

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

OP (MAC).No. 43 of 2015 (O)

(OP(MV).NO. 1261/2007 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA)

PETITIONER :

**MRS. SUJATHA SUKUMARAN, AGED 52 YEARS,
W/O. LATE SUKUMARAN, ELANJITHARA HOUSE,
THIRUMALBHAGAM P.O., THURAVOOR VILLAGE,
ALLEPPEY DISTRICT.**

**BY ADVS.SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SMT.ANILA PETER
SRI.RADHIKA RAJASEKHARAN P.
SRI.J.VIVEK GEORGE**

RESPONDENT(S):

- 1. M.P. BIJU,
MURINGAKKALAYIL HOUSE, MANDIRAM P.O.,
RANNI - 689 672.**
- 2. SASIKUMAR,S/O. KESAVAN ACHARI,
ALUNKAL HOUSE, MANDIRAM P.O., RANNI-689 672**
- 3. THE ORIENTAL INSURANCE CO LTD.,
BRANCH OFFICE, IST FLOOR, NEDVELIL BUILDING,
PAZHAVANGADI P.O., RANNI - 689 612.**

R3 BY ADV. SMT.K.S.SANTHI

**THIS OP (MAC) HAVING BEEN FINALLY HEARD
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP (MAC).No. 43 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE AWARD IN O.P (M.V).NO.1261/2007 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPUZHA DATED 24/01/2012.

EXHIBIT-P2- TRUE COPY OF THE APPLICATION NUMBERED AS I.A 1990/2014 IN O.P (MV).NO. 1261/2007 DATED 28/06/2014.

EXHIBIT-P3- TRUE COPY OF THE BILL, RECEIPT AND 3 OTHER DOCUMENTS

EXHIBIT-P4- TRUE COPY OF THE ORDER IN I.A 1990/2014 IN O.P(MV) 1261/2007 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA DATED 27/08/2014.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.V. RAMAKRISHNA PILLAI, J.

O.P.(MAC) No.43 of 2015

Dated this the 18th day of June, 2015.

JUDGMENT

Aggrieved by Ext.P4 order passed by the Motor Accidents Claims Tribunal, Alappuzha rejecting Ext.P2 application for the release of the petitioner's share in the award amount which is now kept in deposit in a nationalised bank, the petitioner has come up before this Court.

2. The petitioner herein is the 1st claimant in O.P.(M.V) No.1261 of 2007 on the files of the Motor Accidents Claims Tribunal, Alappuzha. The petitioner alleges that she preferred the same when she lost her husband in a motor accident. Her minor son and mother in law were the other claimants. The tribunal by Ext.P1 award was pleased to award a sum of Rs.4,16,948/- with interest thereon to the three claimants. The petitioner is living in a dilapidated house and though she started the renovation of the building, she could not complete the work for want of funds. It is further alleged that she

preferred Ext.P2 application seeking permission to withdraw the money lying in her fixed deposit. When the same came up for consideration, the Tribunal directed her to produce ownership certificate as well as the completion certificate from the Engineer dealing with the work. Since such a certificate will be issued only on completion of a building, and since she neither had the means to complete the same without availing a portion of the fixed deposit, nor had engaged an engineer to do the work, she accordingly instructed her counsel. However, the Tribunal was not willing to accept the said submission.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the third respondent in the matter.

4. The petitioner alleges that her house is in a dilapidated condition and it has become necessary to keep the same renovated. The petitioner further points out that she had started the renovation work and the work was entrusted to one contractor. However she could not complete the work for want of funds.

5. The learned MACT cannot be found fault with for restricting the release as the learned Tribunal is bound by the directions of the apex court in **KSRTC v. Susamma Thomas [1994 (2) SCC 176]**. However, as it appears from the records that the petitioner's grievance is genuine, this Court is of the view that a direction can be issued to the learned Motor Accidents Claims Tribunal to release the balance now kept in deposit to the petitioner.

Therefore, the writ petition is allowed. The petitioner is permitted to withdraw the petitioner's share in the award amount which is now kept in deposit in the nationalised bank, within a period of one month from the date of receipt of a copy of this judgment. The petitioner shall submit the application for release on the strength of the judgment stating that time within which she would be able to complete the renovation. The learned MACT shall fix a time for production of the completion certificate to ensure the utilisation of the money.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.