

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

OP (MAC).No. 33 of 2015 (O)

OPMV 1152/2010 of M.A.C.T.,ERNAKULAM

PETITIONER(S):

1. SHIJU JOSEPH, AGED 43 YEARS
S/O JOSEPH, MUNDACKAL HOUSE, THIRUVAMKULAM P.O
ERNAKULAM DISTRICT
2. A.S SURENDRAN,
S/O SIVARAMAN, JAYASREE NIVAS VEETIL, NORTH EXHIPPURAM
MARAMPILLY P.O, ALUVA

BY ADV. SRI. RONALD PAUL

RESPONDENT(S):

1. THE DEPUTY TAHSILDAR(RR),
KANAYANNOOR TALUK OFFICE, ERNAKULAM 682011
2. THE DEPUTY TAHSILDAR (RR),
KUNNATHUNADU TALUK OFFICE, PERUMBAVOOR-686303
3. THE VILLAGE OFFICER,
VILLAGE OFFICE, THIRUVAMKULAM, THIRUVAMKULAM P.O
PIN-686231
4. THE VILLAGE OFFICER,
VILLAGE OFFICE, (MARAMPILLY), VAZHAKULAM-286304
5. THE NATIONAL INSURANCE COMPANY LTD,
REPRESENTED BY ITS MANAGER, REGIONAL OFFICE, M.G ROAD
ERNAKLAM-682016

BY SRI.M.A.GEORGE

BY GOVERNMENT PLEADER SRI. BIJU MEENATOOR

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 20-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (MAC).No. 33 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE AWARD IN OP(MV) 1152/2010 OF THE
MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM

EXHIBIT P2 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED
20.2.2015, ISSUED BY THE DEPUTY TAHSILDAR, ERNAKULAM

EXHIBIT P3 TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 04-02-
2015 ISSUED BY THE DEPUTY TAHSILDAR, KUNNATHUNADU

EXHIBIT P4 TRUE COPY OF THE LICENSE AND BADGE OF THE SECOND
PETITIONER

EXHIBIT P5 TRUE COPY OF THE I.A NO 9651/14 FILED TO SET ASIDE THE EX-
PARTE AWARD

EXHIBIT P6 TRUE COPY OF THE I.A NO 9653/2014 FILED TO RECEIVE THE
DOCUMENT

EXHIBIT P7 TRUE COPY OF THE I.A NO 9649/14 FILED TO STAY THE
OPERATION OF THE REVENUE RECOVERY NOTICE

EXHIBIT P8 TRUE COPY OF THE I.A NO 9652/14 FILED TO RECALL THE
REVENUE RECOVERY REQUEST.

//True Copy//

P.S. To Judge

K.VINOD CHANDRAN, J

OP(MAC). 33 of 2015

Dated 20th March, 2015

JUDGMENT

The petitioners are the owner and driver of a vehicle which was involved in an accident in which one N.D.George sustained injuries. The said claimant who is not impleaded herein, filed a Claim Petition before the Motor Accident Claims Tribunal, Ernakulam as OP(MV). No.1152/2010 in which an Award was passed as early as on 15.07.2013. The amount awarded were Rs.38,000/- with interest @ 8% per annum. Both the petitioners did not appear before the Tribunal despite notice being issued. Revenue recovery proceedings were issued as per Exts.P2 and P3. The petitioners then realized their fault for not having appeared before the Tribunal. The driver, who is the 2nd petitioner, had a valid driving licence, a copy of which is produced herein as Ext.P4.

2. The accident occurred on 17.03.2010. *Prima facie* Ext.P4 shows that he had a valid driving licence during the said period, despite the fact that the driving licence was suspended between 26.03.2010 to 25.06.2010 as per the order of the Assistant Licensing Authority, North Paravur. However, the petitioners have not appeared before the Tribunal despite the notice having been served. In such circumstances, the applications cannot be directed to be considered unless otherwise on terms. The Insurance Company had paid the amounts and had initiated recovery expending considerable amounts. The petitioners had taken up the contention that the 2nd petitioner had a valid driving licence, after a long delay.

3. In such circumstances, revenue recovery proceedings shall be kept in abeyance for a

period of three months. The petitioners and the Insurance Company shall appear before the MACT, Ernakulam on 20.04.2015. The petitioners shall also within that time, pay cost of Rs.5,000/- (Five Thousand) to the Insurance Company. The Insurance Company shall file a statement as to the exact amounts due from the petitioners before the Tribunal, within a week from the date of appearance. The petitioners shall deposit the entire amounts due as verified by the Tribunal, within a period of one month thereafter. On such deposit being made and the cost having been paid, the Tribunal shall consider the application for setting aside the *ex parte* Award, condone the delay and allow it.

4. However, it is made clear that the Award shall be set aside only to the extent of the liability which was mulcted on the petitioners. The Tribunal shall not issue any

notice to the claimant and the only issue to be considered by the Tribunal is whether there was a valid driving licence at that point of time. The petitioners shall be permitted to adduce evidence for the same and issue to be considered would be only as to the violation of policy and if no violation is found, then the amount deposited by the petitioner shall be refunded to him. However, if violation is affirmed, the amount deposited shall be disbursed to the Insurance Company.

The Original Petition is disposed of.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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