



2025:KER:27834

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

THURSDAY, THE 6<sup>TH</sup> DAY OF MARCH 2025 / 15TH PHALGUNA, 1946

MACA NO. 2808 OF 2014

AGAINST THE AWARD DATED 12.03.2014 IN OPMV NO.48 OF 2011 OF  
MOTOR ACCIDENT CLAIMS TRIBUNAL VADAKARA

**APPELLANT:**

RAJESH  
AGED 29 YEARS  
S/O.ARIPPAN,KUNDIKKATTIL HOUSE,MANIYOOR(P.O).

BY ADV SMT.K.DEEPA (PAYYANUR)

**RESPONDENTS:**

- 1 RANGITH.K.K.  
AGED 38 YEARS  
S/O.ARIPPAN,KARINGOTTIL  
HOUSE,MANIYOOR(P.O),PAYYOLI,KOZHIKODE,PIN-673523.
- 2 SUNDHARAN  
AGED 37 YEARS  
S/O.ARIYAN,NARIKKUNNI HOUSE,MANIYOOR(P.O),PAYYOLI,  
KOZHIKODE,PIN-673523.
- 3 THE NEW INDIA ASSURANCE CO.LTD  
BRANCH OFFICE,EAST NADAKKAVU,KOZHIKODE,PIN-673011.

BY ADVS.  
SMT.M.MEENA JOHN  
SRI.VIJU THOMAS

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR  
ADMISSION ON 06.03.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



2025:KER:27834

**J U D G M E N T**

Dated this the 6<sup>th</sup> day of March, 2025

The petitioner in O.P.(M.V.) No. 48/2011 on the file of the Motor Accident Claims Tribunal, Vatakara, is the appellant herein. (For the purpose of convenience, the parties are hereafter referred to as per their rank before the Tribunal).

2. According to the petitioner, on 02.11.2000 at about 4 p.m., while he was traveling in an autorickshaw, the autorickshaw capsized and the petitioner sustained injuries. Though the accident was on 02.11.2000, the claim petition was filed only after a period of 11 years. The Tribunal dismissed the claim petition on the ground that there was inordinate delay of 11 years in filing the claim petition.

3. Heard Smt.K. Deepa, the learned Counsel appearing for the petitioner/appellant, and Sri. Viju Thomas, the learned Standing Counsel for the 3<sup>rd</sup> respondent.

4. The learned counsel for the petitioner would argue that, after sub-section (3) of section 166 was deleted from the Motor Vehicles Act, there was no delay for filing the claim petition and as such, according to her, the Tribunal was not justified in dismissing the claim petition on the ground that



2025:KER:27834

it was filed after such a delay. She has also relied upon the decision of the Hon'ble Supreme Court in **New India Assurance Co. Ltd v. C. Padma and another**, in which the Hon'ble Apex court held that even for claimants before the amendment, the benefit of the amendment has to be given.

5. On the other hand, the learned counsel for the insurer relied upon the decision of the Hon'ble Supreme Court in **Purohit and Company (M/s) v. Khatoonbee and Another** [2017 (2) KHC 102], in which the three judge bench of the Hon'ble Supreme Court held that even though Sub section 3 of S.166 of the Motor Vehicles Act was deleted, the claim petition is to be filed within a reasonable time. In the above decision, the Apex court has refused to entertain a claim petition filed after a delay of 28 years. In the decision in **National Insurance Co.Ltd v. Jojo T. G** [2019 KHC 682], a single judge of this Court in paragraph 8 held that:-

“8. Before examining the question whether the claim raised by the respondent before the Tribunal is a state one, it is necessary to refer to the principles behind the rule of practice that a state claim shall not be adjudicated by a court. The principles behind the said rule are that long dormant claims have more of cruelty than justice in them; that one with a good cause would pursue the action in natural course of events within a reasonable time; that it is unfair to expect one to keep and maintain proof of all that is happening in life indefinitely for the mere chance of litigations at some point of time, and that it is unfair to expect a person to lead a life with a claim hanging over him for an indefinite period. A claim that has long remained un -asserted; one that is first asserted after an unexplained delay which is so long as to render it difficult or impossible for the court to ascertain the truth of the



2025:KER:27834

matter in controversy and do justice between the parties or as to create a presumption against the existence or validity of the claim or a perception that the claim has been abandoned or satisfied, can be said to be a stale claim [See Black's Law Dictionary (Sixth Edition)]. A claim which is not stale alone can be said to be live and surviving.

In the instant case for the inordinate delay of 11 years, the only explanation offered is that the petitioner engaged another counsel, and that without filing the claim petition, he went abroad. However, not even the name of the counsel so entrusted him is disclosed in the claim petition or in the memorandum of the appeal. Therefore, it can be seen that, in this case the petitioner has not offered any valid explanation for the inordinate delay of 11 years in filing the claim petition.

Another most important and deciding fact is that, though this claim petition is filed under Section 166 of the Motor Vehicles Act, no charge sheet is produced to prove the factum of negligence against the driver of the offending vehicle. For that fatal defect also, there is no satisfactory explanation from the side of the petitioner. In the light of the above discussions, I find merits in this appeal and hence it is dismissed.

Sd/-

**C. PRATHEEP KUMAR,  
JUDGE**

vnk/-