

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

OP (MAC).No.28 of 2015 (O)

**(AGAINST THE ORDER IN I.A.NO.3088/2014 IN O.P(MV) NO.1050/2003 OF THE
MOTOR ACCIDENTS CLAIMS TRIBUNAL,KOLLAM.)**

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PETITIONER:

**DR.RASEENA,W/O.LATE NAJEEB ABDUL VAHAB,
MEMANA,PANANGADU P.O,ERNAKULAM.**

**BY ADVS.SRI.M.ASHRAF
SMT.S.JASMINE**

RESPONDENTS:

- 1. THE BRANCH MANAGER,
NATIONAL INSURANCE COMPANY LTD,
DAMODAR CHAMBER,STATUE JUNCTION,
TRIPUNITHURA,ERNAKULAM-682 020.**
- 2. SAHAL NAJEEB (MINOR),D/O.LATE NAJEEB ABDUL VAHJAB,
MEMANA,PANANGADU P.O,ERNAKULAM-690526.**
- 3. NAURIN NAJEEB (MINOR),D/O.LATE NAJEEB ABDUL VAHJAB,
MEMANA,PANANGADU P.O.,ERNAKULAM-690526.**
- 4. AYSHA,MOTHER OF LATE NAJEEB ABDUL VAHAB,
MEMANA,PANANGADU P.O,ERNAKULAM-690526.**

BY SRI.M.A.GEORGE,S.C.

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 19-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

OP (MAC).No.28 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS

**EXHIBIT P1:TRUE COPY OF THE APPLICATION IA 3088/14 IN OP(MV) NO.1050/13
BEFORE MACT,KOLLAM DATED 09.06.14.**

**EXHIBIT P2:TRUE COPY OF THE ORDER PASSED BY THE MACT KOLLAM
DATED 28.6.14.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

K.VINOD CHANDRAN, J

OP(MAC). 28 of 2015

Dated 19th March, 2015

JUDGMENT

The petitioner, wife of a deceased, had, along with the other legal heirs, the children and the mother of the deceased, filed a Claim Petition before the Motor Accidents Claims Tribunal (MACT), Kollam. OP(MV).1050 of 2003 was allowed as per Award dated 06.02.2010. The Award had directed certain amounts to be deposited for a period of five years. The amounts were apportioned as against the petitioner/wife and the two minor children and the mother of the deceased who are respectively respondents 2, 3 and 4.

2. The petitioner filed an application before the MACT evidenced at Ext.P1 seeking withdrawal of the amounts awarded. The same was dismissed as per Ext.P1. The petitioner's eldest

son is now studying in the 12th standard and the daughter is studying in the 11th standard. The petitioner requires the amounts for educational purposes of the children. It is also to be noticed that the amounts apportioned in the name of the minor children are already in deposit and the same remains so with a lien to the MACT.

3. As far as the petitioner is concerned, she is a Gynecologist working in a hospital. The deposit as directed by the Honourable Supreme Court in **Kerala State Road Transport Corporation v. Susamma Thomas (1994 (2) SCC 176)** was to protect the interest of the claimants who are illiterate and who are unable to look after themselves.

4. In the present case, the petitioner is a doctor and is employed also. It cannot be said that the petitioner's affairs has to be

monitored by the Court and she is unable to look after herself or her children. In such circumstances, going by the dictum laid down in **Padma A.V and Others v. R.Venugopal and Others (2012 (3) SCC 378)** , this Court is of the opinion that the amounts apportioned to the petitioner can be released. The MACT, Kollam shall do the same within a period of one month from the date of receipt of a copy of this judgment. The order at Ext.P2 shall stand set aside.

The Original Petition is allowed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//