

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 35359 of 2015 (T)

PETITIONER :

**REJU XAVIER, AGED 48 YEARS, S/O. XAVIER,
RESIDING AT POLAYIL HOUSE, CHELLANAM,
PANCHAYATH WARD 14, SOUTH CHELLANAM,
KOCHI, ERNAKULAM DISTRICT - 682 008.**

**BY ADVS.SRI.P.R.JAYAKRISHNAN
SRI.PRADEEP KRISHNA
SRI.SHANKAR V.**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, ERNAKULAM - 682 030.**
- 2. DEPUTY TAHSILDAR (RR), KOCHI - 682 001.**
- 3. ANTONY @ BAIJU, S/O. CHARLY,
POOTHARAYIL VEEDU, WARD NO.X,
KAITHATHODU PANCHAYATH (PETITIONER IN OP(MV)) - 688 531.**
- 4. MARTIN @ SHAJI,
S/O. VARGHESE, THAYYIL VEETIL, WAR NO.15,
CHELLANAM POST, CHELLANAM - 682 008.
(1ST RESPONDENT IN O.P (MV).**
- 5. MS/. NEW INDIA ASSURANCE CO. LTD.,
EDATHIL BUILDING, THOPPUMPADY,
KOCHI - 682 005 (3RD RESPONDENT IN OP(MV).**

**R1 & R2 BY GOVERNMENT PLEADER SRI. R.RANJITH
R5 BY SRI.A.A.ZIYAD RAHMAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 35359 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - AWARD DT. 04.2.2010 IN OP(MV) NO. 1323 OF 2005 PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, ALLEPPEY.**
- P2 - THE TRUE COPY OF THE GOODS PERMIT ISSUED BY THE RT OFFICE, MATTANCHERRY IN RESPECT OF THE MINI LORRY BEARING NO. KL7-Y-9162.**
- P3 - THE TRUE COPY OF THE POLICY ISSUED TO THE PETITIONER.**
- P4 - THE TRUE COPY DEMAND NOTICE FROM THE OFFICE OF THE 2ND RESPONDENT BEARING NO. A21455/15.**
- P5 - THE TRUE COPY OF IA NO. 5236/2015 FILED BEFORE THE MACT, ALLEPPEY.**
- P6 - THE TRUE COPY OF IA NO. 5237/2015 FILED BEFORE THE MACT, ALLEPPEY**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35359 of 2015

Dated this the 24th day of November, 2015

JUDGMENT

The petitioner is aggrieved by the recovery steps initiated by the respondents for recovery of amounts confirmed against him by Ext.P1 award of the Motor Accident Claims Tribunal, Alleppey. In the writ petition, the petitioner refers to Exts.P5 and P6 applications that have been preferred by him before the MACT, Alleppey for setting aside the ex-parte award passed against him and for condoning the delay in filing the application for setting aside the said ex-parte award. It is prayed that pending consideration of the said application by the MACT, Alleppey, recovery, steps against the petitioner for recovery of amounts confirmed against him by Ext.P1 award may be kept in abeyance.

2. I have heard the learned counsel appearing for the petitioner, the learned Government Pleader appearing for respondents 1 and 2 as also the learned Standing Counsel appearing for the 5th respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) The Motor Accident Claims Tribunal, Alleppey, shall consider and pass orders on Exts.P5 and P6 applications preferred by the petitioner, within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.
- (ii) Recovery steps pursuant to Ext.P4 demand notice issued by the 2nd respondent, shall be kept in abeyance till such time as the MACT, Alleppey, passes orders as directed, on condition that the petitioner furnishes a Bank Guarantee for 25% of the amounts indicated in Ext.P4 demand notice, within a period of six weeks from the date of receipt of a copy of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE