

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP (MAC).No. 87 of 2015 (O)

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AGAINST THE ORDER DATED 18.6.2015 IN IA NO. 2810/2015 IN UNNUMBERED
OP(M.V.) OF MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD.
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PETITIONERS/CLAIMANTS :

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- 1. BALAKRISHNANAN C.,
S/O. CHINNAPPAN, AGED 57 YEARS
PONKATTUPURA, THOMBUKUNNAM
SOORIYA NAGAR, KANJIKODE,
PUDUSSERY CENTRAL VILLAGE
PALAKKAD.**
 - 2. RAJAKUMARAN C.,
S/O. CHINNAPPAN, AGED 52 YEARS
PONKATTUPURA, THOMBUKUNNAM
SOORIYA NAGAR, KANJILODE,
PUDUSSERY CENTRAL VILLAGE
PALAKKAD.**
 - 3. KRISHNAN E.R.,
S/O. RAMAN, AGED 55 YEARS
ECHAMPURA, CHEMMANAMKADU, KANJIKODE P.O.,
PUDUSSERY CENTRAL VILLAGE, PALAKKAD.**
 - 4. SATHISH KUMAR E.K.,
S/O.KRISHNAN, AGED 27 YEARS
ECHAMPURA, CHEMMANAMKADU
KANJIKODE P.O., PUDUSSERY CENTRAL VILLAGE
PALAKKAD.**
 - 5. SAJITHA K.,
D/O KRISHNAN, AGED 26 YEARS
ECHAMPURA, CHEMMANAMKADU
KANJIKODE P.O.,
PUDUSSERY CENTRAL VILLAGE
PALAKKAD
NOW RESIDING AT C/O SATHISH M.C. (HUSBAND)
MADATHIL, PANAPARAMBU,
KADUKKAMKUNNAM, MALAMPUZHA**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENT(S) :

1. RAMESH KUMAR
S/O. PONNU CHAMI, AGED 24 YEARS
7/10, CHIKKARASAMPALAYAM MAIN ROAD
SATHYAMANGALAM, ERODE, TAMIL NADU-638 001.
2. BHARTI AXA GERNERAL INSURANCE CO. LTD.,
FIRST FLOOR, FERNS ICON, SY. NO. 28
DODDANAKKUNDI, BANGLORE-560 037

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...3/-

OP (MAC).No. 87 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P1: TRUE COPY OF UN-NUMBERED OP (MV) PREFERRED BY THE
 PETITIONERS ON THE FILE OF THE MOTOR ACCIDENT CLAIMS
 TRIBUNAL, PALAKKAD.**

EXT.P2: TRUE COPY OF I.A. NO 2810/15 PREFERRED BY THE PETITIONERS.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

O.P.(MAC) No. 87 of 2015

Dated this the 3rd day of July, 2015.

JUDGMENT

Petitioners are aggrieved by the rejection of application submitted by them before the Motor Accident Claims Tribunal, Palakkad for claiming exemption from payment of court fee.

2. Petitioners are the claimants in a claim petition before the Motor Accident Claims Tribunal, Palakkad. The petitioners allege that they are the legal heirs of the deceased. They preferred the claim petition seeking exemption from payment of court fee. The Kerala Motor Vehicle Rules enable the Tribunal to grant exemption exercising its discretion. However, the Tribunal mechanically passed an order refusing exemption. It is with this background, the petitioners have come up before this Court.

3. The learned Tribunal by the impugned order, (endorsement on Ext.P1) dated 18.6.2015 rejected the application by a single line order and directed the petitioners to pay the full court fee.

4. The learned counsel for the petitioners would submit

that the claim arose out of the death of one Janaki, of whom claimants are the legal representatives. The original claim was for a sum of Rs.38,53,000/-, which is subsequently corrected to Rs.8 lakhs. The court fee payable by the petitioners would be below Rs.10,000/-. As per Section 140 of the Motor Vehicles Act, payment of Rs.50,000/- is rest assured irrespective of the negligence on the part of the claimants or on the part of the driver of the offending vehicle. Therefore, this Court is of the definite view that the learned Tribunal was not justified in insisting for payment at this point of time.

In the result, the writ petition is disposed of directing the Motor Accident Claims Tribunal, Palakkad to take the claim petition on files and number the same and issue notice to the respondents exempting the petitioners from paying the court fee for the time being. It shall be open to the learned Motor Accident Claims Tribunal, Palakkad to realize the court fee from the amount that would be awarded to the petitioners.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.