

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. 129 of 2015 (O)

I.A. NO. 5276/2014 IN O.P.(MV.) NO. /2014 OF THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL, PALAKKAD
.....

PETITIONER:

M.JOE AROKIA RAJ, AGED 30 YEARS,
S/O.YAGAPPAN @ MANI, BADAN NIVAS,
K.N.PUDOOOR P.O, KANCHIKODE,
PALAKKAD DISTRICT PIN-678 621

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS:

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1. THE MANAGING DIRECTOR,
TAMIL NADU STATE TRANSPORT CORPORATION,
CBE DIVISION, 37, METTUPALAYAM ROAD,
COIMBATORE-641 043.
 2. PERUMAL K., S/O.KARAMMADAI GOUNDER,
58/3, VADAKKIPALAYAM, POLLACHI,
TAMIL NADU PIN - 642 001.

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

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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

OP(MAC) NO. 129 OF 2015

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