

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 29317 of 2003 (M)

PETITIONER(S) :

**BABY, S/O.PAULOSE,
MUTHUPATHICKAL HOUSE, MONIPPALLY KARA,
MINIPPALLY VILLAGE.**

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENT(S) :

- 1. THE MOTOR ACCIDENT CLAIMS TRIBUNAL,
MUVATTUPUZHA.**
- 2. NISHA M.R,
GAYATHRI HERBALS, IRINJALAKKUDA.**
- 3. THE ORIENTAL INSURANCE CO.LTD.,
THRISSR.**

R,R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE PHOTO COPY OF THE AWARD DATED 05.01.2002, PASSED BY
1ST RESPONDENT-TRIBUNAL DISMISSING THE PETITIONER'S
CLAIM APPLICATION.**

**EXHIBIT P2: TRUE PHOTO COPY OF THE ORDER DATED 15.02.2003, PASSED BY
1ST RESPONDENT, DISMISSING THE RESTORATION
I.A.NO.570/2002 FILED BY THE PETITIONER.**

**EXHIBIT P3: TRUE PHOTO COPY OF THE ORDER DATED 10.04.2003, PASSED
BY 1ST RESPONDENT, DISMISSING I.A.NO.825/2003 FILED FOR
RESTORATION OF I.A.NO.570/2002.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 29317 of 2003

Dated this the 29th day of September, 2015

J U D G M E N T

The petitioner, who is the victim of a road traffic accident, filed OP(MV) No.1551/1998 before the 1st respondent tribunal claiming compensation to the tune of ₹50,000/- for the injuries sustained by him in the accident. The tribunal, without answering the issues framed, dismissed the petition for the reason that the petitioner was absent on the date of trial. Thereafter, the petitioner filed a restoration petition to restore the original petition, which also was dismissed. Subsequently, though yet another application was filed to restore the restoration petition, the same also was dismissed. It is with this background, the petitioner has come up before this Court.

2. I have heard the learned counsel for the petitioner and the learned senior counsel for the insurance company.

3. On a specific query put forward by me during the course of the argument as to whether the respondent insurance company has admitted the policy of the offending vehicle, the learned senior counsel for the insurance company answered in the positive.

4. When the issues are framed, the tribunal is duty bound to answer the same and decide the claim petition on merits. In spite of the laches on the part of the petitioner in appearing before the tribunal, this Court is of the view that it is only just and proper to allow the petitioner one more opportunity to substantiate his case before the tribunal.

Therefore, the writ petition is disposed of as follows;

- Exts.P1 to P3 are quashed.
- IA Nos.825/2003 and 570/2002 in OP(MV) No.1551/1998 on the file of the MACT, Muvattupuzha shall stand allowed. Consequentially, OP(MV) No.1551/1998 on the file of the MACT, Muvattupuzha shall stand restored to file.

..3..

- The parties shall appear before the MACT, Muvattupuzha on 30.10.2015.
- As the insurance company has admitted the policy, the tribunal shall try for a settlement without issuing notice to the registered owner as well as the driver; and the award shall be passed without any further delay.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-