

IN THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,VATAKARA

Present: Sri.Pradeep P, B.Com, LLB.,

Motor Accidents Claims Tribunal

Monday, the 21st day of October, 2024.

IA.Nos.1/2024 & 2/2024 in OP(MV)No.80/2021.

IA.No.1/2024

Between

Avandika, D/o Anil Kumar, aged 14 years, :
Minor Rep. by mother Sheena, W/o Anil Kumar, :
aged 38 years, Kallupurayi House, Kakkattil PO, : Petitioner.
Vatakara Taluk, Kozhikode, Pin 673507. :

And:

1. Muhammed Isham P M, S/o Ismail, Pattam :
Madathil House, Puliyavil, Chekkiad, Vatakara :
Taluk, Kozhikode, Pin 673509. : Respondents
2. Khalid, Koyiloth House, Parakkadavu PO, :
Chekkiad, Vatakara Taluk, Kozhikode. 673509 :
3. The Maruthi Insurance Broking Private Limited, :
Nelson Mandla Road, Vasanth Kunj, New Delhi :
Pin 110070 :

IA.No.2/2024

Between

Avandika, D/o Anil Kumar, aged 14 years, :
Minor Rep. by mother Sheena, W/o Anil Kumar, :
aged 38 years, Kallupurayi House, Kakkattil PO, : Petitioner.
Vatakara Taluk, Kozhikode, Pin 673507. :

And:

1. Muhammed Isham P M, S/o Ismail, Pattam :
Madathil House, Puliyavil, Chekkiad, Vatakara :
Taluk, Kozhikode, Pin 673509. : Respondents
2. Khalid, Koyiloth House, Parakkadavu PO, :
Chekkiad, Vatakara Taluk, Kozhikode. 673509 :

3. The Maruthi Insurance Broking Private Limited, :
Nelson Mandla Road, Vasanth Kunj, New Delhi :
Pin 110070 :

These petition are coming on this the 25th day of September 2024, for final hearing before me in the presence of Sri.Pramod Kakkattil, Advocate for petitioner and respondents not appeared and having stood over to this day for consideration, this tribunal passed the followings:

COMMON ORDER

1. IA 1/2024 is an application filed under section 5 of the Limitation Act for the condonation of delay in filing application for setting aside the order by which the petition filed under section 166 of Motor Vehicles Act was dismissed for default.

2. IA 2/2024 is an application filed under Order 9 Rule 9 of the Civil Procedure Code for setting aside the order by which the petition filed under section 166 of Motor Vehicles Act was dismissed for default.

3. The case of the petitioner in the above petitions curtly is as follows:- The above petition was dismissed for default on 20.3.2023 on the reason that the petitioner has not appeared when the matter has come up for trial. According to the petitioner, the advocate clerk wrongly noted the posting date as 30.3.2023 instead of 20.3.2023. There is delay of 241 days in filing application. The petitioner was laid up is the reason for the delay. So, the petitioner requested to restore the petition on file after condoning the delay of 241 days.

4. Notice was served on the respondents. They did not file counter statement.

5. Heard.

6. The point for determination is that:

Can the petition be allowed ?

7. The point:- The contention raised by the petitioner in the petition need not be doubted as no petitioner would be intentionally absent from the Tribunal when the matter was posted for evidence especially in a case where he claims compensation from the respondents. So, I am of the view that accepting the contention raised by the petitioner, the petitions can be allowed. Resultantly, the delay of 241 days in filing the petition is condoned and the order by which the petition was dismissed for default on 20.3.2023 is set aside.

(Pronounced by me in open court, this the 21st day of October 2024).

Sd/-

Motor Accidents Claims Tribunal
Vatakara