



W.P (C) 38403 OF 2024

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2025:KER:32571

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 16TH DAY OF APRIL 2025 / 26TH CHAITHRA, 1947

WP(C) NO. 38403 OF 2024

PETITIONER:

VAISAKH A NAIR
AGED 24 YEARS
S/O ASHOK KUMAR, USHA NIVAS, AGALI, MANNARKKAD,
PALAKKAD -, PIN - 678581
BY ADVS.
A.R.NIMOD
M.A.AUGUSTINE

RESPONDENTS:

- 1 THE MANAGING DIRECTOR, KSRTC
FORT, THIRUVANANTHAPURAM -, PIN - 695023.
- 2 SANTHOSH P.K
S/O RAJAN NAIR, PALLATTU VEEDU, EDAKURUSSI,
KARIMBA, MANNARKKAD, PALAKKAD - KERALA, PIN -
678597.
- 3 THE NEW INDIA ASSURANCE CO LTD
CHANDRASEKHARAN NAIR STADIUM COMPLEX, PALAYAM,
THIRUVANANTHAPURAM - REPRESENTED BY BRANCH
MANAGER, PIN - 695033

BY ADVS.
SC SRI.P C CHACKO
ADV.RAJAN P.KALIYATH
SRI.LAL.K.JOSEPH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08.04.2025, THE COURT ON 16.04.2025 DELIVERED THE
FOLLOWING:



“C.R”

C.S. DIAS, J.**WP(C) No.38403 of 2024****Dated this the 16th day of April, 2025****JUDGMENT**

The petitioner is the claimant in O.P.(M.V.) No.1753/2018 on the file of the Motor Accidents Claims Tribunal, Palakkad ('Tribunal', in short), filed by him against the respondents for compensation. On 29.11.2017, the bus bearing No: KL-15-9579, belonging to the 1st respondent, driven by the 2nd respondent and insured with the 3rd respondent, collided with the bus in which the petitioner was travelling, and he suffered serious injuries. The Kongadu Police registered a crime and filed their charge sheet before the Judicial First-Class Magistrate Court-II, Palakkad, against the 2nd respondent. The 3rd respondent-Insurance Company objected to the claim petition on the ground that the petitioner had earlier filed O.P(MV) No.712/2018 before the same Tribunal, and the claim was settled by Ext.P5 award passed by the District Legal Services Committee, Palakkad ('DLSA', in short). Therefore, O.P.(M.V.) No.1753/2018 ('Ext.P2 claim



petition', in short) is to be dismissed. The petitioner has not filed O.P.No.712/2018. On enquiry, the petitioner learnt that the claim petition was filed in the name of the petitioner through one Advocate K.Jelly, claiming Rs.40,000/- as compensation. Ext.P5 award is non-est factum and is perse illegal. Ext.P5 award has been passed by adopting fraudulent methods by some person by impersonating the petitioner. Ext.P5 award is liable to be set aside.

2. The 3rd respondent has filed a counter affidavit denying the allegations in the writ petition. It is contended that the petitioner had not suffered any injuries as alleged in the writ petition. The petitioner cannot file a second claim petition after the first claim petition was settled in the Lok Adalat. The petitioner's sole intention is to unlawfully enrich himself. O.P. No.712/2018 contains the same documents produced in the subsequently filed Ext.P2 claim petition. Ext.P5 award is signed by a Judicial Officer, an Advocate Member, the petitioner and his counsel and the official of the Insurance Company and their Counsel. Therefore, to say that such an award is fabricated is unbelievable. It is also difficult to accept the contention that the petitioner had not



entrusted the case to any other Advocate. The writ petition is an abuse of process of law and may be dismissed.

3. When the writ petition came up for hearing on 13.01.2025, this Court, considering the seriousness and gravity of the allegations in the writ petition, called for the records in O.P.No.712/2018. The Tribunal was also directed to defer all further proceedings in the Ext.P2 claim petition.

4. On examining the records leading to Ext.P5 award and prima facie finding that there are glaring differences in the signatures of the claimants in the two claim petitions and that the first claim petition was filed through Adv.K.Jelly, this Court *suo motu* impleaded Adv. K.Jelly as the additional 4th respondent in the writ petition, and ordered notice to him. However, the notice returned with an endorsement that the additional 4th respondent is no more. It was reported that the Advocate had an unnatural death. Accordingly, this Court called for a report from the Tribunal to find out whether the additional fourth respondent was dead. By communication dated 03.03.2025, the Tribunal has informed that the additional fourth respondent died on 30.07.2024.



5. The petitioner asserts that he has not filed O.P.No.712/2018 before the Tribunal. The claim petition was filed by adopting fraudulent methods and impersonation. On the contrary, the third respondent contends that it was the petitioner who had filed O.P.No.712/2018.

6. It is undisputed that there was no adjudication in O.P.No.712/2018. Instead, the claim petition was referred to the DLSA, and the matter was settled by the parties as per Ext.P5 award, whereby the 3rd respondent agreed to pay Rs.32,000/- to the claimant within 30 days. Although the 3rd respondent has deposited the award amount before the Tribunal, the amount has not been withdrawn by anyone to date.

7. The procedure to take cognizance of cases by Lok Adalats is provided under Section 20 of the Legal Services Authorities Act, 1987. The relevant provisions of Section 20 reads as follows:

“20. Cognizance of cases by Lok Adalats.— [\(1\)](#)Where in any case referred to in clause (i) of sub-section (5) of section 19,—

(i) (a) the parties thereof agree; or

[\(b\)](#) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or



(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

*****"

8. The above provision stipulates that the parties can be referred to the Lok Adalat with their consent. The Lok Adalat, while settling a dispute, is guided by the principles of justice, equity, fair play and other legal principles. If the parties arrive at a settlement, then the Lok Adalat has to pass an award under Section 21 of the Act.

9. In exercise of the powers conferred under Section 29 of the Legal Services Authorities Act, 1987, the Central Authority has formulated the National Legal Services Authority (Lok



Adalats) Regulation, 2009. It is necessary to refer to Clause (1) of

Regulation No.16 and Clauses (1), (2), (4) and (6) of Regulation

17 which are extracted hereunder:

“16. Communication between Lok Adalat and parties.- (1) A Lok Adalat may invite the parties to meet it or may communicate with it orally or in writing and it may meet or communicate with the parties together or with each of them separately. The factual information concerning the dispute received from a party may be disclosed to the other party in order that the other party may have the opportunity to present any explanation:

17. Award. (1) Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by parties under the guidance and assistance from Lok Adalat.

(2) When both parties sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an award (see a specimen at Appendix-I). Every award of the Lok Adalat shall be categorical and lucid and shall be written in regional language used in the local Courts or in English. It shall also contain particulars of the case viz., case number, name of Court and names of parties, date of receipt, register number assigned to the case in the permanent Register (maintained as provided under Regulation 20) and date of settlement. Wherever the parties are represented by counsel, they should also be required to sign the settlement or award before the members of the Lok Adalat affix their signature.

(4) Where the parties are not accompanied or represented by counsel, the members of the Lok Adalat shall also verify the identity of parties, before recording the settlement.

(6) Members of the Lok Adalat should affix their signatures only in settlement reached before them and should avoid affixing signatures to settlement reached by the parties outside the Lok Adalat with the assistance of some third parties, **to ensure that the Lok Adalats are not used by unscrupulous parties to commit fraud, forgery, etc.**

(emphasis supplied)

10. The abovementioned regulations obligate the Lok



Adalats to verify the identity of the parties not represented by a counsel. Even if the parties are represented and identified by their counsel, the Lok Adalat shall ensure that unscrupulous litigants do not commit fraud or forgery.

11. In the present case, the petitioner vehemently asserts that he has neither filed OP.No.712/2018 nor signed Ext.P5 award.

12. Upon comparing the signatures of the claimants in O.P.No.712/2018, Ext.P5 award, Ext.P2 claim petition and the vakalath filed before this Court, prima facie, there is a significant discrepancy in the signatures of the executants in all the above proceedings. Moreover, the counsel who had attested the vakalath, the pleadings in O.P.No.712/2018, and had counter-signed Ext.P5 award is no more. Consequently, it is impossible to verify the above-disputed issues through the counsel, who had certified the identity of the claimant in O.P.No.712/2018 and Ext.P5 award. The above question is a matter of trial.

13. In **State of Punjab and another v. Jalour Singh and others** [(2008) 2 SCC 660], the Hon'ble Supreme Court has held that if any person is aggrieved by the award passed by the



Lok Adalat, then the only remedy available to him is to file a writ petition under Art.226/227 of the Constitution of India.

14. It is trite that an award of the Lok Adalat can be challenged only on limited grounds. In **K. Srinivasappa v. M. Mallamma** [(2022) 17 SCC 460], the Hon'ble Supreme Court has held as follows:

“34. While we recognise that a writ petition would be maintainable against an award of the Lok Adalat, especially when such writ petition has been filed alleging fraud in the manner of obtaining the award of compromise, a writ court cannot, in a casual manner, de hors any reasoning, set aside the order of the Lok Adalat. The award of a Lok Adalat cannot be reversed or set aside without setting aside the facts recorded in such award as being fraudulently arrived at”.

15. In **Usha K. and others v. Renjith and another** [W.A.No.125/2024], this Court has succinctly held that an award of a Lok Adalat can be set aside if it is unlawful or vitiated by fraud. It was observed that when a claimant states that he did not know the compromise, it attracts the element of fraud.

16. In **Yalamarthi Narasimha Rao v. District Legal Services Authority (Lok Adalath) Krishna and others** [2022 KHC OnLine 2812], a Division Bench of the Andhra Pradesh High



Court, while dealing with a case of identical nature, has observed that it has come across cases where parties are either impersonated or at times signatures of the parties are forged or parties before the Court are not made parties before the Lok Adalat. It is without verifying the identity of the parties that awards are being passed, which is leading to a multiplicity of litigations. Accordingly, the members of the Lok Adalats were directed to verify the identity of the parties.

17. On a careful consideration of the facts and materials on record, particularly the assertion of the petitioner that he had not filed OP(MV) No.712/2018 or executed Ext.P5 award and Ext.P5 award has been passed by perpetrating fraud, I am of the firm view that the petitioner should be afforded an opportunity to prove his defence and be permitted to contest Ext.P2 claim petition on its merits. It is well settled that fraud unravels everything and avoids all judicial acts, ecclesiastical or temporal.

Thus, I am persuaded that Ext.P5 award is liable to be quashed and OP(MV) No.712/2018 is remitted back to the Tribunal, to be consolidated and jointly tried with OP(MV) No.1753/2018. Hence, I allow the writ petition in the following



manner:

- (i) Ext.P5 award is quashed.
- (ii) OP(MV) No.712/2018 is restored to file of the Tribunal.
- (iii) The Registry is directed to retransmit the records in OP(MV) No.712/2018 to the Tribunal.
- (iv) The Tribunal shall consolidate and jointly try OP (MV) Nos.712/2018 and 1753/2018.
- (v) The Tribunal shall raise an issue as to who had filed O.P.No.712/2018.
- (vi) The Tribunal shall consider and dispose of both the claim petitions in accordance with law and as expeditiously as possible, at any rate, within six months from the date of production of a copy of this judgment, untrammelled by any observation made in this judgment.
- (vii) In case it is found the petitioner has been impersonated, the Tribunal shall take action in accordance with law.
- (viii) The Tribunal is ordered to forthwith refund the amount deposited by the 3rd respondent insurer in compliance with Ext.P5 award, in accordance with law.
- (ix) The Registry is directed to forward a copy of this judgment to the Member Secretary, Kerala State Legal Services Authority, to issue necessary guidelines to all the DLSAs/Lok Adalats to



ensure that the identity of the parties is
ascertained before the commencement of the
settlement proceeding and an award is passed.

Sd/- C.S.DIAS, JUDGE

rkc/16.04.2025



APPENDIX OF WP(C) 38403/2024

PETITIONER EXHIBITS

- | | |
|-------------------|---|
| Exhibit-P1 | TRUE COPY OF THE ACCIDENT CUM WOUND
CERTIFICATE DATED 29.11.2017 |
| Exhibit-P2 | TRUE COPY OF THE CLAIM PETITION NUMBERED
O.P(M.V) 1753/2018 DATED 02.07.2018 |
| Exhibit-P3 | TRUE COPY OF THE TREATMENT CERTIFICATE
ISSUED BY DR HEMA SASIDHARAN OF MAULANA
HOSPITAL, PERINTHALMANNA, MALAPPURAM
DATED 09.10.2021 |
| Exhibit-P4 | TRUE COPY OF THE DISABILITY CERTIFICATE
ISSUED TO HIM BY DR JYOTHISH K DATED
05.07.2023 |
| Exhibit-P5 | TRUE COPY OF THE AWARD BY LOK ADALAT IN
OP(MV) 712/2018 DATED 28.09.2018 |

RESPONDENTS EXHIBITS

- | | |
|----------------|---------------------|
| Exhibit | Exhibit R3-1 |
|----------------|---------------------|