
(2001) 11 KL CK 0075
In the High Court Of Kerala
Case No : O.P. No. 16991 of 2001

Jamal	Vs	APPELLANT
Motor Accidents Claims Tribunal		RESPONDENT

Date of Decision : 09-11-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 4

Citation : (2001) 11 KL CK 0075

Hon'ble Judges : R. Rajendra Babu, J

Bench : Single Bench

Advocate : K.K. Mohamed Ravuf, for the Appellant; Mathews Jacob, for the Respondent

Final Decision : Allowed

Judgement

R. Rajendra Babu, J.—O.P. (MV) 48/99 filed by the petitioner before the Motor Accidents Claims Tribunal, Muvattupuzha was dismissed for default. Petitioner filed I.A. 1565/2000 for restoring the Original Petition. That petition was allowed on condition as per Ext. P3 order directing deposit of Rs. 800/- towards costs on or before 27.1.2001. But before 27.01.2001, the amount was not deposited, instead, the above amount of costs was paid to the counsel for the Insurance Company on 23.01.2001. As the amount was not deposited, I.A. 1565/2000 was dismissed. Thereafter, the petitioner filed I.A. 443/2001 for restoring a restoration petition alleging on the ground that the costs was paid even prior to the stipulated dated. The above petition was also dismissed. Aggrieved by the above orders, petitioner filed the present O.P.

2. Heard the leaned counsel for the petitioner and also the learned counsel for the Insurance Company.

3. It is regrettable to note that the Tribunal had adopted a hyper technical approach in the matter. When the cost was paid to the opposite side and that fact was brought to the notice of the Tribunal, the petitioner should have been

allowed instead of dismissing it and dragging the parties to approach before this court. It appears that the Tribunal could not understand the spirit of the benevolent legislation regarding the award of compensation to the injured victims and the legal representatives of deceased in motor accident cases.

4. In the above case, both I.A. 1565/2000 and I.A. 443/2001 shall stand allowed and the order of the Tribunal shall stand modified to that extent. Accordingly, O.P. (MV) 48/99 shall stand restored to the file of the Tribunal. The Tribunal shall give notice to the counsel regarding the posting of the case.