

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 19784 of 2015 (W)

PETITIONERS :

**1. SEBASTIAR,
AGED 66 YEARS, S/O.SABARIMUTHU,
PERIYANTHAMB, UDAYARPETTY KARA
ANDAKUKLAM P.O., PUDUKOTTAI DISTRICT,
TAMIL NADU.**

**2. THAINESE MARY
AGED 64 YEARS, W/O.SEBASTIAR,
PERIYANTHAMB, UDAYARPETTY KARA
ANDAKULAM P.O., PUDUKOTTAI DISTRICT,
TAMIL NADU**

**BY ADVS.SRI.K.C.ELDH
SRI.JIJO THOMAS
SRI.MALLEENATHAN M.
SRI.ANEESH JAMES
SRI.ANIL R. NATH**

RESPONDENTS :

**1. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
DEPARTMENT OF INCOME TAX, CENTRAL SECTARIAT
NEW DELHI – 110 001.**

**2. ASSISTANT COMMISSIONER
INCOME TAX, OFFICE OF INCOME TAX, ALUVA CIRCLE
ALUVA – 683 101.**

**3. UNITED INDIA INSURANCE COMPANY
REPRESENTED BY ITS MANAGER, DIVISIONAL OFFICE
KACHERITHAZHAM, MUVATTUPUZHA,
ERNAKULAM DISTRICT – 686 673.**

**R1 & R2 BY ADVS. SRI.K.M.V.PANDALAI, SC
SRI. CHRISTOPHER ABRAHAM
R3 BY ADV. SRI.P.K.MANOJKUMAR,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE COMMON AWARD DATED 22.3.2006 PASSED BY THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,PERUMBAVOOR IN OP(MV) NO. 1569 OF 1999.**
- EXT.P2 COPY OF THE JUDGMENT DATED 9.1.2012 OF THIS HON'BLE COURT IN MACA NO. 666 OF 2007.**
- EXT.P3 COPY OF THE E.P. NO. 24 OF 2002 IN OP(MV) NO. 1569 OF 1999 ON THE FILES OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR.**
- EXT.P4 COPY OF THE JUDGMENT DATED 13.8.2013 OF THIS HON'BLE COURT IN WP(C) NO. 17286 OF 2013.**
- EXT.P5(a) COPY OF THE DEPOSIT RELEASE ORDER DATED 3.7.2012 ISSUED BY THE PUNJAB NATIONAL BANK, PERUMBAVOOR IN FAVOUR OF THE 1ST PETITIONER.**
- EXT.P5(b) COPY OF THE DEPOSIT RELEASE ORDER DATED 3.7.2012 ISSUED BY THE PUNJAB NATIONAL BANK, PERUMBAVOOR IN FAVOUR OF THE 2ND PETITIONER.**
- EXT.P6(a) COPY OF THE INCOME CERTIFICATE IN RESPECT OF THE PETITIONERS ISSUED BY THE TAHSILDAR, KULATHUR TALUK, PUDUKOTTAI DISTRICT.**
- EXT.P6(b) COPY OF THE INCOME CERTIFICATE IN RESPECT OF THE PETITIONERS ISSUED BY THE TAHSILDAR, KULATHUR TALUK, PUDUKOTTAI DISTRICT.**

(Contd...)

WP(C).No. 19784 of 2015 (W)

**EXT.P7 COPY OF THE REPRESENTATION DATED 21.11.2014 SUBMITTED BY
THE PETITIONERS BEFORE THE 2ND RESPONDENT.**

EXT.P8(a) COPY OF THE POSTAL RECEIPT.

**EXT.P8(b) COPY OF THE ACKNOWLEDGEMENT CARD EVIDENCING THE
RECEIPT OF EXHIBIT P7 BY THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 19784 of 2015

Dated this the 27th day of July, 2015

JUDGMENT

Petitioners are permanent residents of Tamil Nadu. The petitioners son died in a motor accident. The petitioner filed a claim petition by filing O.P.(MV) No.1569/1999 before the Motor Accidents Claims Tribunal, Perumbavoor. The petitioner was awarded compensation of Rs.1,80,990/-.

2. The Insurance Company-third respondent deposited the entire amount after deducting TDS and deposited the same with the Government of India Account. The amount appears to be Rs.29,852/-. The petitioners are the marginalized people and they are not liable to be assessed under the Income Tax Act. They approached this Court for claiming refund of the amount.

3. Learned counsel for the Department submits that the petitioners have either to file a return or the Insurance Company has to make a request for refund.

Taking note of the facts and circumstances, this writ petition is disposed of with the following directions:

- i. The third respondent shall make a request before the Income Tax Authority claiming refund.
- ii. If such request is made, that shall be considered and refunded to the third respondent itself.
- iii. The third respondent shall make the request within one month from the date of receipt of a copy of this judgment.
- iv. The refund shall be granted to the third respondent within a further period of one month.
- v. On receipt of the amount from the Income Tax Authority, the third respondent shall deposit the amount before the Motor Accidents Claims Tribunal and the Tribunal is directed to release the amount deposited by the Insurance Company to the petitioners.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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