

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

OP (MAC).No. 34 of 2015 (O)

**AGAINST THE AWARD IN OPMV 1529/2006 of M.A.C.T., THALASSERY DATED
08-11-2013**

PETITIONER(S):

**1. RAJAN P, S/O KURUVAN, PALAKANDI VEEDU
P.O PAYAM, KANNUR DISTRICT
(OWNER OF THE VEHICLE BEARING NO. KL-13/C-7104)**

**2. MUJEEB RAHIMAN P, S/O EBRAHIM,
PANKKADU HOUSE, P.O PAYAM
PERUMPARAMBU, KANNUR DISTRICT.
(DRIVER OF THE VEHICLE BEARING NO. KL-13/C- 7104)**

**BY ADVS.SRI.P.V.JAYACHANDRAN
SRI.E.B.SHIVANANDAN
SRI.NIDHI BALACHANDRAN**

RESPONDENTS:

**1. MOHANAN, S/O KUNJIRAMAN NAMBIAR
AGED ABOUT 57 YEARS, KADANKODAN HOUSE
PADIYOUR AMSOM, OORATHUR DESOM
ALATHUPARAMBA P.O, KOSHUMVAYAL, KANNUR
(CLAIMANT IN IO (MV) 1529/2006)**

**2. THE MANAGER
M/S. UNITED INDIA INSURANCE COMPANY LIMITED
P.B NO. 97, NARANGAPURAM P.O, THALASSERY
(INSURER OF THE VEHICLE BEARING NO. KL-13-C-7104)**

R BY SRI.P.K.MANOJKUMAR,SC,UNITED INDIA INSU

**THIS OP (MAC) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS

**EXT.P1 COPY OF THE AWARD DATED 8.11.13 IN OP(MV) 1529/2006, PASSED
BY THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY.**

**EXT.P2 COPY OF THE INTERLOCUTORY APPLICATION 5066/14 FILED BY
THE 2ND RESPONDENT TO RECOVER THE AWARD AMOUNT FROM
THE PETITIONERS.**

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

PA to Judge

SB

K. VINOD CHANDRAN, J.
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O.P.(M.A.C) No.34 of 2015 - O
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Dated this the 18th day of March, 2015

J U D G M E N T

The petitioner contends that the liability mulcted on the petitioner as per Ext.P1 order would be inconsistent with the declaration of law of the Full Bench reported in **National Insurance Company Ltd v. Jisha [2015(1) KLT 1]**. However, Ext.P1 is an appealable order, which remedy, the petitioner has not availed till date, despite the award having been passed on 08.11.2013. Definitely, that would be a valid contention in appeal. But, however, without challenging Ext.P1, there can be no invocation of the remedy under Article 226 of the Constitution of India. The petitioner is relegated to the appellate remedy, if so advised.

The writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge