

Pradeep Leen Vs. State of Kerala

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Court : Kerala

Decided On : Aug-08-2000

Reported in : 2002ACJ744

Judge : M.R. Hariharan Nair, J.

Appeal No. : O.P. No. 20814 of 1998

Appellant : Pradeep Leen

Respondent : State of Kerala

Advocate for Def. : C.K. Pavithran, G.P.

Advocate for Pet/Ap. : Ajay Krishnan Nair and; Nagaraj Narayanan, Advs.

Judgement :

M.R. Hariharan Nair, J.

1. The question for consideration is whether for initiating action for execution of an award of the Motor Accidents Claims Tribunal the petitioner-claimant can produce the free copy of the award supplied to him by the Tribunal or whether he should apply for, secure and produce a certified copy of the order.

2. The petitioner filed Exh. P-2 E.P. seeking to recover the amounts awarded by the M.A.C.T., Thiruvananthapuram in O.P. (MV) No. 550 of 1993. As per Exh. P-3

order the Tribunal found that no certified copy of the award sought to be executed was produced by the petitioner and as such Exh. P-2 was not maintainable. The petitioner was also directed to produce certified copy of the award within two weeks, failure of which would entail dismissal of the execution petition.

3. According to the learned Counsel appearing for the petitioner Exh. P-2 had been filed duly supported by a free copy of the award in question and the Tribunal was not justified in insisting for a further certified copy.

4. I have heard the learned Government Pleader, who drew my attention to Rule 394 (1) of the Kerala Motor Vehicles Rules, which provides that for the purpose of enforcement of an award, the Tribunal shall have all the powers of a civil court while executing a decree under the Code of Civil Procedure. According to him, if so construed, necessarily, a certified copy is to be produced.

5. Rule 394 (2) of the Kerala Motor Vehicles Rules provides that the Claims Tribunal may institute suo motu execution proceedings also if the amount of compensation awarded is not paid before expiry of the period of payment stipulated in the award. The said rule will show that production of any copy is not a must for initiation of execution proceedings. Further, the purpose of a copy is only to understand the purport and scope of the award, which is sought to be executed and to assess the starting point of limitation. As per Section 168(2) of the Motor Vehicles Act, the Claims Tribunal is bound to deliver copies of the award to the parties concerned ex-peditiously and in any case within a period of fifteen days from the date of award.

6. It is stated by the learned Counsel for the petitioner that it is with such a copy, that was duly given by the Tribunal that Exh. P-2 execution petition was filed. The learned Government Pleader could not convince me that a certified copy, that might be given by the Tribunal on application, would contain more particulars than that in a free copy granted as per Section 168(2) of the Act.

7. In the circumstances, I feel that by insisting on a certified copy in addition to the free copy produced, the Tribunal would only be putting an unnecessary burden on the petitioner and contribute to further delay in the execution of the award. It is

here that Rule 394 (2) providing that the Tribunal can initiate execution proceedings suo motu assumed importance. If only suo motu action is not taken the petitioner has to file an execution petition and according to me it is totally unnecessary to insist on production of a certified copy for proceeding with the execution petition. Exh. P-3 order, in these circumstances, is quashed and the Tribunal is directed to take back Exh. P-2, if it is already dismissed and to proceed with the execution in accordance with law accepting that the free copy produced by the petitioner is sufficient to meet the requirements of law.

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