

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

**FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937**

**OP (MAC).No. 1279 of 2015 (O)**  
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**OP(MV) 357/2012 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, OTTAPPALAM**  
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**PETITIONER(S):**  
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**SHARMILA, AGED 43 YEARS,  
W/O. NARAYANANKUTTY C.P., VALIYAVEETIL HOUSE  
AMBALAPPARA, OTTAPALAM TALUK.**

**BY ADV. SRI.R.SREEHARI**

**RESPONDENT(S):**  
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- 1. FAIZAL, AGED 29 YEARS,  
S/O. SAIDU MUHAMMED, NALAKATH VEEDU, IRIMBALASSERY,  
CHERPULASSERY, OTTAPALAM TALUK, PIN:679335.**
- 2. ABBAS,  
S/O UNNIYAN, KUNDIL HOUSE, NELLAYA POST,  
CHERPULASSERY, PIN:679335.**
- 3. ICICI LOMBARD GENERAL INSURANCE CO. LTD.,  
ICICI LOMBARD HOUSE, 414 VEER SAVARKAR MARG,  
NEAR SIDDHI VINAYAKA TEMPLE, PRABHADEVI,  
MUMBAI 400 025.**
- 4. MOOKAMBIKA, AGED 68 YEARS,  
MOTHER OF LATE NARAYANANKUTTY C.P.  
CHUNANGATTUPARAMBIL HOUSE, KADAMBUR POST,  
OTTAPALAM TALUK, PIN:679515.**

**THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 05-06-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**PJ**

**OP (MAC).No. 1279 of 2015 (O)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXHIBIT P1: PHOTO COPY OF COMMON AWARD IN OP(MV)NOS. 293, 297, 357 AND 393 OF 2012 OF MAC TRIBUNAL, OTTAPALAM DATED 15.12.2014.**
- EXHIBIT P2: PHOTO COPY OF AGREEMENT DATED 15.9.2014 FOR PURCHASE OF THE PROPERTY.**
- EXHIBIT P3: PHOTO COPY OF SALE DEED NO.867/2015 SRO OTTAPALAM.**
- EXHIBIT P4: PHOTO COPY OF PLAN AND ESTATE FILED BEFORE THE AMBALAPARA GRAMA PANCHAYAT FOR CONSTRUCTION OF RESIDENTIAL BUILDING.**
- EXHIBIT P5: PHOTO COPY OF AFFIDAVIT FILED IN SUPPORT OF IA 1290/2015 IN OP (MV)NO.357/2012 OF MACT OTTAPALAM.**
- EXHIBIT P6: PHOTO COPY OF THE ORDER IN IA 1290/2015 IN OP(MV)NO.357/2012 DATED 30.4.2015 OF MACT OTTAPALAM.**

**RESPONDENT(S)' EXHIBITS**  
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**NIL.**

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

**A.V. RAMAKRISHNA PILLAI, J.**

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**O.P. (MAC) No. 1279 of 2015**  
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**Dated this the 5<sup>th</sup> day of June, 2015**

**J U D G M E N T**

Aggrieved by Ext.P6 order, by which the Motor Accidents Tribunal, Ottappalam had restricted the release of the award amount to a sum of ₹5,00,000/-, the petitioner has come up before this Court.

2. The petitioner met with a motor vehicle accident on 04.09.2011, in which she lost her husband and her only daughter. She also sustained severe injuries. She filed four claim petitions before the MACT, Ottappalam, viz., OP (MAV) Nos.293/2012, 297/2012, 357/2012 & 393/2012 regarding the death of her daughter, bodily injuries sustained by the petitioner, the death her husband and the property damaged respectively. In OP(MAV) No.357/2012, the 4<sup>th</sup> respondent was impleaded. By Ext.P1 common award, the Tribunal granted ₹25,12,265/- with interest. Initially, the Tribunal released ₹4,97,765/-, which, according to the petitioner, was utilized for discharging

liabilities occurred for meeting the medical expenses and treatment and also for conducting the cases. Thereafter IA Nos.1289/2015 in OP(MV) No.293/2012 and IA No.1289/2015 in OP(MV) No.297/2015 were filed to release ₹2,23,739/- and ₹5,32,043/- respectively for purchasing 9.75 cents of land in terms of Ext.P2 agreement, which were allowed by order dated 21.04.2015 and the property was purchased as per Ext.P3 sale deed. The petitioner alleges that she intends to construct a residential building in the property purchased as she has no residential building and is residing along with her mother. Accordingly, she filed another application before the Tribunal to release ₹14,32,993/- lying in the fixed deposit prematurely as IA No.1290/2015 in OP (MV) No.357/2012, producing necessary documents. However, the Tribunal, by Ext.P6 order dated 30.04.2015, only released ₹5,00,000/- stating that out of ₹25,12,565/-, ₹12,53,547/- is already released, which, according to the petitioner, was ordered without considering the expenses incurred towards treatment, continuing treatment, for

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conducting the cases and also the actual expenses incurred in purchasing the property. The petitioner alleges that now, as per the plan and estimate, she requires a minimum amount of ₹15,75,000/- for the construction of the residential building and no objection was raised by any of the respondents in releasing the amount. According to the petitioner, Ext.P6 order, restricting to release ₹5,00,000/- is illegal. Hence, this original petition.

3. Arguments have been heard.

4. Considering the nature of the submission and the nature of relief sought for, this Court is of the view that the writ petition can be disposed of without issuing any further notice to the respondents.

5. The learned MACT, Ottappalam cannot be found fault with for restricting the release as the learned Tribunal is bound by the directions of the apex court in **KSRTC v. Susamma Thomas** [1994 (2) SCC 176]. However, as the claim projected by the petitioner is genuine and also taking into account the submission of the

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learned counsel for the petitioner that the petitioner would complete the construction within 18 months and would satisfy the Tribunal regarding the factum of completion of construction, this Court is of the view that the MACT, Ottappalam can be directed to redeposit the balance amount for a minimum period of 18 months so that the petitioner can get the balance amount on satisfying the Tribunal that she has completed the construction of her house.

In the result, the original petition is disposed of directing the MACT, Ottappalam to release a sum of ₹5,00,000/- (Rupees five lakhs only) forthwith and to redeposit the balance amount in the name of the petitioner for 18 months. The balance amount so deposited shall be released to the petitioner on production of completion certificate pertaining to the building to the satisfaction of the learned Tribunal.

Sd/-

**A.V. RAMAKRISHNA PILLAI**  
**JUDGE**

bka/-