

Sabu Vs. Sajeevan

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Court : Kerala

Decided On : Oct-29-2013

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Sabu

Respondent : Sajeevan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN TUESDAY, THE 29TH DAY OF OCTOBER 2013 7TH KARTHIKA, 1935 OP (MAC).No. 3740 of 2013 (O) ----- OPMV9512009 of MACT, VATAKARA PETITIONER(S): ----- SABU, S/O NARAYANAN, AGED 35 YEARS, VALLUVAKKUNI THAREMMAL HOUSE, AYANIKKAD AMSOM DESOM, AYANIKKAD POST, KOYILANDY TALUK, KOZHIKODE DISTRICT- REPRESENTED BY MOTHER AND GUARDIAN, BHAVANI, W/O NARAYANAN, AGED 68 YEARS, RESIDING AT ----- -DO- BY ADV. SRI.C.P.MOHAMMED NIAS RESPONDENT(S): ----- 1. SAJEEVAN. V, VAZHAYIL HOUSE, KIDANJI P.O, THALASSERY, KANNUR DISTRICT-670 675 2. BAJESH T.K., S/O RAJAN, THANDOTTI KUNIYIL HOUSE, THIRUVALLUR P.O, VATAKARA TALUK, KOZHIKODE DISTRICT-673541 3. NATIONAL INSURANCE COMPANY LTD., KEYIS SHOPPING COMPLEX, NARANGAPURAM, THALASSERY, KANNUR DISTRICT-673 101 BY SRI.M.A.GEORGE, SC GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI THIS OP (MAC) HAVING COME UP FOR

ADMISSION ON 29.10.2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP (MAC).No. 3740 of 2013 APPENDIX EXHIBITS P1- TRUE COPY OF THE CLAIM PETITION NUMBERED AS OP(MV).951/2009 FILED BY THE PETITIONER BEFORE THE HONOURABLE MOTOR ACCIDENTS CLAIMS TRIBUNAL, VATAKARA P2- TRUE COPY OF I.A.565/2013 IN OP(MV).951/2009 BEFORE THE HONOURABLE MOTOR ACCIDENTS CLAIMS TRIBUNAL, VATAKARA FILED BY THE PETITIONER P3- TRUE COPY OF THE

ORDER

DATED 29.10.2013 OF THE HONOURABLE MOTOR ACCIDENTS CLAIMS TRIBUNAL, VATAKARA IN I.A.565/2013 IN OP (MV).951/2009 FILED BY THE PETITIONER. //true copy// P.A.To Judge K.VINOD CHANDRAN, J - - - - -
- - - - - OP(MAC).No. 3740 of 2013 - - - - - Dated this the 29th day of October, 2013 - - - - -

JUDGMENT

The petitioner was a claimant before the Motor Accidents Claims Tribunal, Vatakara, (for short 'the Tribunal') with respect to an accident in which he suffered grievous injuries. The petitioner claims disability arising out of the accident and to prove the same, the Tribunal directed him to appear before the Medical Board, on an application made by him. The petitioner was issued a notice by the Medical Board asking him to appear before the Board at the Medical College Hospital, Kozhikode on 28.02.2013. However, the said letter was received by the petitioner only on 01.03.2013. In fact, the cover in which the notice was sent to the petitioner by the Medical Board was also produced before the Tribunal to evidence that though the date fixed for examination was in February the postage seal indicated the cover having been sent by post only in March, 2013. Hence, the petitioner was not able to appear before the Medical Board on the stipulated date and he filed a further application Ext.P2 before the Tribunal for OP(MAC).3740/13 2 another opportunity to be examined by the Medical Board. The same was dismissed by a one line order in Ext.P3 without considering any of the facts placed before the Tribunal.

2. Heard the learned counsel for the Insurance Company also.

3. In the circumstances detailed above, there shall be a direction to the petitioner to present himself before the Medical Board, Medical College, Kozhikode on 06.11.2013 and the Chairman of the Medical Board shall, on that day, give him a date for being examined by the Board which date shall be within a period of one month from 06.11.2013. To facilitate examination of the petitioner by the Medical Board, Ext.P3 is set aside. The claim petition shall be considered by the Tribunal, after receipt of the report of the Medical Board.

4. It is also brought out that there is an application filed as I.A.1576 of 2013 wherein the petitioner had sought for appointment of a guardian which stood dismissed by order OP(MAC).3740/13 3 dated 07.10.2013 which the petitioner intends to challenge. However, it is the contention that a certified copy has not been issued till date. If an application for certified copy has been received by the Tribunal, there is no reason why the Tribunal should not consider issuance of the certified copy within a reasonable time there from, considering the pendency of the other applications before the Tribunal. Original Petition is disposed of as above.
Sd/- K.VINOD CHANDRAN, Judge mrca //true copy//

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