

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 2 OF 2021

AGAINST THE ORDER dated 26.08.2014 IN OPMV 1213/2002 OF MOTOR

ACCIDENT CLAIMS TRIBUNAL , PALAKKAD

PETITIONER/1ST RESPONDENT:

M. P. GEORGE, AGED 58 YEARS, S/O. PAULY, MULLANKUZHAYIL
HOSUR, KOOTTALA, PATTIKKAD, THRISSUR DISTRICT.

BY ADVS.
SANTHOSH P. PODUVAL
SMT. R. RAJITHA
SMT. CHITHRA. S. BABU
SRI. R. N. SANDEEP

RESPONDENTS/PETITIONER&RESPONDENT Nos 2 & 3:

- 1 SIVAN, AGED 46 YEARS, S/O. CHAMI, VALIYAPARAMBIL HOSE,
ODUVANKKAD, PERINGOTTUKURUSSE, PALAKKAD DISTRICT - 678
574.
- 2 THE ORIENTAL INSURANCE COMPANY, P. B. NO. 49,
PATTAMANA BUILDING, ALUVA, REPRESENTED BY ITS BRANCH
MANAGER - 683101.
- 3 REMANAN, 5/112, CHIRANGAL HOUSE, PERINGOTTUKURUSSE,
PALAKKAD - 678 001.
- 4 THE REGIONAL TRANSPORT OFFICER, PALAKKAD DISTRICT -
678001.

BY ADVS.
SMT. K. S. SANTHI
SRI. BINAY VASUDEVAN
SR. GP SMT. SHEEJA C. S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021,
ALONG WITH OP (MAC). 92/2020, 96/2020 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 92 OF 2020

AGAINST THE ORDER IN OPMV 1239/2002 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL, PALAKKAD

PETITIONER/1ST RESPONDENT:

M.P. GEORGE, AGED 58 YEARS
S/O. PAIY, MULLANKUZHAYIL HOUSE,
KOOTTALA, PATTIKKAD, THRISSUR DISTRICT.

BY ADVS.
SANTHOSH P. PODUVAL
SMT. R. RAJITHA
SMT. CHITHRA. S. BABU
SRI. R. N. SANDEEP

RESPONDENTS/PETITIONER & RESPONDENT Nos 2 & 3:

- 1 SUDHA @ OMANA, W/O. GIRISH, VALIYAPARAMBIL HOUSE,
ODUVANKKAD, PERINGOTTUKURUSSE, PALAKKAD DISTRICT-
678574.
- 2 THE ORIENTAL INSURANCE COMPANY,
P.B.NO.49, PATTAMANA BUILDING,
ALUVA, REPRESENTED BY ITS BRANCH MANAGER.
- 3 REMANAN, 5/112, CHIRANGAL HOUSE, PERINGOTTUKURUSSE,
PALAKKAD.
- 4 REGIONAL TRANSPORT OFFICER, PALAKKAD DISTRICT.

BY ADV BINOY VASUDEVAN
SMT. K. S. SANTHI
SR. GP SMT. SHEEJA C. S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021,
ALONG WITH OP (MAC).2/2021 AND CONNECTED CASES, THE COURT ON THE

O.P (MAC) Nos.2 of 2021, 92 of 2020, 96 of 2020, 100 of 2020, 104
of 2020 & 106 of 2020

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SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 96 OF 2020

AGAINST THE ORDER IN OPMV 1196/2002 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL, PALAKKAD

PETITIONER/1ST RESPONDENT:

M.P.GEORGE, AGED 58 YEARS, S/O. PAILY, MULLANKUZHIYIL HOUSE, KOOTTALA, PATTIKKAD, THRISSUR DISTRICT.

BY ADVS.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SMT.CHITHRA.S.BABU
SRI.R.N.SANDEEP

RESPONDENTS/PETITIONER & RESPONDENT Nos. 2 &3:

- 1 ANANTHAKRISHNAN @ ANANTHAN, AGED 36 YEARS
S/O. KANDAN, NEELIPARAMBIL HOUSE, ODUVANKKAD,
PERINGOTTUKURUSSI, PALAKKAD DISTRICT.
- 2 THE ORIENNTAL INSURANCE COMPANY, P.B NO. 49, PATTAMANA
BUILDING, ALUVA REPRESENTED BY ITS BRANCH MANAGER.
- 3 REMANAN, 5/112, CHIRANGAL HOUSE, PERINGOTTUKURISSI,
PALAKKAD
- 4 THE REGIONAL TRANSPORT OFFICER, PALAKKAD DISTRICT

BY ADVS.SRI.GEORGE CHERIAN (SR.)
BINOY VASUDEVAN
SRI.ALEXY AUGUSTINE
SRI.GEORGE A.CHERIAN
SMT.K.S.SANTHI
SR.GP SMT.SHEEJA C.S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021,
ALONG WITH OP (MAC).2/2021 AND CONNECTED CASES, THE COURT ON THE

O.P (MAC) Nos.2 of 2021, 92 of 2020, 96 of 2020, 100 of 2020, 104
of 2020 & 106 of 2020

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SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 100 OF 2020

AGAINST THE ORDER IN OPMV 1212/2002 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL, PALAKKAD

PETITIONER/1ST RESPONDENT:

M.P.GEORGE, AGED 58 YEARS, S/O. PAILY, MULLANKUZHIYIL HOUSE, KOOTTALA, PATTIKKAD, THRISSUR DISTRICT.

BY ADVS.
SANTHOSH P. PODUVAL
SMT. R. RAJITHA
SMT. CHITHRA. S. BABU
SRI. R. N. SANDEEP

RESPONDENTS PETITIONER & RESPONDENT Nos. 2&3:

- 1 SUNEESH @ SUDHEESH, AGED 19 YEARS
S/O. GIRISH, VALIYAPARAMBIL HOUSE, ODUVANKKAD,
PERINGOTTUKURISSI, PALAKKAD DISTRICT - 678574.
- 2 THE ORIENTAL INSURANCE COMPANY, P.B.NO.49, PATTAMANA
BUILDING, ALUVA, REP. BY ITS BRANCH MANAGER.
- 3 REMANAN, 5/112, CHIRANGAL HOUSE, PERINGOTTUKURISSI,
PALAKKAD.
- 4 THE REGIONAL TRANSPORT OFFICER, PALAKKAD DISTRICT.

BY ADVS.
SRI. BINOY VASUDEVAN
SMT. K. S. SANTHI
SR. GP SMT. SHEEJA C.S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021,
ALONG WITH OP (MAC).2/2021 AND CONNECTED CASES, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 104 OF 2020

AGAINST THE ORDER IN OP(MV) 1241/2002 OF MOTOR ACCIDENT CLAIMS

TRIBUNAL, PALAKKAD

PETITIONER/PETITIONER/1ST RESPONDENT:

M.P.GEORGE, AGED 58 YEARS, S/O. PAILY, MULLANKUZHIIYIL HOUSE, KOOTTALA, PATTIKKAD, THRISSUR DISTRICT.

BY ADVS.
SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SRI.R.N.SANDEEP

RESPONDENTS RESPONDENTS/SUPPLY.PETITIONERS 2 TO 10 & RESPONDENT NO.3:

- 1 KALI, AGED 88 YEARS, W/O. MUNDAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574. (IT IS RECORDED THAT R1 HAS DIED AND RESPONDENT NOS. 2 TO 5 ARE LEGAL HEIRS OF DECEASED R1 AS PER ORDER DATED 16/03/2021 IN OP(MAC) NO.104/2020).
- 2 VELAYUDHAN, AGED 58 YEARS, S/O. MUNDAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574.
- 3 RAMANKUTTY, AGED 56 YEARS, S/O. MUNDAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574.
- 4 SUNDARAN, AGED 55 YEARS, S/O. MUNDAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574.
- 5 KRISHNANKUTTY, AGED 52 YEARS, S/O. MUNDAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574.
- 6 PARVATHY @ PARU, AGED 70 YEARS, W/O. CHAKKI, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574.

- 7 SANTHINI,AGED 51 YEARS,W/O. KANNAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574
- 8 KAMALA,AGED 66 YEARS,D/O.MUNDAN, NEELIPARAMABIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI, PALAKKAD DISTRICT-678 574
- 9 THANKA,AGED 73 YEARS,W/O. KUPPAN, NEELIPARAMBIL HOUSE, ODUVANKKADU, PERINGOTTUKURUSSI,PALAKKAD DISTRICT-678 574, (DIED)
- 10 THE ORIENTAL INSURANCE COMPANY,P.B. NO. 49, PATTAMANA BUILDING, ALUVA REP. BY ITS BRANCH MANAGER 683 101.
- 11 REMANAN,5/112,CHIRANGAL HOUSE,PERINGOTTUKURISSI,PALAKKAD-678001.
- 12 THE REGIONAL TRANSPORT OFFICER,PALAKKAD DISTRICT-678 001
- 13 ADDL. R13.OMANA,W/O BABU,VADAKKETHODI HOUSE,PERINGOTTUKURISSI HOUSE,PALAKKAD DISTRICT-678574.
- 14 ADDL. R14.BABY,S/O OMANA,VADAKKETHODI HOUSE,PERINGOTTUKURISSI HOUSE,PALAKKAD DISTRICT-678574

ADDL.R13 AND ADDL.R14 ARE IMPLEADED AS LEGAL HEIRS OF DECEASED R9 AS PER ORDER DATED 16/03/2021 IN IA.NO.1/2021 IN OP(MAC)104/2020.

BY ADVS.
SRI.BINOY VASUDEVAN
SMT.K.S.SANTHI
SR. GP SMT.SHEEJA C.S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021, ALONG WITH OP (MAC).2/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943

OP (MAC) NO. 106 OF 2020

AGAINST THE ORDER IN OPMV 1197/2002 OF MOTOR ACCIDENTS CLAIMS
TRIBUNAL ,PALAKKAD

PETITIONER/1ST RESPONDENT:

M.P.GEORGE,AGED 58 YEARS,AGED 58 YEARS, S/O.PAILY,
MULLANKUZHIIYIL HOUSE, KOOTTALA, PATTIKKAD, THRISSUR
DISTRICT

BY ADVS.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SMT.CHITHRA.S.BABU
SRI.R.N.SANDEEP

RESPONDENTS/PETITIONER&RESPONDENT NOS.2&3:

- 1 THATHA,AGED 54 YEARS, W/O.RAMANKUTTY, VALIYAPRAMBIL HOUSE,
ODUVANKKAD, PERINGOTTUKURUSSI, PALAKKAD DISTRICT 678 574.
- 2 THE ORIENTAL INSURANCE COMPANY,P.B. NO49, PATTAMANA
BUILDING, ALUVA REP. BY ITS BRANCH MANAGER.
- 3 REMANAN,5/112, CHIRANGAL HOUSE, PERINGOTTUKURISSI,
PALAKKAD.
- 4 THE REGIONAL TRANSPORT OFFICER,PALAKKAD DISTRICT

BY ADVS.SRI.GEORGE CHERIAN (SR.)
SRI.BINOY VASUDEVAN
SRI.ALEXY AUGUSTINE
SRI.GEORGE A.CHERIAN

O.P (MAC) Nos.2 of 2021, 92 of 2020, 96 of 2020, 100 of 2020, 104 of 2020 & 106 of 2020

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SR.GP.SMT.SHEEJA.C.S

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 11.10.2021, ALONG WITH OP (MAC).2/2021 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Orders dismissing applications to set aside ex parte award and to condone the delay, are under challenge in these Original Petitions.

2. Seven claim petitions were filed before the Motor Accident Claims Tribunal, Palakkad in relation to an accident. The petitioner was arrayed therein as the owner of the offending vehicle. The petitioner did not appear in the proceedings as a result of which a common ex parte award was passed against him.

3. According to the petitioner, he was not the registered owner of the vehicle on the date of accident. In one of the claim petitions namely, OP(MV) No.1198 of 2002, the petitioner filed applications seeking to set aside the ex parte award and to condone delay. Though the applications were dismissed by the Tribunal, the same were allowed on intervention by this Court in OP(MAC) No.28 of 2014, on payment of costs. According to the petitioner, the fact that

applications seeking to set aside the ex parte award and to condone the delay were not filed in the connected claim petitions, was noticed only when the Original Petition [OP(MAC) No.28 of 2014] was filed before this Court. Immediately thereafter applications were filed in the connected cases. By the time there occurred an inordinate delay of 2377 days. The Tribunal proceeded to dismiss the applications. However, the petitioner was not aware of the dismissal. It was only when the Claim Petitions were taken up for trial, that the order dismissing the applications was noticed. By that time six years had elapsed after the order was passed. Thereupon, immediate steps were taken to have these Original Petitions filed, challenging said orders.

4. Heard the learned counsel on both sides.

5. The delay in filing the applications to set aside the ex parte award and the further delay in approaching this Court challenging the rejection of the applications is, no doubt, inordinate. Sri.George Cherian, the learned senior counsel appearing on behalf of the Insurance Company, no doubt, is justified in contending so. The explanation

offered by the petitioner is not very convincing. The said facts, no doubt, looms large. However, the fact remains that, in one of the connected claim petitions arising out of the same accident, namely OP(MV) No.1198 of 2002, the delay was condoned and the ex parte award was set aside. In the said claim petition, after trial, it was found that, the contention of the petitioner that he was not the registered owner of the vehicle on the date of the accident was found to be true. In the final award passed by the Tribunal he was exonerated from liability. Ex parte award having been set aside in one of the claim petitions relating to the same accident and the petitioner having found to be not the registered owner of the vehicle involved in all these cases as on the date of the accident, and he having been exonerated therein, I feel that it would be unjust to preclude the petitioner from an opportunity to have the claim defended. This is particularly in view of the fact that it has already been found that he was not the registered owner of the vehicle on the date of the accident. The inconvenience caused to the Insurance Company can be

compensated by way of costs. I feel that payment of a total amount of Rs.50,000/- as costs, payable for all these cases together, as a condition for setting aside the ex parte awards on condoning the delay, would be reasonable.

6. In the result, the ex parte award passed in the OP(MV)s from which these original petitions arise are set aside. However, this is on condition that the petitioner pays an amount of Rs.50,000/- as costs to the counsel appearing for the Insurance Company before this Court, within a period of one month from today. In case of failure to pay the costs as ordered and within the time specified, the original petitions will stand dismissed affirming the orders impugned.

The original petitions allowed as above.

Sd/-

SATHISH NINAN

JUDGE

v dv

APPENDIX OF OP (MAC) 2/2021

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE COMMON AWARD DATED 05.09.2007 IN O.P. (MV) 1213/2002 PASSED BY MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD.
EXHIBIT P2	TRUE COPY OF I.A.1867/14 FOR SETTING ASIDE THE AWARD IN O.P. (MV) 1213/2002.
EXHIBIT P3	TRUE COPY OF I.A.1866/14 FOR CONDONATION OF DELAY IN O.P. (MV) 1213/2002.
EXHIBIT P4	TRUE COPY OF COMMON ORDER OF THE TRIBUNAL IN I.A.1867/14 AND IA 1866/14 IN O.P. (MV) 1213/2002 DATED 26.08.2014.
EXHIBIT P5	TRUE COPY OF THE ORDER DATED 7.6.19 IN O.P. (MAC) 28/14 OF THIS HON'BLE COURT.

APPENDIX OF OP (MAC) 92/2020

PETITIONER EXHIBITS

- | | |
|------------|---|
| EXHIBIT P1 | TRUE COPY OF THE COMMON AWARD DATED 5/9/2007 IN O.P.(MV)NO.1239/2020 PASSED BY MOTOR ACCIDENTS CLAIMS TRIBUNAL,PALAKKAD |
| EXHIBIT P2 | TRUE COPY OF I.A.1862/14 IN OP(MV)NO.1239/2002 FOR SETTING SIDE THE EX-PARTE AWARD |
| EXHIBIT P3 | TRUE COPY OF I.A.NO.1863/14 IN OP(MV)NO.1239/2002 FOR CONDONATION OF DELAY |
| EXHIBIT P4 | TRUE COPY OF COMMON ORER OF THE TRIBUNAL IN I.A.1863/14 AND I.A.NO.1862/14 IN OP(MV)NO.1239/2002 DATED 26/8/2014 |
| EXHIBIT P5 | TRUE COPY OF THE ORDER DATED 7/6/19 IN O.P.(MAC)NO.28/14 OF THIS HON'BLE COURT. |

APPENDIX OF OP (MAC) 96/2020

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE COMMON AWARD DATED 5-09-2007 PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD IN OP(MV) NO. 1196/2002
EXHIBIT P2	TRUE COPY OF I.A 1870/14 IN OP(MV) 1196/2002 FOR SETTING ASIDE THE EX-PARTE AWARD
EXHIBIT P3	TRUE COPY OF I.A 1847/14 IN OP(MV) 1196/2002 FOR CONDONATION OF DELAY
EXHIBIT P4	TRUE COPY OF COMMON ORDER OF THE TRIBUNAL IN I.A 1847/14 AND I.A 1870/14 IN OP(MV) 1196/2002 DATED 26-08-2014
EXHIBIT P5	TRUE COPY OF ORDER DATED 7-06-2019 IN O.P(MAC) 28/14 OF THIS HON'BLE COURT.

APPENDIX OF OP (MAC) 100/2020

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE COMMON AWARD DATED 5/9/2007 IN O.P.(MV) 1212/2002 PASSED BY MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALAKKAD.
EXHIBIT P2	TRUE COPY OF I.A.1865/14 IN OP (MV) 1212/2002 OF MACT, PALAKKAD.
EXHIBIT P3	TRUE COPY OF I.A.1864/14 IN OP (MV) 1212/2002 OF MACT, PALAKKAD.
EXHIBIT P4	TRUE COPY OF COMMON ORDER OF MACT, PALAKKAD IN I.A.1865/14 AND I.A.1864/14 IN OP (MV) 1212/2002 DATED 26/8/2014.
EXHIBIT P5	TRUE COPY OF THE ORDER DATED 7/6/19 IN OP (MAC) 28/14 OF THIS HON'BLE COURT.

APPENDIX OF OP (MAC) 104/2020

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF COMMON AWARD DATED 5.9.2007 PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD IN O.P (MV) 1241/2002
EXHIBIT P2	TRUE COPY OF I.A. 1861/14 IN OP (MV) 1241/2002 FOR SETTING ASIDE THE EX-PARTE AWARD
EXHIBIT P3	TRUE COPY OF I.A. NO. 1861/14 IN OP (MV) 1241/2002 FOR CONDONATION OF DELAY.
EXHIBIT P4	TRUE COPY OF COMMON ORDER IN I.A NO. 1861/14 AND I.A 1860/14 IN OP (MV) 1241/2002 DATED 26.8.2014 IN MACT, PALAKKAD.
EXHIBIT P5	TRUE COPY OF ORDER DATED 7.6.19 IN OP (MAC) 28/14 OF THIS HON'BLE COURT.

APPENDIX OF OP (MAC) 106/2020

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF COMMON AWARD DATED 5.9.2007 PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD IN O.P (MV) 1197/2002
EXHIBIT P2	TRUE COPY OF I.A. 1869/14 IN OP(MV) 1197/2002 FOR SETTING ASIDE THE EX-PARTE AWARD
EXHIBIT P3	TRUE COPY OF I.A. NO. 1868/14 IN OP(MV) 1197/2002 FOR CONDONATION OF DELAY.
EXHIBIT P4	TRUE COPY OF COMMON ORDER IN I.A NO. 1869/14 AND I.A 1868/14 IN OP(MV) 1197/2002 DATED 26.8.2014.
EXHIBIT P5	TRUE COPY OF ORDER DATED 7.6.19 IN OP(MAC) 28/14 OF THIS HON'BLE COURT.