

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

OP (MAC).No. 26 of 2015 (O)

IN OPMV 822/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA.

PETITIONER(S) (1ST RESPNDENT IN THE TRIBUNAL BELOW):

VINOD,
AGED 38 YEARS, S/O.MUKUNDAN,
MALIKATHARA HOUSE, THIRUMALA BHAGAM P.O.,
CHERTHALA.

BY ADVS.DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SRI.S.SIDHARDHAN
SMT.R.UDAYA JYOTHI
SRI.PRATHAP. S.R.K.
SMT.M.SUSEELA

RESPONDENT(S) (PETITIONERS 1 TO 3 AND RESPONDENTS 2 TO 4 IN THE

TRIBUNAL BELOW):

1. SHERLYMOL @ THANKACHI,
AGED 43 YEARS, W/O.MAHILAL,
CHETTIYAZHATHU VEEDU, VARANAM P.O.,
CHERTHALA - 688 555.
2. ANANDU,
AGED 17 YEARS, S/O.MAHILAL,
CHETTIYAZHATHU VEEDU, VARANAM P.O.,
CHERTHALA - 688 555 (MINOR) .
3. ANOOP (MINOR) ,
AGED 14 YEARS, S/O.MAHILAL,
CHETTIYAZHATHU VEEDU, VARANAM P.O.,
CHERTHALA 688 555.
4. KISHORE,
AGED 44 YEARS, S/O.BALASUBRAMANIA GANAKAN,
CHEENAPPURATHU VEEDU.
KANJIKKUZHI PANCHAYAT-1, VARANAM P.O.,
CHERTHALA - 688 555.

5. THE ORIENTAL INSURANCE CO LTD,
BRANCH OFFICE, ALAPPUZHA -688 011.
6. T.R RAHIM,
AGED 51 YEARS, S/O.ABOOBACKER,
POOVATHIL HOUSE, NEAR AMBALAKULANGARA TEMPLE,
MANNANCHERRY P.O.,
ALAPPUZHA 688 538,
(RESPONDENTS 2 AND 3 WHO ARE MINORS
ARE REPRESENTED BY THEIR MOTHER THE 1ST RESPONDENT
SHERLYMOL WHO HAS BEEN APPOINTED AS THEIR GUARDIAN IN
THE TRIBUNAL BELOW)

BY ADV. SMT.K.S.SANTHI.

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 06-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE LETTER DATED 15-04-2001 ISSUED BY
THE PETITIONER TO THE JOINT REGIONAL TRANSPORT
OFFICER, CHERTHALA.

EXHIBIT P2 TRUE COPY OF THE REPRESENTATION DATED 12-01-2004 MADE
BY THE PETITIONER TO JOINT REGIONAL TRANSPORT OFFICER,
CHERTHALA.

EXHIBIT P3 TRUE COPY OF THE RR NOTICE DATED 13-06-2014.

EXHIBIT P4 TRUE COPY OF THE PETITION DATED 29-10-2014, E.A. NO
298/2014 IN E.P. NO 44/2011 IN O.P(MV) NO 822/2003 OF
THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K.VINOD CHANDRAN, J

O.P.(MAC). 26 of 2015

Dated 6th March, 2015

JUDGMENT

The petitioner has filed the Original Petition seeking issuance of a certified copy of the order dated 18.02.2015 in Ext.P4 petition and for staying all further proceedings in E.P.No.44 of 2011 in OP(M).822 of 2003 on the file of the Motor Accidents Claims Tribunal, Alappuzha, for a reasonable period so as to enable the petitioner to challenge the order dated 18.02.2015.

2. It is to be noticed that the petitioner has not made any averment with respect to the date on which an application for certified copy was made nor has the petitioner produced the said application before this Court.

3. Ext.P4 petition itself is one filed

for staying the Execution proceedings on the ground that an appeal has been filed before this Court numbered as M.A.C.A.2164 of 2014 against the Award dated 31.03.2009. The appeal is said to be delayed by more than about 1800 days. The petitioner's remedy would be to move an application in the appeal to get a stay and not before the Motor Accident Claims Tribunal to stay the execution till orders are passed in the appeal filed.

4. It is also to be noticed that the alleged accident occurred in the year 2003 and the Award was passed on 31.03.2009. The copy of the Award is not produced herein. The petitioner contends that the liability was mulcted on the registered owner, the petitioner herein, since the insurance policy was an Act-only policy and did not cover the damages of a pillion-rider which would be the liability of the registered

owner itself. The petitioner's contention of sale of vehicle is based on Ext.P1 which is said to be a letter addressed to the Joint RTA, Cherthala informing the authority that the said vehicle has been sold. Nothing is indicated as to when the said application was filed or whether the same was sent by registered post.

5. In any event, Section 50 of the Kerala Motor Vehicles Act, 1988 (for short 'the Act'), prescribes for a transfer of registration to be applied for in the form as indicated in the Rules. The sale letter issued in the form prescribed under the Act and Rules, has to be presented by the transferee and there is also a provision for the transferor to intimate such transfer to the authorities, again in the form prescribed under the Act. No reliance can be placed on Ext.P1.

The Original Petition, for all the above

reasons, is found to be not maintainable and the same is dismissed *in limine*.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//