

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 34839 of 2004 (V)

PETITIONER(S):

**CHELLAMMA, AGED 74, W/O.LATE VELU SWAMY,
RESIDING AT H.NO.94/25, THEKKUMURATHU VEEDU, VATHURUTHY
KOCHI 29.**

BY ADV. SRI.K.G.SARATHKUMAR

RESPONDENT(S):

- 1. PENTA ASSOCIATES, PENTA MENAKA,
SHANMUGHAM ROAD, KOCHI 682 031.**
- 2. ARAVIND KUMAR, CC 39/4226,
M.G.ROAD, RAVIPURAM, KOCHI - 16.**
- 3. BOBAN PAUL, PATTALATHU HOUSE, VENGOOR
VILLAGE, PERUMBAVOOR.**
- 4. THE COMMISSIONER FOR WORKMEN'S
COMPENSATION (DEPUTY LABOUR COMMISSIONER), KAKKANAD
ERNAKULAM.**
- 5. THE DISTRICT COLLECTOR, ERNAKULAM.**
- 6. THE TAHSILDAR, (RR),
KANAYANNUR TALUK, ERNAKULAM.**

**R,R2 BY ADV. SRI.T.M.MATHAI
R,R2 BY ADV. SRI.V.J.JOHN
R BY GOVERNMENT PLEADER SMT.LILLY.K.T.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.34839/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF AWARD DATED 20.12.1999 IN W.C.C.NO.30/1996 ON THE FILE OF THE 4TH RESPONDENT.

EXT.P2: COPY OF LETTER NO.4148/2001 DATED 9.6.2003 ISSUED BY 4TH RESPONDENT TO PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34839 OF 2004 (V)

Dated this the 27th day of January, 2015

J U D G M E N T

The petitioner, whose son met with an accident and died while working on the site of respondents 1 to 3, had approached the 4th respondent in connection with compensation under the Workmen's Compensation Act. Although an award was passed by the Commissioner for Workmen's Compensation awarding compensation to the petitioner, which amount was to be recovered from the 1st respondent firm, of which the 2nd and 3rd respondents were partners, the revenue recovery proceedings for realisation of the said amount were not pursued by the 5th and 6th respondents. It was under these circumstances that the petitioner approached this Court through the present writ petition seeking a direction to respondents 4 to 6 to recover the award amount in W.C.C.No.30/1996, on the file of the 4th respondent, by means of revenue recovery proceedings against respondents 1 to 3 and their assets.

2. A counter affidavit has been filed on behalf of the 2nd respondent, wherein, the contention taken is that he was not a

partner in the 1st respondent Firm at the time when the petitioner's son had met with an accident, and, therefore, he would not be liable for payment of any compensation amount or part thereof to the petitioner.

3. I have heard Sri.K.G.Sarath Kumar, the learned counsel appearing for the petitioner, Sri.T.M.Mathai, the learned counsel appearing for the 2nd respondent and also Smt.Lilly.K.T, the learned Government Pleader appearing for respondents 5 and 6. There is no appearance on behalf of respondents 1 and 3, despite notice.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I note that despite the fact that there was an award passed in favour of the petitioner awarding compensation to her for the death of her son, which amount was to be recovered from the 1st respondent, which is a partnership Firm, no action, save an issuance of notice to the 1st respondent Firm, has been taken by respondents 5 and 6 in implementation of the award of the Commissioner for Workmen's Compensation. Under these circumstances, there will be a direction to respondents 5 and 6

to initiate and pursue revenue recovery steps against the 1st respondent Firm, and the 2nd and 3rd respondents, who are shown as partners in the Firm in the proceedings before the Commissioner for Workmen's Compensation and have not challenged the said award, for realisation of the compensation amount, together with interest thereon. The 5th and 6th respondents shall initiate steps forthwith, and without occasioning any further delay in the matter, taking into account the fact that the petitioner is now 84 years old and has been waiting to receive the compensation for the last ten years.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp