

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 2996 of 2009 ()

AGAINST THE ORDER IN I.A.NO.1410/2008 IN OPMV 265/2004 of
MACT,KALPETTA

APPELLANT/1ST RESPONDENT:

1. K.M. HAJIRA, AGED 30 YEARS
W/O. LATE ABDULLA THALASSERY, THALASSERY HOUSE
P.O.NIRAVILPUZHA, THONDERNAD AMSOM DESOM
MANATHAVADY.

2. K.M.NAZEER,AGED 23 YEARS, S/O. LATE ABDULLA
THALASSERY, THALASSERY HOUSE, P.O.NIRAVILPUZHA
THONDERNAD AMSOM DESOM, MANATHAVADY.

3. NASEERA, AGED 21 YEARS, D/O. LATE
ABDULLA THALASSERY, THALASSERY HOUSE, P.O.NIRAVILPUZHA
THONDERNAD AMSOM DESOM, MANATHAVADY.

4. NAJEER, AGED 19 YEARS,
S/O. LATE ABDULLA THALASSERY, THALASSERY HOUSE
P.O.NIRAVILPUZHA, THONDERNAD AMSOM DESOM, MANATHAVADY.

BY ADV. SMT.CELINE JOSEPH

RESPONDENTS/PETITIONERS:

1. KHADEEJA, AGED 32 YEARS
W/O. LATE ABDULLA, PARAKKAL HOUSE, P.O.KAIPPANCHY
THUNEN (VIA) IRINGANNUR TALUK, KOZHIKODE.

2. HARSHEENA, D/O. LATE ABDULLA,
AGED 6 YEARS, (MINOR) REP. BY KHADEEJA MOTHER.

3. ARSHIQUE, S/O. LATE ABDULLA,
AGED 6 YEARS, (MINOR) REP. BY KHADEEJA MOTHER.

4. ASHIFA, D/O. LATE ABDULLA
AGED 5 YEARS, (MINOR) REP. BY KHADEEJA MOTHER.

5. MR. SHAMSUDEEN, AGED 23 YEARS,
S/O. ANDRU, YOUVAKKAN HOUSE, NIRAVIPUZHA
THONDERNAD AMSOM, (RIVER OF VEHICEL KL-12A-9392
AUTORISHAW)

6. MAMMOOTTY AGED 38 YEARS,
S/O. ABDULLA, 227, HAJIYAR HOUSE
THONDERNAD, MANATHAVADY, WAYANA DISTRICT.

7. THE BRANCH MANAGER, BRANCH OFFICE
NATIONAL INSURANCE CO. LTD., KALPANA SHOPPING, COMPLEX
MAIN ROAD, KAIPETTA, (POLICY NO.570309/
31/6701799) (INSURER OF THE VEHICLE KL-12A-9392
AUTORISHAW.

R7 BY ADV. SRI.MATHEWS JACOB (SR.)
R7 BY ADV. SRI.P.JACOB MATHEW
R2 TO 4 BY ADV. SMT.M.A.ZOHRA

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2996 OF 2009

Dated this the 23rd day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the appellants herein aggrieved by the order in I.A.No.1410/2008.

2. The appellants are petitioners in O.P.(MV)No.265/2004 which was filed claiming compensation consequent on the death of one late Sri.Abdulla in a road accident. Respondents 1 to 4 herein filed the impleading petition as I.A.No.1410/2008 to implead them as supplemental petitioners. The appellants objected the relief sought for in the impleading petition, but the Tribunal allowed the same.

3. The learned Senior Counsel appearing for the seventh respondent and the learned counsel appearing for respondents 1 to 4 deputed the maintainability of the appeal. It is submitted that the remedy of the appellants is only after the award is passed by the Tribunal.

An appeal is provided under Section 173 of the Motor Vehicles Act only against an award. Apart from the same, the grievance, if any, of the appellants against the impugned order herein could be raised by them if the award goes against them and they can file appeal challenging the award itself where they can also take a ground with regard to the illegality, if any, in the order passed in the impleading petition. With liberty to do so, the appeal is dismissed.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.