

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

MACA.No. 800 of 2012 ()

OPMV 903/2004 of ADDL. MOTOR ACCIDENTS CLAIMS TRIBUNAL, PATHANAMTHITTA

APPELLANT/PETITIONER IN O.P.(MV) :

**STATE OF KERALA
REPRESENTED BY THE COMMANDANT, KAP-3BN, SAP CAMUS
THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT. LISHA M.G.

RESPONDENTS/RESPONDENTS IN O.P.(MV) :

- 1. SHAJI
S/O.SIVADASAN, KARAVARAM KUNNUMPURATHU VEEDU,
THOTTAKADU.P.O., KARAVARAM VILLAGE - 695 605.**
- 2. SASIDHARAN.V.
S/O.VIJAYAN, GEETHA MANDIRAM, KANATHUKONAM,
NEDUMPARAMBU.P.O., KARAVARAM, ATTINGAL - 695 102.**
- 3. UNITED INDIA INSURANCE CO.LTD., ATTINGAL.**

**R3 BY ADV. SRI.N.S.MOHAMMED USMAN
BY SRI.JOHN JOSEPH VETTIKAD**

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

M.A.C.A.No.800 of 2012

Dated this the 22nd day of June, 2015

JUDGMENT

The State, which was the claimant in a petition for compensation before the Motor Accidents Claims Tribunal, has come up in this appeal challenging the decision of the Tribunal.

2. A Jeep owned by the Police Department, while proceeding from Adoor towards SAP campus at Thiruvananthapuram, hit against a private bus owned by the second respondent and driven by the first respondent. According to the State, the Police Jeep was running from north to south and when the Jeep reached the place called Pappala near Kilimanoor, the first respondent who was driving the private bus which was proceeding in the same

direction in front of the Jeep abruptly turned the bus towards right, as a result of which, the Jeep hit on the bus. The case of the State is that the accident occurred on account of the negligence of the first respondent and therefore, the State is entitled to compensation for the damage sustained to the Jeep amounting to Rs.59,200/-.

3. Respondents 1 and 2 remained ex parte. The third respondent, the insurer of the bus contested the claim petition, contending inter alia, that the accident occurred on account of the negligence of the driver of the Jeep and therefore they have no liability to pay any compensation to the State.

4. Though it was alleged in the claim petition that the bus at the time of accident was being driven by the first respondent at an exorbitant speed; that the first respondent turned the bus abruptly towards right at the place called Pappala and that the accident occurred on account of the said conduct of the first respondent, the claimant had not

adduced any evidence in support of the case set up in the claim petition. Instead, they relied on the documents produced by them before the Tribunal to establish their case. It is seen that a crime was registered in connection with the accident which is the subject matter of the claim petition and in the said crime, a final report is filed stating that the accident occurred on account of the negligence of the first respondent. The State has relied on the said final report, which is marked in the proceedings as Ext.A3, to substantiate its case.

5. The Tribunal, on a perusal of the materials on record, found that the bus was negotiating a curve at the time of accident and as such, since the Jeep was moving in the same direction behind the bus, had the driver of the jeep been careful, the accident could have been averted. The Tribunal also found if the case of the State that the bus was moving at an exorbitant speed is to be accepted, it has to be reckoned that the jeep was also moving at an

exorbitant speed, as otherwise, the accident would not have occurred. In the said circumstances, the Tribunal found that the accident occurred on account of the negligence of the driver of the Jeep. In the absence of any oral evidence on the part of the State, it cannot be said that the decision of the Tribunal suffers from any illegality. The appeal is devoid of merits and the same is, accordingly, dismissed.

P.B.SURESH KUMAR, JUDGE.

smm