

Sunil Kumar Vs. Raveendranathan K.C.

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Court : Kerala

Decided On : Feb-05-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Sunil Kumar

Respondent : Raveendranathan K.C.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN WEDNESDAY, THE 5TH DAY OF FEBRUARY 2014 16TH MAGHA, 1935 OP (MAC).No. 13 of 2014 (O) ----- IA52472013 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THIRUVANANTHAPURAM ----- PETITIONER : ----- SUNIL KUMAR, AGED 43 YEARS S/O.KRISHNAN NAIR, KEERTHY, THAZHECHIRAKKAL PEYYAD P.O, THIRUVANANTHAPURAM - 695 573 BY ADVS.SRI.J.ROBINSON SRI.R.T.PRADEEP RESPONDENT(S) : ----- 1. RAVEENDRANATHAN K.C., S/O.CHELLAPPAN, SURYAKANTHY, PURAVOORKONAM KARAKULAM P.O., THIRUVANANTHAPURAM - 695 064 2. THE MANAGER BAJAJ ALLIANCE INSURANCE CO.LTD T C282222 (5), ANUGRAHA, 2ND FLOOR, M.G ROAD PAZHAVANGADI, THIRUVANANTHAPURAM - 695 023 3. REVATHY P. MOHAN, W/O.SREEJESH S.R., QUARTERS NO F-21, UNIVERSITY CAMPUS, KARYAVATTOM P.O. THIRUVANANTHAPURAM - 695 081 4. SREEJITH S.R., S/O.SIVAN NAIR, RESIDING AT DO. DO.

5. THE DIVISIONAL MANAGER THE NEW INDIA ASSURANCE CO. LTD MOTOR3D PARTY CLAIMS HUB, PANAMUKHAM BUILDING GOVERNMENT PRESS ROAD, THIRUVANANTHAPURAM - 695 001 BY SRI.JOHN JOSEPH VETTIKAD THIS OP (MAC) HAVING COME UP FOR ADMISSION ON0502-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- OP (MAC).No. 13 of 2014 (O) ----- APPENDIX PETITIONERS' EXHIBITS : ----- EXHIBIT P1 TRUE COPY OF UNNUMBERED O.P(MV) DATED1510-2013 BEFORE MACT THIRUVANANTHAPURAM. EXHIBIT P2 TRUE COPY OF IA NO. 5247/2013 DATED1510-2013. EXHIBIT P3 TRUE COPY OF

ORDER

DATED1211-2013 IN IA NO52472013 BY MACT THIRUVANANTHAPURAM RESPONDENT(S)' EXHIBITS : NIL -----
//TRUE COPY// P.A. TO JUDGE Mn K. VINOD CHANDRAN, J.

===== O.P.(M.A.C)No. 13/2014 =====

Dated this the 5th day of February, 2014

JUDGMENT

The petitioner challenges Ext. P3 order of the Tribunal by which the exemption sought for by the petitioner from payment of court fees prescribed under sub Rule(1) of Rule 397 of the Kerala Motor Vehicle Rules, 1989, as per sub Rule(2) was declined. The learned counsel for the petitioner would contend that the order of rejection would go against the dictum laid down by this Court in Suma v. Rajesh [2013 ACJ990 and in any event, the averments in the petition would disclose sufficient reasons which ought to have been looked into by the Tribunal before exercising its discretion under sub Rule(2) of Rule 397 of the Rules.

2. On a reading of Suma (supra) it cannot be said that this Court had laid down the law that on an application being filed for exemption, the same should O.P.(M.A.C)No. 13/2014 2 always be allowed by the Tribunals. What has been specifically noticed is that, the discretion conferred on the Tribunal under Rule (2) does not make it incumbent upon the Tribunal to conduct a roving enquiry, as to

whether the petitioner is capable of paying the court fees or not; as is the mandate under the Code of Civil Procedure. Considering the aspect that the exemption granted is not a total waiver and that in any event, the amounts awarded would be deducted, to the extent of the court fees and only the balance would be eventually disbursed; the Court found that the Tribunal ought to have allowed the application on the facts disclosed in the said case.

3. The facts disclosed in the aforesaid decision is that, the parents, wife and children of a person who succumbed to injuries in a motor accident was before the Court claiming compensation for the death of the only breadwinner of the family. The specific averment made by the claimants in the Claim petition itself was that the claimants were wholly dependant upon the deceased for O.P.(M.A.C)No. 13/2014 3 their livelihood and that the death of the only breadwinner of the family has caused financial crisis. There was also specific averment to the effect that the claimants were not employed and do not own any property, generating income and it is in such circumstance that, this Court directed the claimants therein to be granted exemption from payment of court fees.

4. In the instant case, the petitioner has filed a Claim Petition as is disclosed from Ext. P1. The petitioner is said to be employed as an Executive Director of one Technocasts Appliances at Kaithamukku, Thiruvananthapuram, the petitioner has declared his monthly income to be Rs. 35,000/-. The petitioner also contended that there was a surgery done on him. He said to have been hospitalised only for 3 days from 7.9.2013 to 10.09.2013 and has been advised to be treated as out patient. However, on affidavit, the petitioner claims that the petitioner is unable to do any work and that she has no income. On the specific contentions made in the O.P.(M.A.C)No. 13/2014 4 application, the Tribunal found that the petitioner could not be exempted from paying court fees. Going by the specific averments in the complaint, this Court is not persuaded to hold that the refusal to exercise discretion in favour of the petitioner, by the Tribunal, in Ext. P3, is improper. The Original Petition is dismissed. Sd/- K. VINOD CHANDRAN, JUDGE SB