

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

OP (MAC).No. 60 of 2014 (O)

OP(MV) NO. 871/2006 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE

PETITIONERS/PETITIONERS :

1. SARALA,
W/O. LATE SANKARANKUTTY, AGED 37 YEARS.
2. SARANYA (MINOR)
D/O. LATE SANKARANKUTTY, AGED 15 YEARS
REP. BY HER MOTHER SARALA.
3. SARATH (MINOR)
S/O. LATE SANKARANKUTTY, AGED 13 YEARS,
REP. BY HIS MOTHER SARALA.
4. JANAKI
M/O. LATE SARANKUTTY, AGED 73 YEARS
ALL RESIDING AT CHATHANAMKUNI HOUSE
THIRUVANGOOR P.O., CHEMANCHERY, KOYILANDY
KOZHIKODE DISTRICT, PIN-

BY ADVS.SRI.V.S.CHANDRASEKHARAN
SRI.M.V.DAS MANKIDY
SMT.LEKSHMI SWAMINATHAN

RESPONDENTS/RESPONDENTS :

1. JITHESH P.K.
S/O. JANARDHANAN, RESIDING AT PUTHIYAKAVIL HOUSE
KUZHIPANGAD P.O., CHIRAKKARA, THALASSERY
KANNUR DISTRICT, PIN 670104.
2. NEW INDIA ASSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, SILVER PLAZA BUILDING, I G ROAD
KOZHIKODE, PIN - 673001.

R1 BY ADV. SRI. C.P. PEETHAMBARAN
R2 BY ADVS. SRI. A.A. ZIYAD RAHMAN, SC
SRI.RAJAN P. KALIYATH

THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 05-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

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...2/-

OP (MAC).No. 60 of 2014 (O)

APPENDIX

PETITIONERS' EXHIBITS :I

- EXHIBIT P1- TRUE COPY OF THE CLAIM PETITION IN OP.MV.NO. 871/2006.
- EXHIBIT P2- TRUE COPY OF THE ORDER DATED 02-05-2009 BY THE HON'BLE
MACT, KOZHIKODE IN OP.MV. NO. 871/2006.
- EXHIBIT P3- TRUE COPY OF I.A. 242/2013 O.P.M.V.NO. 871/2006.
- EXHIBIT P4- TRUE COPY OF I.A. 243/2013 O.P.M.V.NO.871/2006.
- EXHIBIT P5- TRUE COPY OF I.A. 244/2013 O.P.M.V.NO.871/2006.
- EXHIBIT P6- TRUE COPY OF I.A. 245/2013 O.P.M.V.NO. 871/2006.
- EXHIBIT P7- TRUE COPY OF I.A. 246/2013 O.P.M.V.NO. 871/2006.
- EXHIBIT P8- TRUE COPY OF I.A. 247/2013 O.P.M.V.NO. 871/2006.
- EXHIBIT P9- TRUE COPY OF THE COMMON ORDER IN I.A. 244/2013 AND 245/2013
DT 09-07-2013 IN O.P.M.V. NO. 871/2006.
- EXHIBIT P10- TRUE COPY OF THE ORDER IN I.A. 242/2013 DT 09-07-2013 IN
OP.M.VNO. 871/2006.
- EXHIBIT P11- TRUE COPY OF THE ORDER IN I.A. 243/2013 DT 09-07-2013 IN OP.M.V.
NO. 871/2006.
- EXHIBIT P12- TRUE COPY OF THE ORDER IN I.A. 246/2013 DT 09-07-2013 IN OP.M.V.
NO. 871/2006.
- EXHIBIT P13- TRUE COPY OF THE ORDER IN I.A. 247/2013 DT 09-07-2013 IN OP.M.V.
NO. 871/2006.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.
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O.P.(M.A.C) No.60 of 2014 - O
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Dated this the 5th day of February, 2015

J U D G M E N T

The petitioners are the wife, children and the mother of a deceased claimant. The original claimant suffered grievous injuries in a motor vehicle accident, for compensation of which the aforesaid claim was filed. It is alleged that the claimant was bed-ridden right from the time of the accident and had subsequently expired; allegedly for reason of the injuries suffered in the accident. The original claimant passed away on 01.05.2008.

2. The petitioners' who are the legal heirs, did not seek to implead themselves before the Motor Accidents Claims Tribunal. The matter stood abated within 90 days of the death of the claimant. The petitioners herein, who are the legal heirs sought for impleadment and setting aside of the abatement as also condonation of delay by separate

applicatios produced herein as Exts.P3 to P8. The said applications were dismissed by the Motor Accidents Claims Tribunal, Kozhikode, on the ground that there is absolutely no reason shown in the affidavit and there is an in-ordinate delay of more than 4 ½ years.

3. The reasons stated by the petitioners are that, the petitioners were not aware that on the death of the original claimant, the legal heirs have to get themselves impleaded, for continuing the prosecution of the compensation case. Considering the fact that the deceased left behind his wife, mother and two minor girl children, it is only proper that, the Tribunal, restore the application and consider the same on merits. However, the claimants shall not be entitled to interest from the date on which the claim petition stood abated till the date on which the applications Exts.P3 to P8 were filed. The application for condoning the delay shall stand allowed. So shall the application for setting aside of the abatement and impleading the

petitioners herein. The petitioners and the respondents shall present themselves before the Tribunal on 18.02.2015. The Tribunal shall restore O.P.M.V No. 871 of 2006 and consider the same on merits.

The original petition shall stand disposed of. Parties to suffer their respective costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge