

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

OP (MAC).No. 3259 of 2011 (O)

**OP(MV) 1605/2010 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
KOZHIKODE DATED 08-08-2011**

PETITIONER(S):

**MOIDEEN SHADIL @ SHADIL MOIDEEN
S/O.KHADER BASHA, AGED 6 YEARS, (MINOR)
REP. BY SALEENA, MOTHER AND NATURAL GUARDIAN
W/O. KHADER BASHA, MELEVEETIL HOUSE, CHALIYAM PO
KOZHIKODE.**

**BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN**

RESPONDENT(S):

**THE ORIENTAL INSURANCE COMPANY LIMITED
BRANCH OFFICE, JASEELA COMPLEX, BYE-PASS JUNCTION
NILAMBUR ROAD, MANJERI 676 121.**

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

**THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 05-03-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP (MAC).No. 3259 of 2011 (O)

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1 TRUE COPY OF CLAIM PETITION IN OPMV NO.1605/2010 OF THEPE
PRINCIPAL MACT, KOZHIKODE.**
- EXT.P2 TRUE COPY OF ACIDENT CUM WOUND CERTIFICATE ISSUED FROM
KOYA'S HOSPITAL, FEROKE.**
- EXT.P3 TRUE COPOY OF THE AFFIDAVIT THE PETITION NO.IA.1548/2011
IN OPMV 1605/2010 FILED BY THE PETITIONER.**
- EXT.P4 TRUE COPY OF THE AFFIDAVIT OF THE ORDER IN IA.1548/2011 IN
OPMV 1605/2010.**
- EXT.P5 TRUE COPY OF IA.1549/2011 IN OPMV NO.1605/2010 FILED BY
THE PETITIONER.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. Vinod Chandran, J.

O.P(MAC) No.3259 of 2011-O

Dated this the 05th day of March, 2015

JUDGMENT

The petitioner, represented by guardian, challenges the dismissal of an application for referring the petitioner to a Medical Board for assessing disability. The Tribunal sought for the presence of the petitioner and found that there is no disability except some surgery marks. At this point, more than four years have elapsed and the five year old would now be 10 years old. This Court is not inclined to interfere with Exhibit P4 order.

2. However, it is noticed that the proceedings before the Tribunal was stayed from 11.10.2011 onwards. In such circumstance, the proceedings shall be continued and the Tribunal shall secure the presence of the petitioner and if there is no disability discernible, there would be no reason for sending the petitioner for medical examination. However, if the Tribunal is able to find some aspect of disability, then the Tribunal could consider the same; but on a fresh application made by the petitioner.

The Original Petition is disposed of as above.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]