

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 39298 of 2015 (J)

PETITIONER :

**NICHLOSE N.V., AGED 63 YEARS, S/O.VARKEY,
43/547, NERIKKUNNASSERI HOUSE, POWATHIL ROAD,
AYYAPPANKAVU, KOCHI-682 018, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.ANIL S.RAJ
SRI.TABY JACOB
SMT.K.N.RAJANI
SRI.RADHIKA RAJASEKHARAN P.
SMT.ANILA PETER**

RESPONDENT(S):

- 1. SMT. USHA V. PAI, W/O. VIPINCHANDRA PAI,
CHITRANJALI, KOTETAR.P.O., MANGLORE-575 022.**
- 2. SRI. UMESH.S., S/O. LATE SREENIVASA SHENOI,
KANNATTUTHARA PUTHEN MADOM, THURAVOOR.P.O.,
CHERTHALA, PIN-688 532**
- 3. SMT. LATHA DEVI, W/O.VENU, VAISHNAVAM, PONNAMVELI,
PATTANAKKAD.P.O., CHERTHALA, PIN-688 531.**
- 4. SRI. K.S.RAMESH, S/O.LATE SREENIVASA SHENOI,
KANNATTUTHARA PUTHEN MADOM, THURAVOOR.P.O.,
CHERTHALA, PIN-688 532**
- 5. ICICI LOMBARD MOTOR INSURANCE COMPANY LTD.,
ERNAKULAM, REPRESENTED BY THE CUSTOMARY SERVICE MANAGER,
KANNAMKARY ESTATE, 3RD FLOOR, SHANMUGHAM ROAD,
MARINE DRIVE, ERNAKULAM-682 011**
- 6. THE DEPUTY TAHSILDAR, REVENUE RECOVERY,
KANAYANNUR TALUK, ERNAKULAM, KOCHI-682 011.**

**R5 BY ADV. SRI.R.AJITH KUMAR
R6 BY GOVERNMENT PLEADER SMT. LILLY.K.T**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.39298/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE AWARD IN O.P.(MV) NO.219 OF 2009 ON THE FILE OF THE ADDITIONAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA DATED 30/09/2014**
- P2 COPY OF THE NOTICE BEARING NO.2015/2115/7/802 ISSUED BY THE 6TH RESPONDENT DATED 19/9/2015.**
- P3 COPY OF THE NOTICE BEARING NO.E1-5044/15/MACT ISSUED BY THE 6TH RESPONDENT DATED 22/9/2015.**
- P4 COPY FO THE I.A.NO.1797/2015 IN O.P.(MV) NO.219/2009 FOR SETTING ASIDE EXPARTE WARD BEFORE THE TRIBUNAL DATED 18/12/2015.**
- P5 COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE LOURDES HOSPITAL, ERNAKULAM.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.39298 of 2015

Dated this the 22nd day of December 2015

JUDGMENT

The petitioner, who is faced with recovery proceedings for recovery of amounts confirmed against him by an award of the Motor Accidents Claims Tribunal (MACT) submits that he has preferred Ext.P4 application for setting aside the award and the same is pending before the MACT, Alappuzha. The limited prayer in the writ petition is for a direction to MACT, Alappuzha to consider and pass orders on Ext.P4 application for setting aside the ex-parte award and to keep in abeyance the recovery steps initiated against the petitioner, till then.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submission made across the Bar, I dispose the writ petition with a direction to the MACT, Alappuzha to consider and pass orders on Ext.P4 application 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. Recovery steps pursuant to Exts.P2 and P3 notices shall be kept in abeyance till such time as orders are passed by MACT, Alappuzha as directed. The petitioner shall produce a copy of this writ petition along with a copy of this judgment before the MACT, Alappuzha, for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/