

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 14631 of 2007 (P)

PETITIONER :

**K.M.JAMAL HAJI, S/O.AHAMMED KUTTY,
KOORIMANNIL MELEMANNIL HOUSE, KADAMBODE,
PANTHALLOOR, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS :

- 1. THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
MANJERI.**
- 2. THE UNITED INDIA INSURANCE CO.LTD.,
DIVISIONAL OFFICE, MANJERI, REPRESENTED BY
ITS DIVISIONAL MANAGER.**

**R1 BY GOVERNMENT PLEADER SRI.P.K. ABDUL RAHMAN
R2 BY ADV. SRI.A.R.GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE COMMON AWARD OF THE MACT MANJERI DT 14/3/2001 IN OPMV NO. 2162/1996 AND CONNECTED CASES.
- P2: COPY OF THE EXECUTION PETITION FILED BY THE R2 AGAINST THE PETITIONER AS E.P. NO. 84/2002 IN OP(MV) NO. 2286/95 BEFORE THE MACT, MANJERI DT 7/8/2002.
- P3: COPY OF THE EXECUTION PETITION FILED BY THE R2 AGAINST THE PETITIONER AS E.P. NO. 85/2002 IN OP(MV) NO. 1300/96BEFRE THE MACT MANJERI DT 7/8/2002.
- P4: COPY OF THE EXECUTION PETITION FILED BY THE R2 AGAINST THE PETITIONER AS E.P. NO. 86/2002 IN OP(MV) NO. 2285/95 BEFORE THE MACT, MANJERI DT 7/8/2002.
- P5: COPY F THE EXECUTION PETITION FILED BY THE R2 AGAINST THE PETITIONER AS E.P. N. 87/2002 IN OPMV NO. 1299/96 BEFOE THE MACT, MANJERI DT 7/8/2002.
- P6: COPY OF THE EXECUTION PETITION FILED BY THE R2 AGAINST THE PETITIONER AS E.P. NO. 88/2002 IN OPMV NO. 2163/95 BEFORE THE MACT MANJERI DT 7/8/2002.
- P7: COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONER IN EP NO. 84/2002 IN OP(MV) NO. 2286/2995 BEFORE THE MACT, MANJERI DT 4/12/2002.
- P8: COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER FROM THE PANTHALLOOR SERVICE CO-OPERATIVE BANK LTD. DT 9/7/2003.
- P9: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC 25551/2003 DT 12/12/2006.
- P10: COPY OF THE ORDER PASSED BY THE MACT MANJERI IN EP NO. 84/2002 IN OP(MV) NO. 2286/1995.
- P11: COPY OF THE ORDER PASSED BY THE MACT MANJERI IN E.P. NO. 85/2002 IN OP(MV) NO. 1300/1996 DT, 31/7/2003.
- P12: COPY OF THE ORDER PASSED BY THE MACT MANJERI IN EP NO. 86/2002 IN OP(MV) NO. 2285/1995 DT 31/7/2003.
- P13: COPY OF THE ORDER PASSED BY THE MACT MAJERI IN EP NO. 87/2002 IN OP (MV) NO. 1299/1996 DT 31/7/2003.
- P14: COPY OF THE ORDER PASSED BY THE MACT MANJERI IN EP NO. 88/2002 IN OPMV NO. 2163/1995 DT, 31/7/2003.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

ANU SIVARAMAN, J.

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W.P.(C).No.14631 of 2007

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Dated this the 17th day of September, 2015

JUDGMENT

The petitioner is the owner of a jeep bearing registration No.KLM-7243 which was involved in a motor accident on 07.01.1995. It is submitted that the jeep owned by the petitioner dashed against another jeep and 10 persons were injured in the accident. By Ext.P1 a common award was passed by the Motor Accidents Claims Tribunal, Manjeri on 14.03.2001. The petitioner was found liable to repay the amount covered by five of the smallest amounts awarded as compensation in the O.P. (MV)s In pursuance to Ext.P1, the insurer satisfied the award and initiated recovery proceedings against the petitioner. Exts.P2 to P6 execution petitions were preferred. It is submitted that the petitioner being unable to meet the liability, he had filed counter statements in the execution petitions pleading no means. He states that the only property possessed by him was already mortgaged to the Panthalloor Service Co-operative Bank Ltd and he had no other means to satisfy the award issued by the Motor Accidents Claims Tribunal. However, Exts.P10 to P14 warrants

were issued against him which were challenged in this writ petition.

2. At the time of admission of the writ petition on 08.05.2007, this Court had granted an interim stay on condition that the petitioner deposits Rs.30,000/- within one month. It is not clear whether the amounts have been deposited by the petitioner as directed. The aggregate amount covered by Exts.P2 to P6, it is submitted, would only come to ₹46,647/- with interest. It is the case of the petitioner that he had absolutely no means to pay the amount. He also contended that he was 65 years of age at the time of the issuance of Exts.P10 to P14 and would be 74 years old now.

3. Heard Sri.Babu S. Nair, learned counsel appearing for the petitioner and Sri.A.R.George, learned counsel appearing for the 2nd respondent.

4. It is contended by the learned counsel appearing for the 2nd respondent that the petitioner was liable to satisfy five of the lowest awards in terms of Ext.P1. Since the petitioner had neither got the award satisfied nor had taken steps to satisfy the same, the 2nd respondent filed execution petitions against the

petitioner. In the above circumstances, Exts.P10 to P14 are perfectly valid and in accordance with law, it is submitted.

5. The learned counsel appearing for the petitioner submitted that the petitioner is not possessed any means to satisfy the awards and therefore may be given an opportunity to pay off the amounts due to the 2nd respondent in installments. In view of the age of the petitioner and his plea that he has no means to satisfy the awards, it is directed that the petitioner is permitted to pay the amounts due to the 2nd respondent in Ext.P1 award in six monthly installments starting from 15th October 2015. The warrants issued against the petitioner, if they have not been executed, shall not be executed till the expiry of six months. In case the petitioner does not make the remittance as directed above. the warrants shall be revived as against him and the 2nd respondent shall be at liberty to proceed with the execution proceedings.

The writ petition is disposed of as above.

Anu Sivaraman, Judge

sj