

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA**

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

MACA.No. 1152 of 2014 ()

**AGAINST THE AWARD IN OPMV 1313/2006 of MOTOR ACCIDENT CLAIMS
TRIBUNAL, NEYYATTINKARA DATED 18-01-2014**

APPELLANT(S)/APPLICANT:

- 1. S.RADHA, D/O SARADHA
RESIDING AT THELLUKUZH ROADARIKATHU VEEDU
KEEZHAROR, NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT**
- 2. S. AMBIKA, D/O SARADHA
RESIDING AT THELLUKUZH ROADARIKATHU VEEDU
KEEZHAROR, NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT**
- 3. S. SHEELA, D/O SARADHA
RESIDING AT THELLUKUZH ROADARIKATHU VEEDU
KEEZHAROR, NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT**
- 4. S. BALAKRISHNAN, S/O SARADHA
RESIDING AT THELLUKUZH ROADARIKATHU VEEDU
KEEZHAROR, NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT**

BY ADV. SRI.R.NIKHIL

RESPONDENT(S)/RESPONDENTS:

- 1. DILEEP KUMAR, S/O SAMBASIVAN, MANNAKKALAPUTHEN VEEDU
KUTTIYANIKKKADU, KEEZHAROR P.O
THIRUVANANTHAPURAM 695124**
- 2. VARNADAS, KIZHAKKEKKARA PUTHEN VEEDU,
PARIKONAM, KEEZHAROR P.O, THIRUVANANTHAPURAM 695124**
- 3. THE MANAGER, ORIENTAL INSURANCE COMPANY LTD,
RAMAKRISHNA BUILDING, ARISTO JUNCTION
THIRUVANANTHAPURAM - 695 001**

**R3 BY ADV. SRI.VPK.PANICKER
R1-R2 BY ADV. SRI.P.SHANES METHAR
R BY SRI.GEORGE CHERIAN (SR.)**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**T.R. RAMACHANDRAN NAIR
& P.V. ASHA, JJ.**

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M.A.C.A. No. 1152 of 2014

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Dated this the 9th day of January, 2015

JUDGMENT

The appellants who are additional applicants before the Tribunal below are aggrieved by the dismissal of the OP, apart from the rejection of application for amendment filed as IA No.118 of 2014. The accident occurred on 29.01.2006. The case in the amendment application is that the offending vehicle involved is having registration No. KL-01 AE 6554 which is a motor cycle which was ridden by one Binu S/o. Anandan. The registered owner of another vehicle KL.01 AH- 3447 was impleaded in the OP. It appears that the case was posted for disposal. After various details available from the police records, came to the knowledge of the appellants, an application for amendment of the OP was filed. But the Tribunal has chosen to reject the application for

amendment and consequently the main original petition itself is dismissed mainly by the averments in the affidavit in support of the application are not correct and there are no bona fides.

2. We heard the learned counsel for both sides.

3. In a matter like this where the parties are seeking compensation, pursuant to a motor vehicle accident, the Tribunal ought not have taken a technical view. The injured died later and the appellants were impleaded later as additional applicants. If compensation is denied on such a technical view, it will prejudice their rights and it will result in acute hardship also. As far as the consideration of application for amendment is concerned, it is axiomatic that the Tribunal should have taken a liberal view. Where the correction of the vehicle number based on the police records was sought and further, impleadment of additional parties was also sought, no technicality should have come in the way of

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allowing the application.

Therefore, we allow the appeal, set aside the award of the Tribunal and remand OP(MV) No.1313 of 2006 for fresh consideration. IA No. 118/2014 will stand allowed. The amendments will be carried out within one month. The OP(MV) is posted for appearance of the petitioners namely appellants herein on 24.02.2015. The appearance of the respondents herein is dispensed with since new parties will have to be added and notices will have to be issued to them.

Sd/-

T.R. RAMACHANDRAN NAIR
JUDGE

Sd/-

P.V. ASHA
JUDGE