

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

OP (MAC).No. 83 of 2015 (O)

OP(MV) 1240/2008 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR

PETITIONER:

**LIVY T. VARGHESE,
35 YEARS, W/LATE LIJU VARGHESE,
NOW RESIDING AT THARAYIL HOUSE,
EAST OF MILLUNGAL JUNCTION, KNANJIRAMATTOM P.O.
ERNAKULAM.**

BY ADV. SRI.SHIJU VARGHEESE

RESPONDENT(S):

- 1. DEVASIA THOMAS,
KANJIRAPILLIL HOUSE, VATTAMPAR, KANJIKUZH P.O.
IDUKKI-685603 (REGISTERED OWNER OF KL7 M/4291 LORRY).**
- 2. DEVASSY ALIAS BABY,
S/O.CHACKO, VENGALAKUDY VEETIL, NEAR ADOOPARAMBU
AANIKATTU KARA,
MUVATTUPUZHA VILLAGE (DRIVER OF KL 7M/4291 LORRY).**
- 3. UNITED INDIA INSURANCE CO. LTD.,
P.B. NO.5, PRAKASH BUILDING,
THODUPUZHA-685584. (KL 7M/4291 LORRY).**
- 4. VARGHESE, AGED 61 YEARS, KIJU BHAVAN, ULANNOOR
KULANADA, PATHANAMTHITTA
(FATHR OF DECEASED LIJU VARGHESE)-689503.**
- 5. LILLYKUTTY,
AGED 56 YEARS, W/O.VARGHESE, KIJU BHAVAN,
ULANNOOR, KULANADA,
PATHANAMTHITTA (MOTHER OF DECEASED LIJU VARGHESE)- 689503.**

BY SRI.JOHN JOSEPH VETTIKAD

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 09-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (MAC).No. 83 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1; TRUE COPY OF THE ORIGINAL PETITION NO.1240/2008 DATED
10.9.2008**

**EXHIBIT P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 3RD
RESPONDENT**

**EXHIBIT P3: TRUE COPY OF THE JOINT WRITTEN STATEMENT FILED BY THE
RESPONDENTS 4 AND 5 DATED 10.6.2011**

EXHIBIT P4: TRUE COPY OF THE OP NO. 1345/2010 DATED 9.10.2010

**EXHIBIT P5: TRUE COPY OF WRITTEN STATEMENT FILED BY THE PETITIONER
DATED 16.7.2011**

EXHIBIT P6: TRUE COPY OF THE NOTICE DATED 26.5.2015

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

O.P.(MAC) No. 83 of 2015

Dated this the 9th day of July, 2015.

JUDGMENT

The petitioner has come up before this Court alleging that the Motor Accident Claims Tribunal, Perumbavoor had transferred Ext.P1 original claim petition for consideration by Motor Accident Claims Tribunal, Pathanamthitta without the petitioner's connivance.

2. The petitioner along with her minor daughter filed Ext.P10 original petition on 10.9.2008 before the MACT, Preumbavoor for compensation on the death of her husband in which respondents 4 and 5, the parents of her husband, who are residing at Pathanamthitta, are parties. In Ext.P1, respondents 4 and 5 entered appearance on 17.8.2009. They filed Ext.P4 OP before the MACT, Pathanamthitta on 9.11.2010, ie, after 2 years of filing Ext.P1, for compensation on the same cause of action. The MACT, Perumbavoor listed Ext.P1 OP for trial to 18.6.2014 and the petitioner adduced

evidence. Thereafter, the case was adjourned on the ground that Ext.P4 claim petition is pending before MACT, Pathanamthitta. Thereafter, Ext.P6 notice was issued by the MACT, Perumbavoor informing the petitioner that Ext.P1 is transferred to MACT, Pathanamthitta as per Order dated 25.5.2015 of MACT, Perumbavoor. The said order was passed without hearing the petitioner and also without following any of the procedure; it is alleged.

3. When the matter came up for consideration on 24.6.2015, this Court directed the Registry to get a report from the MACT, Perumbavoor stating the reason for transferring OP(MV) No.1240/2008 to the MACT, Pathanamthitta. The report so obtained is now placed before me. It reveals that the aforesaid claim petition was filed by the petitioner and her daughter claiming compensation for the death of husband of the petitioner Liju Varghese in a road traffic accident. The parents of the deceased are arrayed as respondents 4 and 5 in the claim petition. However, they had filed O.P.MV No.1345/2010 before the MACT, Pathanamthitta. In that case, the petitioner and her daughter are arrayed as

respondents 4 and 5. Since the parties in both the case are same, MACT, Perumbavoor addressed the High Court on the administrative side and the High Court as per O.M.No.D2-9312 of 2015 dated 22.5.2015 had given permission to transfer O.P.No.1240 of 2008 to MACT, Pathanamthitta to be heard along with OPMV No.1345/2010 which is pending there. The entire exercise was on account of the clear direction from the High Court on the administrative side to avoid inconsistent award from different adjudicating bodies. As the claimants in Ext.P4 claim petition are aged, transfer of Ext.P3 to MACT, Panthanamthitta is justified. Therefore, this Court is of the view that there is nothing to interfere in the matter in exercise of power conferred under Article 226 of the Constitution of India.

In the result, the writ petition is dismissed. It shall be open to the petitioner to contest the claim petition now pending before the MACT, Pathanamthitta.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.