

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

OP (MAC).No. 85 of 2015 (O)

OPMV 1294/2011 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD

PETITIONER/PETITIONER/CLAIMANT :

**UNNIKRISHNAN, AGED 42 YEARS,
S/O.VISWANATHAN K. P. HOUSE, AYYAPPANKUNNU,
THEKKEPOTTA POST, PUTHUCODE, PALAKKAD 678687**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENTS/RESPONDENTS/RESPONDENTS :

- 1. NOUFAL, S/O.HUSSAIN, 4/72, PIRAYIRI POST
PALAKKAD, 678019, (RC OWNER OF KL 09-H 8981)**
- 2. SASI @ SASEENDRAN, S/O.KUTTAN,
KODAKKATTIL HOUSE, VENNUR POST,PAZHAYANNUR
THRISSUR 680587(DRIVER OF KL-9-H-8981)
D. L. 48/278/2008 DTD 29/1/2008**
- 3. UNITED INDIA INSURANCE CO LTD., AYYAPPA COMPLEX,
WADAKKANCHERY, THRISSUR 680582
POLICY NO 100681/31/11/01/0000771 VALID FROM
30/4/2011 TO 29/4/2012**

BY SRI.JOHN JOSEPH VETTIKAD

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 30-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP (MAC).No. 85 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:- CERTIFIED COPY OF THE AWARD DTD 2/12/2013 PASSED BY THE MOTOR
ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD IN OP MV NO 1294/2013.**

**P2:- CERTIFIED COPY OF THE ORDER DTD 28/10/2014 IN IA NO 2937/2014 IN OPMV
NO 1294/2011 ON THE FILES OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
PALAKKAD**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

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O.P(MAC) No.85 of 2015

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Dated this the 30th day of June, 2015

JUDGMENT

Under challenge in this original petition is the order passed by the learned Motor Accidents Claims Tribunal, Palakkad dismissing the I.A filed by the petitioner under Order IX Rule 9 of CPC to restore the claim petition on file which was dismissed on account of non-representation.

2. Heard the learned counsel for the petitioner and the learned standing counsel for the insurance company.

3. The claim petition happened to be dismissed on account of the fact that the petitioner has not taken any steps to issue fresh notice to the first respondent and there was no representation on the posting date. It appears that there was lethargy on the part of the petitioner in taking steps in time. Though there was laches on the part of the petitioner and the learned Tribunal was justified in dismissing the claim petition, this Court is of the view that petitioner can be afforded one more opportunity to correct himself and to have his remedy.

In the result, the original petition is allowed. Ext.P2 is quashed. I.A No.2937 of 2014 in O.P(MV) No.1294 of 2011 on the files of the Motor Accidents claims Tribunal, Palakkad is allowed and the original petition shall stand restored to file. The parties shall mark their appearance before the Tribunal on 3.8.2015. It shall be open to the Tribunal to pass appropriate orders if the petitioner commits any default in complying with the direction of the learned Tribunal.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj