

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present :

THE HON'BLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THE HON'BLE MR. JUSTICE HARUN-UL-RASHID

Tuesday the 2nd day of December 2008/11TH AGRAHAYANA 1930

MACA.No. 1458/2006

OP(MV) NO., 28/2001 MACT, Thiruvananthapuram.

APPELLANT/3RD RESPONDENT

NATIONAL INSURANCE CO.LTD.,  
THIRUVANANTHAPURAM, REP.BY THE MANAGER,  
KOCHI REGIONAL OFFICE ANNEKE, AJAY VIHAR,  
M.G.ROAD, ERNAKULAM, COCHIN-682016.

BY ADV. SRI.E.M.JOSEPH

RESPONDENT/CLAIMANT AND RESPONDENTS 1 & 2

1. ANIL KUMAR,  
OZHUKUPARA VEEDU, THENNIYOORKONAM,  
NETTAYAM, KACHANI P.O., THIRUVANANTHAPURAM.
2. S.BABY,  
PARAKOTUKONAM,  
KIZHAKKERARAPUTHENVEEDU, KODUNGANCOOR.P.O.,  
THIRUVANANTHAPURAM.
3. BHASKARAN NAIR,  
S/O.BALAKRISHNAN NAIR, PARAKOTTUKONATHU,  
KIZHAKKUMKARA PUTHEN VEEDU, KODUNGANCOOR P.O.,  
THIRUVANANTHAPURAM.

ADDITIONAL R4 IMPEADED.

ADDL.R4: CHIEF SECRETARY TO GOVERNMENT,  
SECRETARIATE , THIRUVANANTHAPURAM.

IMPEADED AS ADDITIONAL 4TH RESPONDENT AS PER ORDER DATED  
2.12.2008 IN APPEAL.

BY ADV. SRI.L.MOHANAN, 2,3  
SRI.R.T.PRADEEP For R1  
Gf Mr Gopal Rg

This MOTOR ACCIDENT CLAIMS APPEAL coming on for orders on  
02/12/2008 the Court on the same day passed the following :

**C.N. RAMACHANDRAN NAIR  
&  
HARUN-UL-RASHID, JJ.**

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**M.A.C.A.NO. 1458 OF 2006**

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Dated this the 2nd day of December, 2008

**O R D E R**

**Ramachandran Nair, J.**


Chief Secretary to Government, Secretariate, Thiruvananthapuram is made additional respondent in this appeal. Government Pleader takes notice for the additional respondent.

2. It has come to our notice that a motorbike bearing registration No. KRV/6812 is lying in the City Traffic Police Station, Thiruvananthapuram for the last eight years. The vehicle stated to be involved in a road accident was recovered by the police in Crime No.516 of 2000. Even though F.I.R. was registered, the case was closed by the court on the basis of the final report filed by the police. However, the motorbike is not claimed by anybody and is lying in the police station for the last eight years. Even though its physical condition is not known, we are sure it will now be only a junk or virtually scrap. This is only one of the hundreds of vehicles lying in large number of police stations, excise offices, offices of the R.T.O., Collectorates and even in court campuses.

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3. Automobiles are essentially made of steel which get rusted and destroyed when exposed to sun and rain for long period. Vehicles are mainly seized by various Government agencies like State excise, Forest Department, Motor Vehicles Department etc. for offences arising under various statutes and for non-payment of Motor Vehicles Tax. Confiscation proceedings are protracted in nature and it will take several years for final disposal of the matter at various stages before the statutory authorities and at last in the court. In the meantime, seized vehicles will become complete scrap in the custody of the Department. In many cases, the vehicles seized are allowed to be used by the offender during pendency of confiscation proceedings. Ultimately he surrenders the vehicle in scrap condition and gets release of the security furnished during the pendency of the proceedings. In other words, seizure of vehicle invariably does not achieve any useful purpose. The main object of confiscation of offending vehicle is to prevent the offender from repeating the offence. This object cannot be achieved so long as the offender has the capacity to acquire another vehicle. Since confiscation proceedings take time, the vehicle liable to be confiscated should be released only on deposit of its value so that its value could be recovered treating confiscation as notional or otherwise the offender will surrender the vehicle in scrap condition



and take back the security furnished by him. This could be achieved by making the offender deposit the cost as on the date of seizure for release of vehicle. If seized vehicles are not released, such vehicles should not be allowed to be left to be destroyed in the campus of Government offices. A reasonable time, say two weeks, should be granted to the registered owner to get the vehicle released on deposit of its value, failing which such vehicles should be sold in public auction and its value only should be the subject matter of litigation. The position should not be different for vehicles attached for recovery of arrears of tax or for recovery of loan due to institutions etc. It is also worthwhile to mention about the abandoned and unused vehicles lying undisposed in various Government offices. Delay in the sale of such vehicles will only lead to loss to the State. We, therefore, feel that all such unused and abandoned vehicles also should be sold without delay.

4. We direct the Chief Secretary to Government to convene a meeting of the heads of the departments, namely, Revenue, Excise, Forest Police, Motor Vehicles etc. and take steps for making provision for disposal of all vehicles as above without allowing such vehicles to be left in Government custody for more than a month at the maximum. The Chief Secretary will file a report to this Court about the steps taken and the implementation of the same. Pending amendment of the statute and rules,



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the Chief Secretary will give instruction to the heads of the department to finalise all departmental cases and dispose of all seized/recovered vehicles lying in the custody of the Government within a period of three months from today. We make it clear that it shall be the duty of the Chief Secretary to inform the heads of the departments of this direction who will in turn communicate the direction to the lower authorities for compliance, failing which contempt action will be initiated against the officer concerned.

5. The Government Pleader will communicate the order immediately to the Chief Secretary. Interim report about the steps being taken will be filed before this Court on or before 15.1.2009.

Post on 15.1.2009.

AT

SH-

C.V. Ramachandran Nair, Judge

SH-

Haron - U. Rashid, Judge

LD

Assistant Registrar

(Three copy)

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