

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

OP (MAC).No. 41 of 2014 (O)

OP(MV) 1730/2007 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM

PETITIONER(S):

**KOYA KUTTY, AGED 70 YEARS,
S/O.MUHAMMED KUNJU, KODIYATH, PAZHAYATTINKUZH
VADAKKEVILA, KOLLAM.**

**BY ADVS.SRI.PRATHEESH.P
SMT.BINDU GEORGE**

RESPONDENT(S):

- 1. MALATHY AMMA
W/O.MOHANA CHANDRAN, MADATHIL HOUSE, THEVALLY P.O.
KOLLAM-691009.**
- 2. C.K.MOHANA CHANDRAN,
MADATHIL HOUSE, THEVALLY P.O., KOLLAM-691009.**
- 3. THE BRANCH MANAGER,
THE NATIONAL INSURANCE CO.LTD., KOLLAM-691001.**

**R1,R 2 BY ADVS. SRI.V.V.RAJA
SRI.M.T.SURESHKUMAR
R3 BY ADVS. SRI.P.JACOB MATHEW
SRI.M.A.GEORGE**

**THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 19-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP (MAC).No. 41 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: COPY OF THE OP(MV) FILED BY THE PETITIONER DATED 28.12.2007.

**P2: COPY OF THE IA NO.3387/2013 FILED BY THE 2ND RESPONDENT DATED
26.11.2013.**

RESPONDENT(S)' EXHIBITS

**R1(A): COPY OF THE CLAIM PETITION PREFERRED BY MALATHY MOHAN AS
OP.MV.2113/12 BEFORE THE MACT KOLLAM DATED 22/12/12**

**R1(B): COPY OF THE WRITTEN STATEMENT DATED 20/3/13 FILED IN OPMV.1730/2007
OF THE MACT, KOLLAM**

R1(C): COPY OF THE APPLICATION FILED IN OPMV.2113/12 DATED 23/4/13

R1(D): COPY OF THE APPLICATION FILED IN OPMV.1963/07 DATED 27/6/13.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. Vinod Chandran, J.

=====

O.P.(MAC)No.41 of 2014

=====

Dated this the 19th day of February, 2015.

JUDGMENT

1. Petitioner filed the above writ petition seeking expeditious disposal of the claim filed before the Motor Accidents Claims Tribunal, Kollam, numbered as O.P.(MV)No.1730 of 2007. Petitioner contended that two other passengers of the car in which the petitioner was travelling, also had filed two separate claim petitions before the Tribunal as O.P.(MV)No.1731 of 2007 and O.P.(MV)No.1963 of 2007. The trial, having been completed in the said case, it was contended that the matter was taken up for orders and later on, certain interlocutory applications were filed and now the matter has been posted for joint trial, along with two other claim petitions. Petitioner, along with other passengers, who had filed claim in the year 2007, is prejudiced by their claims of 2007, having now been posted for joint trial, along with claim petitions of the year 2012.

2. This Court, hence, called for a report from the Tribunal.

Respondents 1 and 2 in the above writ petition, whose claims of 2012 were posted along with the petitioner's case, have also appeared and filed counter affidavit, in which the facts are detailed. On going through the report of the MACT, as also the counter affidavit filed by respondents 1 and 2, it is indicated that, the accident occurred on a collision of three cars. The petitioner herein, with the other claimants of the year 2007, were travelling in a Ford Icon car, having Reg.No.KL-2/M 7785. Petitioner, along with other claimants, contended that, the vehicle of respondents 1 and 2, being a Maruti Zen car with Reg.No.KL-2-Z-8086, hit the petitioner's car causing the accident.

3. The counter affidavit of respondents 1 and 2, however alleges that, there was another car involved in the collision, being an Innova car bearing Reg.No.KL-01-AM-7666. on the First Information Report registered by the police, a crime was charged against the second

respondent, alleging the cause of the accident as due to the negligence of the second respondent. The said trial is said to have been concluded with the acquittal of the second respondent. It was then that respondents 1 and 2, along with their daughter, who was also travelling in their car, filed three separate claim applications of the year 2012.

4. An application, to set aside the ex-parte order, passed in O.P.(MV) No.1730, 1731 and 1963 of 2007, was also filed. The said application to set aside the ex-parte order, is said to have been filed long before the matters were taken up for judgment. Respondents 1 and 2 also contend that, they had filed joint trial applications in the aforesaid claim petitions.
5. What is to be specifically noticed is that, the petitioner herein, has not challenged the setting aside of ex-parte order or the order allowing the joint trial application. Petitioner merely sought for expeditious consideration of the claim. In that circumstance, this

Court is of the opinion that, it would only be proper that, the joint trial be conducted in all the cases, especially since, respondents 1 and 2 alleged negligence on the drivers of Ford Icon and Innova cars, while the petitioner, along with the claimants of 2007, allege negligence on the part of the second respondent herein.

6. There shall be a direction to expedite the trial and conclude the same, at any rate, within a period of six months from the date of receipt of a certified copy of this judgment, especially considering the circumstances that, three claim petitions were filed in the year 2007.

Writ petition is disposed off.

K. Vinod Chandran, Judge.

sl.