

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

OP (MAC).No. 89 of 2015 (O)

[I.A.NO.728/2014 DATED 14.02.2014 IN O.P(MV).NO.341/2006
ON THE FILE OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD]

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PETITIONER:

BIJU P.GEORGE AGED 37 YEARS,
S/O.GEORGE PETER, SUVISESHA BHAVAN, CHITTUR.P.O,
CHITTUR TALUK, PALAKKAD.

BY ADVS.SRI.SUNIL NAIR PALAKKAT,
SRI.K.N.ABHILASH.

RESPONDENTS:

1. RAMAR.V,S/O. T. VELAIYA, AGED 45 YEARS,
I/X3, MANNUR,PALLACHI TALUK, COIMBTORE DISTRICT,
TAMIL NADU-642 002.
2. K.SAKTHIVEL,S/O.KARUPPASWAMY, AGED 30 YEARS,
3/1, ALAGIRI CHETTYPALAYAM,
SULAKKAL, POLLACHI TALUK, COIMBATORE DISTRICT,
TAMIL NADU.
3. THE NEW INDIA ASSURANCE COMPANY LTD.,
SREEVALLI BUILDINGS, ANIKODE, CHITTUR.P.O.,
PALAKKAD DISTRICT, KERALA-678 101.

R3 BY ADV.SRI.A.A.ZIYAD RAHMAN.

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

O.P(MAC).NO.89 OF 2015 (O) :

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE PHOTOCOPY OF THE AWARD DATED 24-01-2014 OF THE MOTOR
ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD IN OP(MV) NO. 341/2006.

EXT.P2: TRUE PHOTOCOPY OF THE APPLICATION IN I.A. NO. 728/2014 IN
O.P(MV).NO. 341/2006 BEFORE THE MACT PALAKKAD.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

Prv/2.

A.V.RAMAKRISHNA PILLAI, J.

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O.P(MAC) No.89 of 2015

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Dated this the 13th day of July, 2015

JUDGMENT

The petitioner has approached this Court aggrieved by the rejection of the petitioner's application for enlargement of time for submitting the memo of costs.

2. The learned Tribunal has passed the award to the tune of ₹17,07,500/- with 95 interest per annum from the date of petition till realisation with right to recover the costs for the proceedings. The petitioner points out that as per Rule 196(1) of the Civil Rules of Practice, statement of costs should be filed within 7 days. In the instant case, the petitioner filed statement of costs within 3 days.

3. The petitioner filed I.A No.728 of 2014 in O.P(MV) No.341 of 2006 for enlarging the time to receive the statement which was refused by the Tribunal. The petitioner points out that as per Rule 196(1), there is no restriction on the court to receive an application

filed after 7 days stipulated therein. The court has got power to extend the time for filing the statement of cost. It is also provided in said rule that if any party makes default in filing the statement, the officer of the court shall prepare a statement of the amount of the institution fee if any, and the pleader's fee allowable to the said party, if duly certified; it is alleged. According to the petitioner, every party shall be entitled to inspect and take a copy of the said statement. It is with this background, the petitioner has approached this Court.

4. The remarks of the learned Tribunal was obtained wherein it was stated that the petitioner's application was rejected as there was no ground to enlarge the time and to receive the delayed statement of costs. The learned Tribunal also reports that no grounds were made in the affidavit accompanying the petition to allow the same. However, Ext.P2 which is the copy of the affidavit now placed on board would indicate that the petitioner has a specific case that due to some *bona fide* inadvertence on the part of the advocate clerk the

memo of costs could not be submitted in time.

As the petitioner shall not be left to suffer on account of such laches, this Court is of the view that the petitioner is entitled to get the relief prayed for. Therefore, the impugned order rejecting Ext.P2 application is set aside. The matter is remitted back to the learned Tribunal directing to enlarge the time for submitting the statement of costs.

The original petition is disposed of as above.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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