

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

OP (MAC).No. 128 of 2015 (O)

I.A. NO. 4474/2015 IN O.P.(MV.) NO. /2015 OF THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL, PALAKKAD

PETITIONER:

MANIKANDAN K., AGED 26 YEARS,
S/O.KARAPPAN, OTTUPARAMBU HOUSE,
P.O.PALLAVOOR, PALAKKAD DISTRICT.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENT:

PAZHANISWAMY, S/O.PERUMAL KOUNDER,
12/75, NASEEMA HOUSE, THENKURISSI,
PALAKKAD DIST.PIN -678 671.

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 26-10-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 - A TRUE COPY OF THE CLAIM PETITION.
- EXHIBIT P2 - A TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE PETITIONER DATED 31.08.2015
- EXHIBIT P3 - A TRUE COPY OF THE DOCKET CONTAINING THE ORDER.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 26th day of October, 2015

JUDGMENT

As to how the discretion should be exercised by the Claims Tribunal to exempt a party from the payment of fee under Rule 397 of the Kerala Motor Vehicles Rules has been delineated in the following decisions.

- (i) **Raman Nair Vs. Mukudan Nair [2005(3) KLT SN 83].**
- (ii) **Gopi Vs. Biju [2010(4) KHC 96].**
- (iii) **Suma Vs. Rajesh P.A. [2011 (4) KLT 109].**

2. The exercise of discretion by Claims Tribunal should be reflected in the order which is wholly absent in the instant case. The impugned order reads “No ground to exempt. Rejected.”

3. There is no necessity to issue notice to the respondent in the instant case as the claim petition itself is yet to be numbered. The Motor Accident Claims Tribunal, Palakkad is

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directed to re-entertain the claim petition and pass fresh orders in terms of Rule 397 of the Kerala Motor Vehicles Rules. The needful shall be done within a period of one month from the date of re-presentation of the claim petition.

The Original Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd