

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

OP (MAC).No. 88 of 2014 (O)

IN I.A. NO.2558/2013 IN OP(MV)NO.1746/2005 OF MOTOR ACCIDENTS
CLAIMS TRIBUNAL, ALAPPUZHA

PETITIONER(S):

GAYATHRI,
AGED 20 YEARS, D/O.UTHAMAN,
KARINJATTAKUZHIYIL,
PATHIRAPPALLY P.O.,
ALAPPUZHA - 688 521.

BY ADVS.SRI.G.PRIYADARSAN THAMPI
SMT.P.V.SARITHA VENUGOPAL
SRI.P.S.PRADEEP.

RESPONDENT(S):

1. SURESH BABU V.,
S/O.VASANTHY, THATTUPURATH,
PUTHENVEEDU,
NELLAD P.O., MUVATTUPUZHA.
2. KORA PAUL,
MANAGING DIRECTOR,
M/S.NEROTH DURO FOODS PVT.LTD.,
INDUSTRIAL DEVELOPMENT FLOOR,
BUILDING NO.100B, ANGAMALY SOUTH,
ERNAKULAM DISTRICT.
3. THE ORIENTAL INSURANCE CO. LTD.,
EBENEZER GARDEN,
EDAPPALLY HIGH SCHOOL JUNCTION, COCHIN-24.
4. KORA PAUL,
MANAGING DIRECTOR, M/S. NEROTH DURO FOODS PVT. LTD.,
INDUSTRIAL DEVELOPMENT FLOOR, BUILDING NO.1008,
ANGAMALY SOUTH, ERNAKULAM DISTRICT.

BY ADV. SMT.K.S.SANTHI.

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 02-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1 THE TRUE COPY OF OP(MV) NO.1746/2005 FILED BY THE
 PETITIONER BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
 ALAPPUZHA.

EXT.P2 THE TRUE COPY OF THE AWARD DATED 31/07/2012 IN OP(MV)
 NO.1746/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
 ALAPPUZHA.

EXT.P3 THE TRUE COPY OF THE I.A.NO.2558/2013 IN O.P.(MV)
 NO.1746/2005 FILED BY THE PETITIONER BEFORE THE MOTOR
 ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA.

EXT.P4 THE TRUE COPY OF THE I.A.NO.2559/2013 IN O.P.(MV)
 NO.1746/2005 FILED BY THE PETITIONER BEFORE THE MOTOR
 ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA.

EXT.P5 THE TRUE COPY OF THE ORDER DATED 01/01/2014 IN
 I.A.NO.2558/2013 OP(MV) NO.1746/2005 OF MOTOR ACCIDENTS
 CLAIMS TRIBUNAL, ALAPPUZHA.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K.VINOD CHANDRAN, J

O.P.(MAC). 88 of 2014

Dated 2nd February, 2015

JUDGMENT

The petitioner is aggrieved with the order passed at Ext.P5, closing a petition for reason of the cost ordered, not being paid. The petitioner, a minor at that point of time, was the claimant in OP.(MV).1746 of 2005. The petitioner filed the Claim Petition through her guardian, her mother. The Claim was dismissed on 31.07.2012 since there was absolutely no evidence, as per the documents produced to prove negligence of the offending vehicle. Neither the petitioner nor the counsel nor the representative of the petitioner were present before Court when the dismissal was made as per Ext.P2.

2. The petitioner subsequently became a major and filed an application on 31.07.2013 as

per Ext.P3 for restoring the application for claim along with the application for condonation of delay of about 326 days. The said application is said to have been allowed by payment of cost of Rs.1,000/- on 04.12.2013. However, no cost having been paid, the matter stood closed as per Ext.P5. This Court by interim order dated 03.07.2014 directed the cost to be paid.

3. The learned counsel for the petitioner submits that the cost, as directed, has been paid. In such circumstances, if the cost is paid as directed by this Court and a memo filed within one week from 03.07.2014, the Claim Petition shall stand restored and the MACT shall consider the Claim in accordance with law and after permitting the other parties to adduce evidence. It is also made clear that, if an Award is made, then the petitioner shall not be entitled to any interest from the date on which

the MACT, Alappuzha directed payment of cost till today.

The writ petition hence would stand allowed and Ext.P5 order would stand set aside on the conditions aforesaid.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//