

(2004) 11 KL CK 0080
In the High Court Of Kerala
Case No : OP. No. 13097 of 1997 (H)

Abdul Majeed

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 23-11-2004

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 21

Citation : (2005) 4 ACC 601 : (2005) 2 ACC 885 : (2005) 1 KLJ 719 : (2005) 2 KLT 434

Hon'ble Judges : K. Thankappan, J

Bench : Single Bench

Advocate : B. Jayasurya, for the Appellant; James Mathew Kadavan, (G.P.) and P.V. Jyothi Prasad, for the Respondent

Final Decision : Allowed

Judgement

K. Thankappan, J.—This Original Petition is filed by the claimant in O.P (MV) No. 1053 of 1989 on the file of the Motor Accidents Claims Tribunal, Thiruvananthapuram. The petitioner claimed compensation for the injuries sustained by him in a motor accident. Along with the claim petition, the petitioner filed a petition for condoning the delay in filing the claim petition. The Tribunal as per Ext. P1 order dated 8-2-1992 awarded an amount of Rs. 13,000/- as compensation on the basis of a compromise entered into between the petitioner and the Insurance Company as well as the other parties involved in the case. Subsequently, the Insurance Company filed a petition for review of the order passed in the delay condonation petition as well as the award along with a petition for condoning the delay in filing the review petition. The petitioner filed objection to the review petition as well as the delay petition. The Tribunal considered the review petition and as per order No. I.A. No. 117 of 1992, the Tribunal set aside the award passed on 8-2-1992 and directed the claimant to implead the insured in the claim petition. Thereafter, the petitioner filed a review petition to re-open the claim petition and the Tribunal as per Ext. P11 order

dismissed the same.

2. The learned counsel appearing for the petitioner submits that as per Ext. P1 award, the Tribunal had already awarded Rs. 13,000/- as compensation and hence, the review petition filed by the Insurance Company ought not to have been entertained by the Tribunal. Counsel further submits that the Tribunal has no power to review its own order and that neither the Motor Vehicles Act, 1988 nor the Rules framed thereunder contain such a provision. Counsel also submits that once an award has been passed on the basis of a compromise entered into between the parties, the Tribunal has no power to review that award. Learned counsel for the Insurance Company submits that the review order passed by the Tribunal is justifiable under Rule 21 of the Motor Vehicles Rules, 1989 and there is no infirmity in the said order. The question to be considered in this Original Petition is whether the Tribunal can review its own order, set aside the same and pass a subsequent order. As per the provisions contained in the Motor Vehicles Act, an appeal is provided against an award passed by the Tribunal, but there is no provision for review of the order. Rule 21 of the Motor Vehicles Rules does not provide for review of the order. Even the provisions of the CPC are not applicable here. In the above circumstances, this Court is of the view that the order passed by the Tribunal in I.A. Nos. 117 of 1992 and 180 of 1995 are without jurisdiction. Exts. P5 and P11 are, therefore, quashed. The petitioner is entitled to the award passed as per Ext. P1 with interest at 6% per annum from the date of award till realisation.

The Original Petition is allowed as above.