2026:KER:20628

'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 6TH DAY OF MARCH 2026 / 15TH PHALGUNA, 1947

WP(C) NO. 8666 OF 2026

PETITIONERS:

STAR HEALTH AND ALLIED INSURANCE COMPANY LIMITED,
HAVING ITS BRANCH OFFICE AT ALSA MALL,
S.M. STREET, KOZHIKODE – 673 001,
REPRESENTED BY JOINT VICE PRESIDENT,
STAR HEALTH AND ALLIED INSURANCE CO. LTD,
REGIONAL OFFICE, 4TH FLOOR, CARMEL TOWERS,
COTTON HILL PO, VAZHUTHACAUD,
THIRUVANANTHAPURAM, PIN - 695014

BY ADVS.
SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.H.KIRAN
SRI.P.I.NAJUMAL HUSSAIN
SMT.DILMAYA P.

RESPONDENTS:

1 BALAKRISHNAN K.M
S/O RAMAN, KURUVATTERY MEETHAL HOUSE,
KOOTHALI, KOZHIKODE, PIN - 673525

2 PERMANENT LOK ADALATH
9/689, CHEROOTY RD,BIG BAZAAR,
MANANCHIRA, KOZHIKODE-REP BY ITS SECRETARY,
PIN - 673001

BY ADV.
SRI.BINOY DAVIS, G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

'CR'

JUDGMENT

This writ petition is submitted by a company engaged in the business of general insurance, challenging the award passed by the Lok Adalat for Public Utility Services, Kozhikode in O.P.No.95/2024. Ext.P6 is the said award, which was passed on the original petition submitted by the 1st respondent herein, being aggrieved by the non-consideration of his claim based on an Accident Care individual insurance policy, which was valid for the period from 06.07.2020 to 05.07.2021. The cause of action for submitting the claim was that, the 1st respondent, who was a toddy tapper, sustained serious injuries on 28.05.2021, when he fell down while tapping toddy from a coconut tree. He sustained injuries on his spinal cord, ribs, head and shoulder, and underwent treatment at Malabar Medical College, Government Medical College, Kozhikode etc., and consequently he

became permanently disabled. The extent of permanent disablement is certified to be 75% by the Medical Board.

2. According to the 1st respondent, the claim was not entertained by the petitioner, based on the policy issued by them, and it was in those circumstances Ext.P3 complaint was submitted before the Permanent Lok Adalat for Public Utility Services. The petitioner appeared before the Adalat and Ext.P5 counter statement was filed, disputing the claim raised by the petitioner. According to the petitioner, no claim was ever raised before the petitioner, highlighting the injuries sustained. As per the terms and conditions of the policy, the claim based on the injuries sustained during the period of the policy, has to be made within a period of 60 days from the date of injuries and, since the same has not been complied with, the claim cannot entertained.

3. However, the Permanent Lok Adalat, after appreciating the evidence adduced by the parties and the documents produced, passed Ext.P6 order,

allowing the claim and directing the petitioner insurance company to pay Rs.7,50,000/- to the applicant as insurance benefit and Rs.10,000/- as cost of the proceedings. This order is under challenge in this writ petition.

4. I have heard Sri. R.S.Kalkura, the learned counsel appearing for the petitioner, who argued at length, highlighting the discrepancies and illegalities in the findings entered into the Permanent Lok Adalat while passing Ext.P6. The main contention raised by the learned counsel for the petitioner is that, in Ext.P6 award itself, a finding has been practically entered into regarding the non submission of the claim before the petitioner, but yet, the Adalat proceeded to allow the Original Petition and granted compensation.

5. It is pointed out by the learned counsel for the petitioner that, as far as a claim based on an insurance policy is concerned, it is the bounden duty of the insured to raise a claim before the insurance

company first, and it is for the insurance company to process the said claim and to take a decision to grant the amount. The quantification of the amount is also to be made by the insurer. In this case, instead of adopting the said process, the Permanent Lok Adalat proceeded to determine the claim even in the absence of any claim and hence it is to be interfered with, contends the learned counsel for the petitioner.

6. However, on going through the observations made by the Adalat, which led to the ultimate decision of allowing the claim, it can be seen that, the Adalat acted upon the principles that, merely because of the fact that there occurred some delay in raising a claim, the petitioner cannot be exonerated from the liability to satisfy the obligations arising from the terms and conditions of the policy. The Permanent Lok Adalat on evidence found that, an accident had indeed occurred during the tenure of the policy, and the 1st respondent sustained very serious injuries which led to

the permanent disablement to the extent of 75%. It was taking note of those circumstances and also relying upon the decision rendered in **Asok Kumar v. New India Insurance Company Ltd [2023 KHC 6748]**, the reliefs sought by the 1st respondent were granted.

7. After going through the observations made by the Permanent Lok Adalat and the grounds for allowing the complaint, I do not find any justifiable reason to interfere in the same. As observed above, it is a fact that the Permanent Lok Adalat came to a definite finding after appreciating the evidence that, the 1st respondent sustained very serious injuries which will have serious impact on the earning capacity of the 1st respondent, who was a toddy tapper where, physical fitness is very crucial. The disability sustained is to the extent of 75%. Thus, the view adopted by the Permanent Lok Adalat was that the mere delay in raising the claim should not defeat the rights of the insured, in getting a compensation which he was otherwise eligible to.

8. On carefully going through the reasons which prompted the Permanent Lok Adalat to arrive at such a conclusion, I do not find it proper to interfere in the award passed. This is particularly because, as far as an award passed by the Permanent Lok Adalat for Public Utility Services constituted under Section 22B of the Legal Services Authorities Act is concerned, same is final and the scope of interference in exercise of powers of this Court under Article 226/227 of the Constitution of India is very limited. Even if a different view is possible, than the view already taken by the Permanent Lok Adalat, it is not necessary for this Court to interfere with the said award. Only in cases where, the order is perverse or results in gross injustice to the party complaining of, an interference is required. When considering the findings in Ext.P6 from that perspective, I do not find any necessity to interfere.

9. Moreover, it is to be noted that, the Chapter VIA of the Legal Services Authorities Act, 1987,

by which the provision relating the constitution and the powers of the Permanent Lok Adalat for Public Utility Services are contemplated, was introduced by way of an amendment to the Act, as per Act 37 of 2002 with effect from 11.06.2002. The objects and reasons of the Amendment Act reads as follows:

> *"The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism for alternate dispute resolution, has provided effective for resolving dispute in a spirit of conciliation outside the court.*

2, However, the major drawback in the existing scheme of organization of the Lok Adalaths under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties . If the parties do not arrive at any compromise or settlement, the case is either returned to the Court of law or the parties are advised to seek remedy in a Court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalats are given power to decide the cases on merits in cases parties fails to arrive at any compromise or settlement, this problem can be tackled to a great extent. Further, the cases which arise in relation to public utility services such as Mahanagar Telephone Nigam Limited, Delhi Vidyut Board etc., need to be settled urgently so that people get justice without delay even at pre-litigation stage itself and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload of the regular courts

> *to a great extent. It is therefore , proposed to emend the Legal Services Authorities Act, 1987 to set up Permanent Lok Adalats for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services"*

Thus, it is evident that, it is a welfare legislation intended to protect the weaker sections of the society, by providing speedy and cost effective mechanism. Section 22D of the Act, provides for the procedure for Permanent Lod Adalat, which reads as follows:

> "The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice and shall not be bound by the Code of Civil Procedure Code, 1908(5 of 1908) and the Indian Evidence Act, 1872(1 of 1872)"

In the said provision, the principles to be followed by the Lok Adalat have been provided, which would indicate that, the decision has to be taken by the Lok Adalat beyond pure technical hurdles that do not touch upon the vested rights of the parties. Moreover, this is a case in which, the 1st respondent sustained very serious disablement and had undergone treatment for a considerable period. The Medical Board certified the disability of the petitioner as 75% and it is also certified that he is permanently incapacitated to do his work as Toddy Tapper, due to prolonged serious illness like, paraplegia, bowel, bladder involving. The seriousness of the injuries are specifically taken note of by the Adalat. Therefore, a person with limited financial resources, who suffered such serious injuries and disability of very high level, cannot be found fault with, for the delay, if any caused, in invoking the legal remedies by way raising a claim. Moreover, in the award passed, the Adalat specifically referred to the Circular of IRDAI issued on

20.09.2011, issued for giving instruction to the insurance companies that, even if there was a condition on the policy regarding the delay in giving intimation, the insurer cannot take it to repudiate the claim which was proved to be genuine.

10. It is also to be noted in this regard that, through this writ petition, the petitioner is invoking the powers is this court under Article 226 of the Constitution of India, which is a discretionary, equitable and extraordinary remedy, that is intended to be invoked, when the rights of the party are infringed, due to an illegal order passed by a public authority. In **Ritesh Tewari v. State of U.P., [(2010) 10 SCC 677]**, it was observed as follows;

> *"26. The power under Article 226 of the Constitution is discretionary and supervisory in nature. It is not issued merely because it is lawful to do so. The extraordinary power in the writ jurisdiction*

does not exist to set right mere errors of law which do not occasion any substantial injustice. A writ can be issued only in case of a grave miscarriage of justice or where there has been a flagrant violation of law. The writ court has not only to protect a person from being subjected to a violation of law but also to advance justice and not to thwart it. The Constitution does not place any fetter on the power of the extraordinary jurisdiction but leaves it to the discretion of the court. However, being that the power is discretionary, the court has to balance competing interests, keeping in mind that the interests of justice and public interest coalesce generally. A court of equity, when exercising its equitable jurisdiction, must act so as to prevent perpetration of a legal fraud and promote good faith and equity. An order in equity is one which is equitable to all the parties concerned. The petition can be entertained only after being fully satisfied about the factual statements and not in a casual and cavalier manner. (Vide Champalal Binani v. CIT [(1971) 3 SCC 20 :

AIR 1970 SC 645] ; Chimajirao Kanhojirao Shirke v. Oriental Fire and General Insurance Co. Ltd. [(2000) 6 SCC 622 : AIR 2000 SC 2532] ; LIC v. Asha Goel [(2001) 2 SCC 160 : AIR 2001 SC 549] ; Haryana Financial Corpn. v. Jagdamba Oil Mills [(2002) 3 SCC 496] ; Chandra Singh v. State of Rajasthan [(2003) 6 SCC 545 : 2003 SCC (L&S) 951] and Punjab Roadways v. Punja Sahib Bus and Transport Co. [(2010) 5 SCC 235])"

11. Similarly in **G. Veerappa Pillai v. Raman & Raman Ltd., [(1952) 1 SCC 334]**, it was categorically held that;

"26. Such writs as are referred to in Article 226 are obviously intended to enable the High Court to issue them in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the

> *record, and such act, omission, error, or excess has resulted in manifest injustice. However extensive the jurisdiction may be, it seems to us that it is not so wide or large as to enable the High Court to convert itself into a court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or the order to be made."*

In **Nagendra Nath Bora v. Commr. of Hills Division, [AIR 1958 SC 398[:**

> *"28. The jurisdiction under Article 226 of the Constitution is limited to seeing that the judicial or quasi-judicial tribunals or administrative bodies exercising quasi-judicial powers, do not exercise their powers in excess of their statutory jurisdiction, but correctly administer the law within the ambit of the statute creating them or entrusting those functions to them."*

12. In addition to the principles mentioned above, under Article 226, this court can refrain from

invoking the jurisdiction, if it is found from the materials that, the principles of equity is not in favour of the petitioner but it is on the other side, and exercising such powers, would cause serious prejudice to the respondent, who is person belonging to a weaker section. In **M.S. Sanjay v.Indian Bank and Others [2025 SCC OnLine SC 368]**, it was reiterated by the Apex Court as follows;

> *"10. ……While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case, even if some action or order challenged in the petition is*

found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties."

In **M.P. Mittal v. State of Haryana [(1984) 4 SCC 371]**

"5. … it is open to the High Court to consider whether, in the exercise of its undoubted discretionary jurisdiction, it should decline relief to such petitioner if the grant of relief would defeat the interests of justice. The Court always has power to refuse relief where the petitioner seeks to invoke its writ jurisdiction in order to secure a dishonest advantage or perpetuate an unjust gain."

In **ONGC v. Sendhabhai Vastram Patel, [(2005) 6 SCC 454]** , it was observed that;

"23. It is now well settled that the High Courts and the Supreme Court while

exercising their equity jurisdiction under Articles 226 and 32 of the Constitution as also Article 136 thereof may not exercise the same in appropriate cases. While exercising such jurisdiction, the superior courts in India may not strike down even a wrong order only because it would be lawful to do so. A discretionary relief may be refused to be extended to the appellant in a given case although the Court may find the same to be justified in law. [See S.D.S. Shipping (P) Ltd. v. Jay Container Services Co. (P) Ltd. [(2003) 9 SCC 439]"

13. Thus, a reading of Article 226 of the Constitution of India in the light of the above legal principles, would make it clear that, the writ is to be issued to enforce the rights of the party guaranteed under part III of the Constitution of India, in appropriate cases. Thus, it is intended to protect the rights of the persons guaranteed under Part- III of the Constitution of India and when considering the necessity of issuance of

such writs in a given case, the relevant aspects to be taken note of, are not confined to the rights of the persons approaching the court complaining of the infringement of Part III of the Constitution, but scope of consideration would extent to such rights of the person against whom, such reliefs are sought also. Therefore, when the writ sought to be enforced by the petitioner affects the rights of the respondent to live with dignity, as guaranteed under Article 21 of the Constitution of India, this court can refrain from invoking such powers, even if there is some technical discrepancy in the order impugned in the writ petition. In a decision rendered by the Hon'ble Apex Court in **Anvita Auto Tech Works Pvt. Ltd. v.Aroush Motors and Another [2025 SCC OnLine SC 2181]**, it was remarked in the following words;

> *"2. The present controversy can be encapsulated in words of the Hon'ble Justice V.R. Krishna Iyer:*

> ***"Procedural law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It is the handmaid of justice and not its mistress"***
>
> *3. The object of the procedural rules is to advance the cause of justice and not to thwart it and when the rigid adherence to technicalities of procedure causes injustice, courts have to come to the rescue by adopting a liberal approach. The courts cannot countenance a situation where substantial justice is sacrificed at the altar of procedural rigidity. Where substantial justice is at stake, technicalities must give way to ensure that the litigant is afforded sufficient opportunity to defend. The present controversy must be tested on the said principle."*

14. Therefore, a balance will have to be struck, between the rights of both the parties, based on equity and good conscience; of course, by upholding the rule of law. This must be particularly so in cases where,

the party approaching the court is a Corporate establishment having its roots spread all over the country with great financial stability, against an order passed by a public authority, in favour of a daily wage earner, who suffered an injury by which, he is permanently incapacitated to do the work he was engaged in. When doing such exercise, I find that this is not a fit case in which, writ jurisdiction of this court is to be invoked, and thereby interfere with the order impugned in this case. In other words, after considering all relevant aspects, this court is of the view that, this is a case in which, it is duty of this court to uphold the rights of the 1st respondent, who lost his means of livelihood due to the accident, which is one of the risks covered by the insurance policy in question, to enable him to have a dignified life, to the extent possible, with the relief granted by the Adalat, as guaranteed under Article 21 of the Constitution of India.

In such circumstances, I do not find any justifiable reason to interfere in the impugned award and accordingly, this writ petition is dismissed.

Sd/-
ZIYAD RAHMAN A.A.
JUDGE

akj/sjb

APPENDIX OF WP(C) NO. 8666 OF 2026

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE PROPOSAL FORM DATED 06.07.2020 SUBMITTED BY THE 1ST RESPONDENT TO THE PETITIONER**
Exhibit P2	**TRUE COPY OF THE POLICY BEARING NO. P/181311/02/2021/000093 STANDING IN THE NAME OF THE 1ST RESPONDENT FOR THE PERIOD FROM 06.07.2020 TO 05.07.2021, ALONG WITH THE TERMS AND CONDITIONS**
Exhibit P3	**TRUE COPY OF THE COMPLAINT DATED 2.10.2024 IN O.P. NO.95/2024 BEFORE THE 2ND RESPONDENT, FILED BY THE 1ST RESPONDENT**
Exhibit P4	**TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3**
Exhibit P5	**TRUE COPY OF THE COUNTER STATEMENT DATED NIL FILED BY THE PETITIONER IN O.P. NO. 95OF 2024 BEFORE THE 2ND RESPONDENT**
Exhibit P6	**TRUE COPY OF THE AWARD DATED 10.10.2025 IN O.P. NO. 95 OF 2024 PASSED BY THE 2ND RESPONDENT**