IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE AMIT RAWAL
MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944
OP (MAC) NO. 6 OF 2023

PETITIONER/S:

AKSHAY RAJ
AGED 26 YEARS
S/O SENRAJ, NEDIYARA HOUSE,
MUNAMBAM, PALLIPORT P O,
KUZHUPPILLY VILLAGE, KOCHI TALUK,
ERNAKULAM DISTRICT, PIN - 683515

BY ADVS.
K.S.BABU
N.SUDHA
BABU SHANKAR
P.N.SUMANGALA
K.S.GOPI
PARVATHY GIRISH

RESPONDENT/S:

1 MINISTRY OF LAW AND JUSTICE
LEGISLATIVE DEPARTMENT,
REPRESENTED BY THE SECRETARY,
4TH FLOOR, A-WING, SHASTRI BHAVAN,
NEW DELHI, PIN - 110001

2 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY OF THE GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

3 ARJUN M A
S/O ANEEV, MATTACKAL HOUSE,
PALLATHAMKULANGARA,
AYAMPILLY P O, KUZHUPPILLY VILLAGE,
ERNAKULAM DISTRICT, PIN - 682501

4 ANEEV M P
S/O PURUSHAN, MATTAKKAL HOUSE,
PALLATHAMKULANGARA,
AYAMPILLY P O, KUZHUPPILLY VILLAGE,
ERNAKULAM DISTRICT, PIN - 682501

5 UNITED INDIA INSURANCE COMPANY LIMITED
MUNICIPAL SHOPPING COMPLEX,
MAIN ROAD, NORTH PARUR,
ERNAKULAM , PIN - 683513

SRI. S SREEKUMAR, SR. ADV. AMICUS CURIE
SRI. A.R NIMOD
SRI. SUNIL KUMAR KURIAKOSE

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).8/2023, 11/2023 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 AMIT RAWAL

MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944

OP (MAC) NO. 8 OF 2023

PETITIONER/S:

SREELAKSHMI T (MINOR) AGED 11 YEARS, REPRERSENTED BY FATHER
AJESH T
AGED 48 YEARS
S/O. VELAYUDHAN,
THATTANKANDY HOUSE, KALOOR ROAD,
MANKAVU P.O., KOZHIKODE, PIN - 673007

BY ADVS.
ANIL KUMAR K.P.
IPSITA OJAL

RESPONDENT/S:

1 MAJULA PARADAN
D/O. A G ABDUL SHUKOOR,
FATHIMATHUL FIJULA MAHAL,
MOOSHALITHODI, MANKAVU P.O.,
KOZHIKODE, PIN - 673007

2 RIJAS AHAMMED SULTHAN
AGED 21 YEARS
S/O. KABEER A V, FATHIMATHUL FIJULA MAHAL,
MOOSHALITHODI, MANKAVU P.O.,
KOZHIKODE, PIN - 673007

3 CHOLAMANDALAM MS GENERAL INSURANCE CO LTD,
REPRESENTED BY DIVISIONAL MANAGER/AUTHORISED SIGNATORY,
1ST FLOOR, SITHARA COMPLEX, P T USHA ROAD,
KOZHIKODE, PIN – 673001

GP SRI. SUNIL KUMAR KURIAKOSE

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 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 AMIT RAWAL
MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944
OP (MAC) NO. 11 OF 2023

PETITIONER/S:

FATHIMA DIYA P P, MINOR, AGED 10 YEARS,
REPRESENTED BY FATHER MUHAMMED NOUSHAD P P
AGED 38 YEARS
S/O. MUHAMMED KUTTY P P
PUTHIYARA PADANNAYIL HOUSE,
PUTHIYARA P.O., KOZHIKODE, PIN - 673004

BY ADVS.
ANIL KUMAR K.P.
IPSITA OJAL

RESPONDENT/S:

1 ANOOP
S/O. JANARDANAN C,
26/218 A KARTHIKA,
MANARI PARAMBIL HOUSE,
GOVINDAPURAM P.O.,
KOZHIKODE, PIN - 673007

2 JANARDANAN C
AGED 72 YEARS
S/O. KUNHIRAMAN C
MANARI PARAMBIL HOUSE,
GOVINDAPURAM P.O., KUTHIRAVATTOM,
KOZHIKODE, PIN - 673016

3 NEW INDIA ASSURANCE COMPANY LTD.
REPRESENTED BY DIVISIONAL MANAGER/AUTHORIZED SIGNATORY,
SILVER PLAZA BUILDING, INDIRA GANDHI ROAD,
KOZHIKODE, PIN - 673004

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 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 AMIT RAWAL

MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944

OP (MAC) NO. 12 OF 2023

PETITIONER:

PRAJEESH G K
AGED 33 YEARS
S/O. PRADEEPAN.G.K.
KOLANGARAMEETHAL HOUSE,
POTTAMMAL, NELLIKKODE P.O.,
KUTHIRAVATTOM,
KOZHIKODE, PIN - 673016

BY ADVS.
ANIL KUMAR K.P.
IPSITA OJAL

RESPONDENT/S:

1 ALAYIN YOHANNAN
MAPPANATH HOUSE, SEETHAMOUNT P.O.,
PADICHIRA, SULTHAN BATHERY
WAYANAD, PIN - 673579

2 MOHAMMED HISHAM K
AGED 22 YEARS
S/O. JAFAR K, KADERI HOUSE,
MELMURI P.O., MALAPPURAM, PIN - 676517

3 CHOLAMANDALAM MS GENERAL INSURANCE CO LTD
REPRESENTED BY DIVISIONAL MANAGER
1ST FLOOR, SITHARA COMPLEX,
P T USHA ROAD, KOZHIKODE, PIN – 673032

GP SUNIL KUMAR KURIAKOSE

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 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 AMIT RAWAL

MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944

OP (MAC) NO. 13 OF 2023

PETITIONER:

A.S. KRISHNAN
AGED 70 YEARS
S/O SANKARAN,
ANJOOR HOUSE, ANJOOR P.O, KUNNAMKULAM, THRISSUR -,
PIN - 680523

BY ADVS.
A.R.NIMOD
M.A.AUGUSTINE

RESPONDENT/S:

1 NAJEEB C.M
S/O MARAKKAR,
CHULLIYIL HOUSE, ADHOOR, EYYAL,
KECHERY, THRISSUR -, PIN - 680501

2 JITHIN A.V
S/O VASUR,
AYYAPATH HOUSE, CHOWANNUR DESOM,
KALLAYIKUNNU, PORKULAM P.O,
THRISSUR -, PIN - 680519

3 THE DIVISIONAL MANAGER, ORIENTAL INSURANCE COMPANY
THE ORIENTAL INSURANCE CO LTD.,
1ST FLOOR, JYOTHI SUPER BAZAR, THODUPUZHA,
IDUKKI -, PIN - 685584

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 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 AMIT RAWAL

MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944

OP (MAC) NO. 15 OF 2023

SREELATHA N K
AGED 36 YEARS
W/O. ANEESH CP, MODAYANI HOUSE,
MADAVOOR P.O., NARIKUNI,
KOZHIKODE, PIN - 673585

BY ADVS.
ANIL KUMAR K.P.
IPSITA OJAL

RESPONDENT/S:

1 BINDU K
W/O. ANIL KUMAR,
VADAKKAYIL HOUSE, PILASERY P.O.,
KUNNAMANGALAM VIA,
KOZHIKODE, PIN - 673007

2 ABHINESH V
AGED 23 YEARS
S/O. ANIL KUMAR K, VADAKKAYIL HOUSE,
PILASSERY P.O., KUNNAMANGALAM VIA,
KOZHIKODE, PIN - 673571

3 UNITED INDIA INSURANCE COMPANY
REPRESENTED BY DIVISIONAL MANAGER/AUTHORIZED SIGNATORY,
BRANCH OFFICE, MAHARANI SHOPPING COMPLEX
1ST FLOOR, MAIN ROAD, KARADI, THAMARASSERY,
KOZHIKODE, PIN - 673573

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 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 AMIT RAWAL

MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944

OP (MAC) NO. 17 OF 2023

MIDHUN JACOB V.J
AGED 26 YEARS
VELIKKAKATHU, VETTAKKAL PO,
PATTANKKAD PANCHAYATH WARD XIV,
CHERTHALA, ALAPPUZHA, PIN - 688529

BY ADVS.
PAUL P. ABRAHAM
ANOOP JOSEPH
ZERENE LINDA MITCHEL
ASWANI THUVVAKKADAN

RESPONDENT/S:

1 SARATH S. KUMAR
AGED 40 YEARS
THARRAYIL,
AVALUKUNNU PO, ALAPPUZHA, PIN - 688006

2 THE DIVISIONAL MANAGER
GENERAL INSURANCE COMPANY LTD.,
KARIPPURATHU BUILDING, MAIN ROAD MUHAMMA,
ALAPPUZHA, PIN - 688525

THIS OP (MAC) HAVING COME UP FOR ADMISSION ON 23.01.2023, ALONG WITH OP (MAC).6/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Seven original petitions ie., OP MAC No.6, 8, 11, 12, 13, 15 and 17 of 2023 preferred against identical order dismissing the claim petition to be barred by limitation, involving common question of fact and law are being disposed off by common judgment. The main case is taken as O.P (MAC) No.6 of 2023.

2. O.P (MAC) No.6 of 2023 has been preferred against the order dated 30.11.2022 of the MACT, North Paravur dismissing the claim petition filed under Section 166 of the amended Motor Vehicles Act being barred by the limitation.

3. Petitioner, Akshay Raj, aged 26 years preferred a claim petition before the learned MACT on the ground that on 26.5.2022 while driving a motor vehicle bearing registration No.KL-P-42P 7106 at about 8.40 a.m had met with an accident and suffered injuries, resulting into registration of FIR 590 of 2022. Learned MACT vide impugned order, dated 30.11.2022 rejected the claim application/petition simply on the ground that the claim petition was filed beyond the period of six months ie., on 28.11.2022 as the limitation expired on 25.11.2022. and thus there was a delay of almost three days. It is contended that the manner and the mode in which the order has been passed is

wholly alien to settled principles as the learned MACT was required to frame the issues, for the question of limitation is a mixed question of fact and law.

4. Section 166(3) does not exclude the applicability of the limitation Act 1963 and therefore the provisions of Section 29(2) of the limitation Act 1963 would squarely be applicable for the reason that on perusal of provisions of sub Section 4 of Section 166, it is evident that even in the absence of claim preferred by a claimant, the Claims Tribunal shall treat any report of accidents by police/investigation officer forwarded to it under section 159 as an application for compensation under this Act. Section 159 enjoins an obligation upon the police officer during the investigation to prepare an Accident Information Report for facilitating the settlement of claim in such formal manner within three (3) months containing such particular and submit to the claim Tribunal or any other agency as prescribed.

5. Learned MACT ignored to refer to the provisions of Rule 150(A) of the Central Motor Vehicles Rules, 1989 prescribing the procedure for holding investigation of road accidents arising out of the use of motor vehicles, to be in accordance with the Annexure-XIII. The manner of submission of form, including electronic submission on such Portal has been

specified. As per Annexure-XIII sub Rule 12, investigation officer can furnish a copy of the detailed accident report within a period of ninety (90) days of the accident and in case it is not filed within the period prescribed for the reasons beyond his control, particularly, in cases of hit and run accidents; cases where the parties reside outside the jurisdiction of the court; where the driving licence is issued outside the jurisdiction of the court or the victim(s) had suffered grievous injuries or had been undergoing continuous treatment, can approach the Claims Tribunal for 'extension of time' to file “Interim Accident Report” or “Detailed Accident Report” and on receipt of such application, Tribunal has the power to extend the time as it considers appropriate in the facts and circumstances of the case.

6. Since this Court almost everyday was confronted with such petitions, requested Sri. S. Sreekumar, learned Senior Counsel of this Court to assist the Court. Mr. S. Sreekumar, learned Senior Counsel assisted the court submitted that the provisions of Section 166 of the Motor Vehicles Act do not specifically exclude provisions of limitation Act. In support, relied upon the following judgments of the Supreme Court in ***Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker***

(1995) 5 SCC 5, M.P Steel Corporation v. Commissioner of Central Excise (2015) 7 SCC 58, Om Prakash v. Ashwani Kumar Bassi (2010) 9 SCC 183 , Full Bench judgment of this Court in ***ICICI Lombard General Insurance Company v. M.D Davasia @ Jose and Another (2019) 4 KHC 157, Ganesan v. the Commissioner, the Tamil Nadu Hindu Religious and Charitable Endowments Board and Ors*****.*** **((2019) 7 SCC 108)** and ***Oil and Natural Gas Corp. Ltd. v. Gujarat Energy Transmission Corporation (2017 KHC 2730)***, ***National Insurance Company Ltd. And Another v. Raja and Others (2019 KHC 3254), Gohar Mohammed Versus Uttar Pradesh State Road Transport Corporation & Others (CDJ 2022 SC 1386)*** and Bill No.154 of 2019 introduced in Loksaba pertaining to the amendment of Motor Vehicles Act viz., clause 53 of Statement of Objects and Reasons.

7. It was contended that Section 5 of the Limitation Act only deals with the application and the appeals and not with the suit. The expression 'claim petition' is synonymous with 'the applications' and therefore an aggrieved person would mean – legal heirs or through agent and cannot be deprived of claiming the compensation if not preferred within a period of six (6)

months as has been done in the impugned order, because there is no specific ouster of the applicability of the provisions of the limitation Act.

8. Connected with this, some other original petitions OP (MAC) No. 8 of 2023, OP (MAC) No. 11 of 2023, OP (MAC) No. 12 of 2023, OP (MAC) No. 13 of 2023, wherein the question of facts and law are similar i.e., petitioners were all involved in road accidents taken place at different localities and suffered severe injuries, hence couldn't institute the claim within six (6) months of the occurrence of the accident as per section 166(3) of the Motor Vehicles Act 2019 but have been dismissed the petitions on account of having not preferred within period of six (6) months from the date of accident.

9. I have heard the learned counsel for the parties and appraised the paperbook.

10. Section 166 of the Motor Vehicles Act reads as under:

> *166. Application for compensation. (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 may be made-*
>
> *(a) by the person who has sustained the injury, or*
> *(b) by the owner of the property; or*
> *(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or*
> *(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:*
>
> *Provided that where all the legal representatives of the*

deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

Provided further that where a person accepts compensation under Section 164 accordance with the procedure provided under Section 149, his claims petition before Claims Tribunal shall lapse.]
2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose diction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:
xxxxx
3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]

4) The Claims Tribunal shall treat any report of accidents forwarded to it under Section 159] as an application for compensation under this Act]

(5) Notwithstanding anything in this Act or any other law for the time being in force. the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause d death is relatable to or had any nexus with the injury or not.]

11. On perusal of the provisions of sub Section 4 of Section 166, there is not a single whisper viz., exclusion of the Limitation Act, thus would not exclude applicability of provisions of Section 29(2) of the Act 1963. The aims and objects of the Act, to be referred later, leaves no manner of doubt that the legislature had incorporated and caused the

amendment by re-amending sub Section 3 of Section 166 for ensuring that the claim for compensation on the death of the claimant does not abate and can continue by the legal representative but within six months from the date of occurrence of the accident.

12. Rule 150(A) of the Central Motor Vehicles Act as well as sub Rule 6, 12, 13, 17 and 21 of Annexure XIII are also extracted to understand the intention of legislation.

> *150A Procedure for investigation of road accident - The procedure to be followed for investigation of all accidents arising out of the use of motor vehicles shall be in accordance with Annexure – XIII and in the manner of submission and form, including electronic submission on such Portal as may be specified.*
>
> *Annexure – XIII*
>
> *6 Interim Accident Report (IAR) to be submitted by the Investigating Officer to the Claims Tribunal.*
> *The Investigating Officer shall submit Interim Accident Report (IAR) in Form-V to the Claims Tribunal within sty (50) days of the accident. The IAR shall be accompanied with the documents mentioned therein, and a copy of the IAR along with the documents shall be furnished to the Insurance Company of the vehicle(s) involved in the accident, the victim(s)/ claimant, State Legal Services Authority, the Insurer and General Insurance Council.*
>
> 12. *DAR to be submitted by the Investigating Officer before the Claims Tribunal.*
> *The Investigating Officer shall complete the verification of the information and documents further in this Annexure, and submit the DAR in Form VII to the Claims Tribunal, within ninety (90) days from the date of the accident. The DAR shall be accompanied with the following documents: (a) Site Plan as per Form VIII (b) Mechanical Inspection Report as per Form IX (c) Verification Report as per Form X (d) Report under Section 173 of the Code of Criminal*

Procedure, 1973 (2 of 1974).

13. Copy of DAR to be submitted to victim(s), owner/driver of the vehicle(s) involved in the accident, the Insurance Company and the State Legal Service Authority. The Investigating Officer shall furnish a copy of the DAR to victim(s) of the accident, owner/driver of the offending vehicle. The investigating Officer shall also furnish a copy of the DAR along with all the relevant documents to the Nodal Officer of the Insurance Company, General Insurance Council and the State Legal Services Authority.

17 Extension of time to file IAR and DAR; Where the Investigating Officer is unable to file the IAR within fifty (50) days and/or the DAR within (90) days for reasons beyond his control, such as in cases of hit and run accidents; cases where the parties reside outside the jurisdiction of the Court; where the driving licence is issued outside the jurisdiction of the Court, or where the victim(s) has suffered grievous injuries and is undergoing continuous treatment, the Investigating Officer shall approach the claims Tribunal for extension of time to file IAR or DAR, whereupon the Claims Tribunal shall extend the time as it considers appropriate in the facts and circumstances of each case.

21. Claims Tribunal shall treat DAR as a claim petition for compensation under sub-section (4) of Section 166 of the Motor Vehicles Act, 1988

(1) The Claims Tribunal shall treat the DAR filed by the Investigating Officer as a claim petition under Section (4) of Section 166 of the Motor Vehicles Act, 1988. However, where the Investigating Officer is unable to produce the claimant(s) on the first date of hearing, the Claims Tribunal shall register the DAR as a claim petition after the appearance of the claimant(s).

(2) Where the claimant(s) have filed a separate claim petition, the DAR may be tagged along with the claim petition.

(3) If the Report under Section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) has not been filed at the time of filing of the DAR, the Claims Tribunal may either wait till filing of the Report under Section 173 of the said Code of Criminal Procedure or record the statement of the eye

witness(es) to satisfy itself with respect to the negligence before passing the award.

4) The Claims Tribunal shall register the FAR as a Miscellaneous application and the IAR as well as DAR shall be taken on record in the same Miscellaneous application.

13. On cumulative reading of the aforementioned Rules, Annexure XIII r/w sub Section 4 of Section 166, it is evident that it is not necessary for a claimant to institute claim petition either through himself, in case of death, legal representative or through agent, if incapacitated/disabled, but, even the investigating officer while conducting the investigation in respect of an accident involving the motor vehicle can also submit an Interim Accident Report (IAR) within a period of fifty (50) days of the accident and Detailed Accident Report (DAR) within a period of ninety (90) days and also seek "Extension" which can be granted by the MACT for the reasons stated therein. Once the legislature envisaged the extension of time to file the DAR for treating the same as a claim petition for compensation as per the provisions of Rule 21 of Annexure – XIII, there cannot be any discrimination against the claimants for filing the claim petition through either of the modes as referred above. In other words, there cannot be any bar for institution of the claim petition through any of the persons referred to, beyond the period of six months.

14. In ***Mukri Gopalan*** (supra) while entertaining the appeal by an appellate authority defined under section 18 of the Kerala Rent Control Act, a question raised was, whether the person would be a District Judge or a persona designata. By relying upon the provisions of Section 29(2) of the Limitation Act, it was held that Section 5 of the Limitation would be automatically attracted for entertaining the appeal under Section 18 of the Act.

15. In ***M.P Steel Corporation*** (supra) the controversy was with regard to the definition of 'Court' under the Code of Civil Procedure pertaining to applicability of provisions of Section 14 of the Limitation Act by pursuing an appeal filed before a wrong quasi judicial forum instead of proper forum. It was held that Section 29(2) and the schedule applies only to the suit, appeal or application for description given in the schedule in a Court under special or local law.

16. By examining the judgment of the Supreme Court in ***M.P Steel Corporation*** (supra) as well as the provisions of the Limitation Act in Para 32, it was held that ***Mukri Gopalan*** was not correct law to some extent in view of findings by three - Judge Bench in ***Consolidated Engineering and enterprises v. Irrigation Dept. (2008) 7 SCC 169***. It was held, therein,

that principles of Section 14 of the Limitation Act would apply not merely in condoning the delay within the outer period prescribed for condonation but also would apply dehor such period ie., being the difference between exclusion of certain period under Section 14 of the Limitation Act for the purpose of condoning the delay. In other words, in case a person avails a remedy before an incorrect/wrong forum and the appeal is returned for want of jurisdiction and prefers before the competent authority, the period spent therein is required to be excluded by applicability of Section 14 of the Act. It was held that the findings rendered in ***Mukri Gopalan*** with regard to the applicability of 29(2) in such cases would be in conflict with the judgment in ***Consolidated Engineering and enterprises*** (supra) and therefore was held to be not good law. In other words, ***Mukri Gopalan*** was partly held to be not good law viz-a-viz applicability of Section 14 of the Limitation Act in respect of the appeals and not as a 'whole', ie., with regard to the other provisions of the Limitations Act where the special law and the local law do not oust the applicability of the limitation Act.

17. In ***Om Prakash v. Ashwani Kumar Bassi (2010) 9 SCC 183*** (supra) a question arose as to whether, in case of a leave to defend in a petition filed under Section 13B of the East

Punjab Urban Rent Restriction Act, 1949 beyond the period of 15 days, the provisions of Section 5 of the Limitation Act would apply or not; the answer was in 'Negative'. For the reason that the language of Section 18-A(2), r/w 13B of the East Punjab Urban Rent Restriction Act, 1949 clearly ousted the applicability of the provisions of the Limitation Act. Lest, provisions of sub Section 2 of Section 29 thus could not be pressed.

18. The Full Bench of this Court in ***ICICI Lombard General Insurance Company v. M.D. Davasia @ Jose and Another 2019 (4) KHC 157*** held that the motor accident claim Tribunal has the trapping of Civil Court and can even award cost.

19. In ***Ganesan*** (supra) a controversy was with regard to the entertainment of an appeal preferred under Section 69 of the Hindu Religious and Charitable Endowments Act, 1959 along with an application under Section 5 of the Limitation Act by the Commissioner by taking aid of the provisions of Section 29(2) of the Limitation Act. On ponderance of all the provisions and the judgments cited above in paragraph 58 and 59, it was held that the suits, appeals and applications referred to in the limitation Act, 1963 are suits, appeals and applications which are to be filed in a Court but they cannot be construed to

be suits, appeals and applications to be filed before the statutory authority like Commissioner under 1959 Act as operation of Section 29(2) of the Limitation Act is confined to the suits, appeals and applications to be filed in a Court and not 'before the Statutory authorities like Commissioner' under the 1959 Act. It was further held that the question in respect of special or local law vide statutory scheme whether includes the applicability of any provisions of the limitation Act or exclude can only be decided after looking into the scheme of the particular, special or local law. It was further held that the applicability of Section 29(2) with regard to the different limitations prescribed for any suits, appeal or application when to be filed cannot be pressed into service before the statutory authorities.

20. In ***Gohar Mohammed*** (supra) the High Court in respect of appeal preferred by the claimant against the award of the Motor accident claims Tribunal dismissed the appeal allowing the claim petition. The question involved in the ***Gohar Mohammed*** (supra) was that the counsel representing the party expressed concern regarding the delay in disposal of the claim petitions by the Trial Court at an appellate stage. In this regard the objects and reasons of the Motor vehicles

amendment 2019, a benevolent legislation was brought to the notice of the Supreme Court. By referring to the aforementioned provisions, the Supreme Court in paragraphs 39 and 40 noticed the various provisions of the Act and found that an application under Section 166(4) of the Motor Vehicles Act can be treated as a claim petition to be adjudicated in accordance with law as the procedure prescribed under Section 149 of the Act is in addition to the proceedings of Section 166(4) of the Amendment Act. It also dealt with the role of the Investigating Officer in preparing the Detailed Accident Reports and submissions to the claim Tribunal within the specified period and beyond. Various conditions in paragraph No.62 of the judgment are culled out. Condition No. (xi) would be relevant for adjudication. The same reads as under:

> xi) *If the claimant(s) files an application under Section 164 or 166 of the M.V Amendment Act, on receiving the information, the Miscellaneous Application registered under Section 149 shall be sent to the Claims Tribunal where the application under Section 164 and 166 is pending immediately by the Claims Tribunal.*

21. In the instant case, as per the scheme of the Motor vehicles Act and the Central Motor Vehicles Rules, r/w Annexure XIII extracted above, the cumulative effect is that the statute do not oust the applicability of the provisions of the Limitation Act, particularly, when submission of Detailed Accident Report

(DAR), filed by the investigating officer can be treated as a claim petition and the extension has been provided under Rule 17 of Annexure XIII.

22. The relevant portion of the order impugned in all petitions reads as under:

> *Plaint (Original petition) rejected under Order 7 of Rule 11 Civil Procedure Code since the original petition is not filed within 6 months from the date of accident as required under Section 166(3) of Motor Vehicles Act.*

23. Learned MACTs cannot without issuing notice to the opposite sides, dismiss the claim petition *in limine*. It would be a farcical exercise for this Court to refer back to the MACT for framing the issue for adjudication.

24. As a fall out of my findings, the impugned orders are set aside, it is held that the provisions of the limitation Act would be applicable for entertaining the petitions for claiming the compensation even beyond the period of six months, for, by taking into consideration, Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act. In other words, it is held that the claim petitions, if filed beyond

the period of six months cannot be dismissed in limine.

25. The Judicial Academy is requested to sensitize all the stake holders as early as possible with respect to the provisions of the Motor Vehicles Amended Act and the Rules to ensure the mandate of law so that the litigants are not made to suffer for having not filed claim petitions within a period of six months. All the MACTs are directed to entertain the petition and decide the same, in accordance with law. Registry is directed to circulate the copy of the judgment to all the MACTs to entertain and try the petitions under the Motor Vehicles Act in view of the observations aforementioned.

26. This Court appreciate the assistance rendered by Senior Counsel Sri. S. Sreekumar.

Original petitions above mentioned are allowed.

Sd/-

sab

AMIT RAWAL

JUDGE

APPENDIX OF OP (MAC) 8/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE CLAIM PETITION FILED BY THE PETITIONER BEFORE MACT, KOZHIKODE DATED 15.11.2022
Exhibit P2	TRUE COPY OF THE AFFIDAVIT AND DELAY PETITION FILED BY THE PETITIONER DATED 15.11.2022
Exhibit P3	TRUE COPY OF THE ORDER IN UN-NUMBERED OP NO.....OF 22 DATED 30.11.2022 OF THE PRL MACT, KOZHIKODE

APPENDIX OF OP (MAC) 11/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE CLAIM PETITION FILED BY THE PETITIONER BEFORE THE PRL. MACT, KOZHIKODE DATED 16.11.2022
Exhibit P2	TRUE COPY OF THE AFFIDAVIT AND DELAY PETITION FILED BY THE PETITIONER DATED 16.11.2022
Exhibit P3	TRUE COPY OF THE ORDER IN UN-NUMBERED OP (MV) NO. /2022 DATED 18.11.2022 OF PRL MACT, KOZHIKODE

APPENDIX OF OP (MAC) 12/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE CLAIM PETITION DATED 8.7.22 FILED BY THE PETITIONER BEFORE THE PRL. MACT, KOZHIKODE DATED 28.11.22
Exhibit P2	TRUE COPY OF THE AFFIDAVIT AND DELAY PETITION FILED BY THE PETITIONER BEFORE THE HON"BLE PRL MACT, KOZHIKODE DATED 28.11.2022
Exhibit P3	TRUE COPY OF THE ORDER IN UN-NUMBERED OP(MV) NO. /2022 DATED 30.11.22 OF THE PRL. MACT, KOZHIKODE

APPENDIX OF OP (MAC) 13/2023

PETITIONER EXHIBITS

Exhibit-P1	TRUE COPY OF THE CLAIM PETITION FILED BEFORE MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR DATED 24.12.2022
Exhibit-P2	TRUE COPY OF THE WOUND CERTIFICATE ISSUED FROM ROYAL HOSPITAL, KUNNAMKULAM DATED 25.04.2022
Exhibit-P3	TRUE COPY OF THE F.I.R WITH NO 1306/2022 OF KUNNAMKULAM POLICE STATION DATED 02.11.2022
Exhibit-P3 Translation	TRANSLATION OF EXHIBIT-P3
Exhibit-P4	TRUE COPY OF THE PETITION ALONG WITH AFFIDAVIT BEFORE MOTOR ACCIDENTS CLAIMS TRIBUNAL THRISSUR DATED 24.12.2022
Exhibit-P5	TRUE COPY OF THE ORDER IN UN NUMBERED O.P(MV) BY MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR, DATED 07.01.2023

APPENDIX OF OP (MAC) 15/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE CLAIM PETITION FILED BY THE PETITIONER DATED 14.11.2022
Exhibit P2	COPY OF THE AFFIDAVIT AND PETITION FILED BY THE PETITIONER DATED 14.11.2022
ExhibitP3	TRUE COPY OF THE ORDER IN UN-NUMBERED OP (MV) NO. /2022 OF PRL MACT, KOZHIKODE DATED 18.11.2022

APPENDIX OF OP (MAC) 17/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE MEDICAL RECORDS DATED 29.04.2022 ISSUED FROM THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM
Exhibit P2	TRUE COPY OF THE FIR DATED 17.07.2022 IN CRIME NO. 520/2022 OF PATTANAKKAD POLICE STATION
Exhibit P2(A)	ENGLISH TRANSLATION OF THE FIR DATED 17.07.2022 IN CRIME NO. 520/2022 OF PATTANAKKAD POLICE STATION
Exhibit P3	TRUE COPY OF THE O.P. (MV) (CLAIM PETITION) ALONG WITH THE PETITION TO CONDONE THE DELAY OCCASIONED IN FILING THE O.P.(MV) IN TIME
Exhibit P4	A COMPUTER PRINTOUT OF THE ORDER FROM THE E-FILING PORTAL (WITH E-FILING NO. C202200009) PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA DATED 21.12.2022 IN UNNUMBERED O.P.(MV) FILED BY PETITIONER

APPENDIX OF OP (MAC) 6/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE PHOTOSTAT COPY OF THE APPLICATION FILED UNDER SECTION.166 OF THE MOTOR VEHICLES ACT, 198
Exhibit P2	TRUE PHOTOSTAT COPY OF THE ORDER DATED 30.11.2022 ,MACT NORTH PARAVUR