

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

OP (MAC).No. 99 of 2015 (O)

O.P(MV)NO.117 OF 2012 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR

PETITIONER(S)/PETITIONER :

**MUHAMMED KUTTY, AGED 43 YEARS,
S/O.HAMSA, VAKKULANGARA HOUSE, VATTAMKULAM,
SUKAMPURAM POST, KUTTIPALA, CHOLAKUNNU,
EDAPPAL VIA, MALAPPURAM-679 578.**

**BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU**

RESPONDENT(S)/RESPONDENTS :

- 1. P. NALLAMUTHU, AGED 27 YEARS,
S/O.PARAMASIVAM, ANUPAMA HOUSE, SKVC ROAD,
KANATTUKARA POST, THRISSUR-680 011.**
- 2. AJAYA GHOSH, AGED 31 YEARS,
S/O.SURENDRAN, KANDANGATTU HOUSE, PONNORE POST,
PARAPPUR, THRISSUR-680 552.**
- 3. RELIANCE GENERAL INSURANCE COMPANY LIMITED,
2ND FLOOR, CITADEL ARCADE,
OPPOSITE TAGORE CENTENARY HALL, KOZHIKODE-673 001.**

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 03-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 : COPY OF THE CLAIM PETITION IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR, DATED 31-1-2012.**
- P2 : COPY OF THE WRITTEN STATEMENT FILED BY THE 3RD RESPONDENT IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR, DATED.**
- P3 : COPY OF THE ORDER IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR, DATED 10.03.2014.**
- P4 : CERTIFIED COPY OF THE ORDER WRITTEN ON THE APPLICATION I.A.NO.2812 OF 2014 IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR.**
- P5 : CERTIFIED COPY OF THE ORDER WRITTEN ON I.A.NO.2813 OF 2014 IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR.**
- P6 : CERTIFIED COPY OF THE ORDER WRITTEN ON I.A.NO.5029 OF 2014 IN O.P(MV)NO.117 OF 2012 ON THE FILE OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, TIRUR.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

O.P.(MAC) No. 99 of 2015

Dated this the 3rd day of August, 2015

J U D G M E N T

The petitioner has approached this Court aggrieved by the order dated 07.10.2014 passed by the MACT, Tirur dismissing IA Nos.2812/2014 and 2813/2014 in OP (MV) No.117/2012 on the files of the said Tribunal.

2. The claim petition filed by the petitioner was dismissed as per Ext.P3 due to want of representation for and on behalf of the petitioner. By the impugned orders, the learned MACT has dismissed the IA for restoring the claim petition and the IA for condoning the delay in filing the restoration petition on the ground that the reason for the delay was not properly explained.

3. As it was submitted by the learned counsel for the petitioner that respondents 1 & 2 were ex parte in the aforesaid interlocutory applications filed before the Tribunal, notice to respondents 1 & 2 are hereby

dispensed with.

4. The learned counsel for the petitioner submitted that it was not on account of the laches on the part of the petitioner that the claim petition was dismissed. It was further submitted that the learned counsel for the petitioner, who was appearing before the Tribunal, was engaged in another court; and therefore, he could not appear before the Tribunal in time.

5. Though there was delay, the fact remains that the petitioner did not get an opportunity to substantiate his case before the Tribunal in the claim petition. As it is a beneficial piece of legislation, the petitioner, being a claimant, shall not be left without any remedy on account of the delay or laches.

Therefore, the writ petition is disposed of as follows;

- Exts.P4 & P5 passed by the MACT, Tirur on IA Nos.2812/2014 & 2813/2014 respectively in OP(MV) No.117/2012 are quashed.
- The aforesaid interlocutory applications shall stand

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allowed and OP(MV) No.117/2012 shall stand restored to file.

- The parties shall mark appearance before the MACT, Tirur on 01.09.2015.
- In the event of appearance by the parties, the Tribunal shall consider the claim petition in accordance with law and pass final orders after affording the petitioner and the affected parties an opportunity of being heard, within a period of three months thereafter.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-