

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

OP (MAC).No. 154 of 2014 (O)

**AGAINST THE ORDER IN OP(MV) 191/2008 of MOTOR ACCIDENTS CLAIMS TRIBUNAL,
PERUMBAVOOR**

PETITIONER(S)/RESPONDENTS:

1. **K.R.SANTHOSH**
S/O.R.A.PRASAD, 7/1 NABA, K.R.MANDI LANE
HOWRAH, WEST BENGAL, WORKING AS SEPOY NAD DEPOT
NAD P.O., ALUVA.
2. **UNION OF INDIA,**
REPRESENTED BY SECRETARY, MINISTRY OF DEFENCE
NEW DELHI - 110 001.
3. **THE CHIEF GENERAL MANAGER, NAD,**
NAD P.O., ALUVA.

BY ADV. SRI.TOJAN J.VATHIKULAM,SC

RESPONDENT(S)/PETITIONER:

AZEEZ,
S/O.MUHAMMED, PARACKAPARAMBIL (H), PALLILAKKARA
HMT COLONY, KALAMASSERY.

**THIS OP (MAC) HAVING BEEN FINALLY HEARD ON 09-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE COPY OF THE APPLICATION FOR AMENDMENT FILED BY THE COUNSEL FOR THE RESPONDENT AS I.A 3282/2014.**
- P2: A TRUE COPY OF THE EXTRACT OF THE PROCEEDINGS IN IA. 3282/2014 DATED 5/8/2014 AS NOTED DOWN FROM THE I.A.REGISTER.**
- P3: A TRUE COPY OF THE PETITION FOR REVIEW FILED BY THE PETITIONERS HEREIN AS I.A 3910/2014.**
- P4: A TRUE COPY OF THE PETITION TO REMOVE THE CASE FROM THE LIST FILED BY THE PETITIONERS HEREIN AS I.A 3927/2014.**
- P5: A TRUE COPY OF THE COMMON ORDER IN I.A 3910/14 & 3927/14 DATED 05/09/2014 OF THE MACT, PERUMBAVOOR.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

"CR"

K.VINOD CHANDRAN, J.

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Dated this the 9th day of February, 2015

JUDGMENT

An amendment application filed on 4.8.14 was taken up on 5.8.2014 and allowed on the same day. On 5.8.2014, the Tribunal was not even sitting, since it was the day specified for settlement. The petitioners, who were the respondents in the claim, before the Tribunal, has moved the above original petition on the ground that the amendment was allowed without granting an opportunity to file objection and without hearing them.

2. The claim was originally filed for a compensation of ₹60,000/- for 5 injuries which is sought to be amended and enhanced to ₹6,00,000/- for 10 injuries. The learned counsel for the petitioner mainly contends that there could be no amendment made to the averment regarding injuries as such, for it should have been placed on record at the first point itself. The number of the vehicle in which the claimant is said to have been traveling, when the accident occurred is also sought to be amended. The amendment sought, could not have been permitted is the specific contention raised by the petitioners.

3. This Court called for a report from the Tribunal, on the admission of the above original petition. Besides the afore stated admitted facts, the Tribunal has gone on record that, due to the pendency of cases, amendment applications are allowed straight away on receipt of notice, by the respondents; if there is no endorsement of objection. It is also stated that the said procedure is the practice that is being adopted in all the cases, in that forum, especially those which are included in the special list for disposal; which are cases included in the target, by the Honourable High Court for urgent disposal.

4. Essentially it is to be noticed that the forum, whichever it may be, and howsoever high it might be, cannot device a procedure for itself, by which the respondents are not granted an opportunity to file an objection and afforded a hearing. As long as there is no procedural requirement that there should be an endorsement of objection in the application, there cannot be a system devised by the Tribunal for itself; which would run contrary to accepted practices, as regulated by fair procedure and the rules framed.

5. The special list, spoken of by the Tribunal was implemented by Office Circular No.7/84 issued by the High Court in which the appended note reads as under:

"It should be the aim of every court to dispose of the cases before it with the utmost expedition consistent with a full and fair hearing, without sacrifice of quality and with as little expense and inconvenience as possible to the parties and others concerned."

6. Hence disposal cannot be at the expense of a full and fair hearing. The system devised is for streamlining the adjudication process and bringing in a work culture which ensures that judicial time is not wasted on calling work and consideration of adjournments. A careful reading of the circular indicates that the Presiding Officers are exhorted to take a strict stance in adjournments and the like; only to ensure that neither party gets advantage of one's own default. But the cause of justice is treated as paramount. Schemes devised by the High Court for speedy disposal and fixing of targets, are to reduce the pendency of cases; which benefit ultimately enures to the litigants. These are not measures to spruce up the image of the Judiciary, in general or of an individual officer in particular. That comes from the confidence the system instills in the general public. No such measure should result in prejudice to a litigant, which would throw doubts on the efficacy of the system, resulting in erosion of public confidence.

7. Time and again this Court has cautioned the lower courts/

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Tribunals that targeting of cases is intended at ensuring disposal of long pending cases and it cannot be at the expense or prejudice of either of the parties to the litigation. That a case is targeted for disposal should not be a reason for rejecting valid motions made in that case nor can it be a reason cited in the order of rejection. Disposal for statistical purposes is not the intention and neither is it an end in itself. It is "laws delays", prejudicing the litigants, that is sought to be effaced. Summary rejection of motions or applications; or even allowing the same, without hearing either of the parties and for reason alone of the case being targeted; does violence to fair procedure, in adjudication.

8. The learned counsel for the petitioners has filed a memo evidencing service of notice of the original petition on the counsel appearing before the lower court. Though notice was issued from this Court, the same has not been returned after service; which in any event should enable the petitioners to seek for declaration of service. The interim application on that count is hence allowed.

9. The impugned order at Ext.P2 is set aside. Ext.P5 order, passed in an application for review, would also be set aside. The original petition stands allowed. The petitioners shall be afforded an

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opportunity to file objection which shall be placed on record within a period of two weeks from the date of receipt of a copy of this judgment and the Tribunal shall also afford an opportunity of hearing before considering the application for amendment in accordance with law.

The original petition is allowed. No costs.

Sd/-

**K.VINOD CHANDRAN ,
JUDGE.**

rkc.