

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

MACA.No. 2116 of 2010 ()

AGAINST THE AWARD IN OPMV 1557/2004 of M.A.C.T.,ATTINGAL
DATED 18-01-2010

APPELLANT(S)/APPLICANTS:

1. LAILAKUMARI, W/O.LATE VISWAMBHARAN,
VALIYA VEEDU, MANGALAPURAM, THONNAKKAL P.O.
THIRUVANANTHAPURAM.

2. AJAYALAL (BROTHER OF DECEASED),
VALIYA VEEDU, MANGALAPURAM, THONNAKKAL P.O.
THIRUVANANTHAPURAM.

3. VIJITH (BROTHER OF DECEASED),
VALIYA VEEDU, MANGALAPURAM, THONNAKKAL P.O.
THIRUVANANTHAPURAM.

4. VIJILA (SISTER OF DECEASED),
VALIYA VEEDU, MANGALAPURAM, THONNAKKAL P.O.
THIRUVANANTHAPURAM.

(APPELLANTS 2 TO 4 ARE MINORS
REP.BY, LAILAKUMARI, 1ST APPELLANT).

BY ADV. SRI.P.K.MUHAMMED

RESPONDENT(S)/RESPONDENTS:

1. BABU VIJAYANANTHAN, MULLASSERI HOUSE,
CHERUNNIYOOR (P.O.), VARKALA, PIN 695 141.

2. SHIBU, S/O.SIVADASAN,CHAMAVILA VEEDU,
AMBLICHANTHA, CHERUNNIYOOR VILLAGE
CHERUNNIYOOR (P.O.), VARKALA, PIN 695141.

3. THE NEW INDIA ASSURANCE COMPANY LTD.,
MAIN ROAD, ATTINGAL, PIN 695 101.

R,R3 BY ADV. SRI.M.RAJAGOPALAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A No.2116 of 2010

Dated this the 3rd day of March, 2015

JUDGMENT

Ramachandran Nair, J.

When the matter came up for admission, we heard the learned counsel for the appellants and the learned counsel for the Insurance Company. We have dispensed with notice to the other respondents since the only question involved is whether the dismissal of the O.P praying for compensation by the Tribunal for non production of legal heirship certificate is sustainable.

2. We have gone through the order passed by the Tribunal. The Tribunal has not relied upon any legal principles of law or any precedents in law to hold that the legal heirship certificate should have been produced. The application for compensation is filed consequent to the death of Sri Ajin Syam, son of the 1st appellant and the brother of appellants 2 to 4. The direction therefore cannot be sustained especially in the light of the decision of this Court in **Sreerangan v. New India**

Assurance Co.Ltd. [ILR 2014 (4) Ker.659].

Accordingly the appeal is allowed and the matter is remanded back for consideration before the Tribunal on merits. The Tribunal will give both the parties opportunities to contest the matter. Since it is an O.P of the year 2004, every efforts will be taken by the Tribunal to dispose of the matter as early as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

Sd/-

T.R.RAMACHANDRAN NAIR
Judge

Sd/-

P.VASHA
Judge

rtr/

/true copy/

P.S to Judge