

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

OP (MAC).No. 44 of 2015 (O)

OP(MV) 433/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,TRIVANDRUM

PETITIONER(S)/IMPLEADED APPLICANTS:

1. **S.KOLAPPAN CHETTIYAR, AGED 68 YEARS**
(DIED ON 28-4-2012), S/O.SUBRAMANIYAN CHETTIAR
RESIDING AT T.C 9/1988, :PADMA GIRI", KOCHAR ROAD
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM.
2. **C.BABY THANKAM, AGED 68 YEARS**
W/O. S KOLAPPAN CHETTIYAR, RESIDING AT T.C 9/1988
:PADMA GIRI", KOCHAR ROAD, SASTHAMANGALAM P.O
THIRUVANANTHAPURAM.
3. **K.PADMAKUMAR, AGED 43 YEARS**
S/O. S KOLAPPAN CHETTIYAR, RESIDING AT T.C 9/1988
:PADMA GIRI", KOCHAR ROAD, SASTHAMANGALAM P.O
THIRUVANANTHAPURAM.
4. **K.NANDAKUMAR, AGED 41 YEARS**
S/O.S. KOLAPPAN CHETTIYAR, RESIDING AT T.C 9/1988
:PADMA GIRI", KOCHAR ROAD, SASTHAMANGALAM P.O
THIRUVANANTHAPURAM.

BY ADV. SRI.SREEKANTH S.NAIR

RESPONDENT(S):

1. **S.MURUGAN**
RESIDING AT HOUSE NO 6/1666, MELE PADINJATTIL VEEDU
THURUVICKAL, AKKULAM
THIRUVANANTHAPURAM
(OWNER OF LORRY BEARING REG NO KL-07-E 6975).

PJ

.....2/-

OP (MAC).No. 44 of 2015 (O)

2. THE ORIENTAL INSURANCE CO.LTD
DIVISIONAL OFFICE NO II, ST. MARY VILLA, ULLOOR
MEDICAL COLLEGE P.O
THIRUVANANTHAPURAM II (INSURER OF THE LORRY BEARING RG.
NO KL-07-E 6975 POLICY NO 442300/2005/21305 .

3. RAMACHANDRAN
S/O.GOPALAKRISHNAN, PARAYIL KANDATHIL, T.C 17/999
QUARTERS NO 38, CHANDIARA, POOJAPURA.

BY ADV.SMT.K.S.SANTHI

THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 31-03-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

OP (MAC).No. 44 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHBIIT P1 TRUE COPY OF THE OP(MV) NO 433/2005 FILED BEFORE THE
HON'BLE MACT COURT,THIRUVANANTHAPRUAM**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.VINOD CHANDRAN, J.
=====

O.P.(M.A.C) No.44 of 2015
=====

Dated this the 31st day of March, 2015

JUDGMENT

The petitioners are aggrieved by the fact that the Tribunal has taken the claim petition for judgment and posted it to 31.03.2015. The petitioners contend that the petitioners were not informed of the posting of the case and that there was an amendment made seeking enhanced compensation, which was limited by the counsel, without the knowledge of the petitioners and hence the petitioners seek further time to prosecute the matter before the Motor Accidents Claim Tribunal.

2. It is to be noticed that the original claimant in the claim petition; died on 28.04.2012; whose wife and children are the petitioners 2 to 4 respectively. The petitioners 2 to 4 claim that they have been impleaded in the claim petition as claimants after the death of the original claimant. An amendment application is said to have been filed, seeking

enhancement of the claim amount, which necessarily would have been executed by the respondents 2 to 4. The case was pending from 2012 and the matter was posted on 13.02.2015 on which date it was posted for evidence to 03.03.2015. The petitioners' contention is that they were not informed by the counsel of the posting dates and that the counsel has limited the claim, to Rs.2 lakhs, despite the petitioner's desiring to seek an amount of Rs. 5 lakhs. When the amendment application was filed by the petitioners themselves, there is no explanation as to why they limited the claim. The grounds raised in the writ petition to seek time to prosecute the claim petition afresh, are all allegations against the conduct of the counsel; which is not sufficient reason for this Court to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India.

3. The Tribunal cannot be found fault with, for posting the case for evidence and marking the documents on the date when it was posted for evidence. If the petitioners have grievance against the conduct of the counsel, the forum to

ventilate that is not this Court. The petitioners would have to take such remedies before the appropriate authority. There is absolutely no averment as to when the impleadment was effected or the application for amendment was filed and allowed. Any prayer for re-opening of evidence and the like would have to be made before the Tribunal itself, at the first instance. The contentions raised in the writ petition are specious and does not merit any consideration. This Court is of the opinion that the above writ petition is a mere dilatory tactic and there is no reason why the same should be entertained.

Writ petition is dismissed in limine.

Sd/-

K.VINOD CHANDRAN, JUDGE

vdv