

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN**

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

MACA.No. 220 of 2015 ()

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AGAINST THE AWARD IN OPMV 1532/2000 of ADDL. MOTOR ACCIDENTS CLAIMS
TRIBUNAL, ALAPPUZHA DATED 2.1.2014**

APPELLANT/4TH RESPONDENT:

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ESWAR GANGARAM PATTIL
M/S.POOJA JEWELLERS, M.G.ROAD, COCHIN.**

**BY ADVS.SRI.DINESH R.SHENOY
SRI.SUJITHKUMAR**

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 3 & 5:

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- 1. JANARDHANAN PILLAI
S/O.KRISHNA PILLAI, VISHNU BHAVAN, PATTANAKKAD POST
CHERTHALA, PIN - 688 531.**
 - 2. JOSEPH, S/O.VARKEY
MAVUNKAL VEEDU, PATTANAKADU POST, CHERTHALA
PIN - 688 531.**
 - 3. THE UNITED INDIA INSURANCE CO.LTD.,
REPRESENTED BY ITS BRANCH MANAGER, SARADA COMPLEX
ALAPPUZHA, PIN - 688 001.**
 - 4. MOHAMMED RIYAS, S/O.MOHAMMED
7/850, A.K.LINE, KOCHI, PIN-682 001.**
 - 5. HARI, CILADA, CONVENT ROAD
ERNAKULAM, COCHIN, PIN - 682 035.**

R3 BY ADV.SRI.JOHN JOSEPH VETTIKAD

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 21-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vpv

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.

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M.A.C.A.No.220 of 2015

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Dated this the 21st day of May, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant is the fourth respondent in O.P.(M.V.)No.1532 of 2000 on the file of the Additional Motor Accidents Claims Tribunal, Alappuzha. The first respondent is the claimant and respondents 2 to 5 are the other respondents therein. In this appeal, the appellant challenges the award passed by the Additional Motor Accidents Claims Tribunal, Alappuzha on 2.1.2014 in O.P.(M.V.)No.1532 of 2000 whereby the Tribunal awarded the sum of Rs.92,985/- with interest and costs as compensation to the first respondent/claimant and allowed him to realise it from the appellant/fourth respondent.

2. The main contention raised in the instant appeal is that the appellant was not the owner of the motor vehicle involved in the accident on the date of the accident namely 14.5.2000. It is contended that long before the accident took place on 14.5.2000, he had ceased to be the owner of the vehicle. It is contended that the appellant had sold the vehicle to the fifth respondent on 18.9.1995 and the fifth respondent in turn had sold the vehicle to the third respondent and as on the date of the accident it was the

third respondent who was the owner of the motor vehicle. The Motor Accidents Claims Tribunal held relying on the evidence oral and documentary available in the case that as on the date of the accident the appellant was the registered owner and that the vehicle was transferred to the name of the third respondent only on 3.6.2000, 19 days after the accident.

3. Ext.B1 (the registration particulars of the motor car bearing registration No.KL-2/2978) discloses that the appellant purchased the said vehicle on 10.10.1992 and that it was transferred to the third respondent (Mohammed Riyas) with effect from 3.6.2000. The motor accident which gave rise to the instant claim petition took place on 14.5.2000. In respect of that accident yet another claim petition [O.P.(M.V.)No.1248 of 2000] was filed by the driver of the autorickshaw in which the claimant herein was travelling, seeking compensation for the injuries sustained by him. In that claim petition, an award was passed allowing that claimant to realise the sum of Rs.53,800/- with interest and costs from the appellant in the instant case, who was joined as the second respondent in that claim petition. In that case also the appellant raised the plea that as on the date of the accident he was not the owner of the motor vehicle. That contention was repelled by the Motor Accidents Claims Tribunal. Though the appellant challenged

the award passed by the Motor Accidents Claims Tribunal in O.P. (M.V.)No.1248 of 2000 by filing M.A.C.A.No.2027 of 2006 in this Court, that appeal was dismissed by a learned single Judge of this Court by judgment delivered on 19.10.2011, after entering a finding that the appellant has failed to establish that as on the date of the accident (14.5.2000) some other person was the owner of the motor vehicle by virtue of a sale effected by him or by the fourth respondent (the fifth respondent in the instant appeal). The learned single Judge held that the mere fact that the motor vehicle involved in the accident was released to the third respondent herein is not a ground to hold that he was the owner of the motor vehicle on the date of the accident in view of the fact that the registration was changed to his name only with effect from 3.6.2000. It is not in dispute that the judgment of this Court in M.A.C.A.No.2027 of 2006 has attained finality. A certified copy thereof was produced and marked as Ext.B4 in O.P.(M.V.)No.1532 of 2000 from which this appeal arises. It is relying on Ext.B2 registration particulars as well as Ext.B4 judgment of this Court that the Motor Accidents Claims Tribunal held that the appellant has not been able to prove that he had ceased to be the owner of the motor vehicle involved in the accident, before the accident.

4. In such circumstances, we are not persuaded to hold that

the appellant has made out a case warranting interference with the impugned order. So long as Ext.B3 judgment of the Additional Motor Accidents Claims Tribunal, Alappuzha in O.P.(M.V.)No.1248 of 2000 which was affirmed by this Court in Ext.B4 judgment in M.A.C.A.No.2027 of 2006 stands, the appellant cannot contend that he had ceased to be the owner of the motor vehicle before the accident and that it was the third respondent who was the owner thereof on that day. The appellant has, as held by this Court in Ext.B4 judgment failed to prove his case that he had transferred the motor vehicle to the fifth respondent herein on 18.9.1995 and that the fifth respondent in turn had transferred it to the fourth respondent well before the accident. In such circumstances, it has to be necessarily held that the impugned award does not merit interference.

We accordingly hold that there is no merit in the instant appeal. The appeal fails and it is dismissed *in limine*.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANU SIVARAMAN
JUDGE