IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

O.P.(MAC).No.1731 of 2012 (O)

[AGAINST THE ORDER DATED 9.7.2009 IN I.A.NO.7505 OF 2008 IN O.P.(MV).NO.2441 OF 2007 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR0.

PETITIONER/ 1ST RESPONDENT:-

THE MANAGING PARTNER,
M/S. JP HOTEL AND SHOPPING COMPLEX, WEST FORT, THRISSUR.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA.

RESPONDENTS/ PETITIONER & RESPONDENTS 2 & 3:-

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1. JOSE, S/O. DEVASSY,
PUTHIRI HOUSE, P.O.MUNDATHIKKODE THRISSUR DISTRICT-680001.

2. DAVIS GEORGE
9/158, NETTIKKATTIL HOSUE, P.O. CHOTTUPARA,
THRISSUR DISTRICT-680001.

3. K.J. THOMAS
KOMBUMANIKKUNNEL HOUSE, P.O. POOMALA,
THRISSUR DISTRICT-680000.

R1 BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.K.A.ANAS.

THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS:-

EXT.P1 TRUE COPY OF THE PETITION IN OPM.V. 2441/07 BEFORE THE MACT, THRISSUR.

EXT.P2 TRUE COPY OF THE ORDER DT. 9-7-09 IN I.A. 7505/08 IN OPMV 2441/07 BEFORE THE MACT THRISSUR.

EXT.P3 TRUE COPY OF THE RC BOOK OF VEHICLE BEARING REG. NO. KI-8-J-8192.

EXT.P4 TRUE COPY OF THE REGISTRATION PARTICULARS OF THE JEEP BEARING REG. NO. KL-8-J-8192.

EXT.P5 TRUE COPY OF THE REGISTRATION DETAILS PERTAINING TO VEHICLE REG. NO. KL-8-J-8192.

EXT.P6 TRUE COPY OF THE EXECUTION PETITION FILED IN OP(MV) 2441/07.

RESPONDENTS' EXHIBITS:-

NIL.

Vku/- [true copy]

K.Vinod Chandran, J.

O.P.(MAC).No.1731 of 2012-O

Dated this the 07th day of April, 2015

JUDGMENT

The petitioner challenges Exhibit P2 order passed under Section 140 of the Motor Vehicles Act, 1988 [for brevity "MV Act"]. The petitioner was impleaded as the 1st respondent in the claim petition filed by the 1st respondent herein, styling the petitioner herein as the registered owner of the vehicle which was involved in an accident. The 2nd respondent in the claim petition was allegedly the driver of the vehicle. The petitioner has produced Exhibits P3 and P4, registration particulars of the vehicle, which indicate that the vehicle was transferred in the name of one Davis George, the 2nd respondent in the claim petition, on 04.03.2004. The petitioner's contention is that the petitioner not being the registered owner, is not liable to satisfy the amount directed to be paid under Section 140 of the MV Act.

2. The learned counsel appearing for the claimant, however, would contend that going by the binding precedent in ***Sadhana Lodh v. National Insurance Co. Ltd.*** **[2003 (2) KLT 47 (SC)],** the petitioner necessarily has to file an appeal and this Court would be disabled from entertaining a petition under Article 227 of the Constitution of India.

3. Going by the binding precedent referred to above, this Court is of the opinion that the above Original Petition cannot be entertained for reason of the petitioner having an alternate remedy under the MV Act. It is to be noticed that the above Original Petition was filed on 04.06.2012 and was admitted on 05.06.2012 and the same has been pending consideration till date. The petitioner, hence, would be relegated to the remedy of appeal provided under the Act, if so advised.

The Original Petition is closed, leaving open the contentions of either parties.

Sd/-
K.Vinod Chandran,
Judge

vku.

[true copy]