner of the vehicle involved in the accident in the proceedings instituted by him shall not defeat his right to claim compensation for the injuries sustained by him, especially when the vehicle at the relevant time was covered by a valid insurance policy. In the said view of the matter, the appellant deserves an opportunity to implead the owner of the vehicle in the proceedings before the Tribunal.

In the result, the impugned order is set aside and the matter is remitted to the Tribunal for fresh consideration after affording the claimant an opportunity to implead the owner-cum-insured of the vehicle in the proceedings. The parties shall appear before the Tribunal on 30.3.2015.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)