

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

MACA.No. 952 of 2007 ()

AGAINST THE AWARD IN OPMV 419/2001 of M.A.C.T., PALAKKAD DATED 25-09-2006

APPELLANT(S)/APPELLANT/SUPPL.PETITIONERS:

- 1. P.A.RAMANI BAI
W/O.LATE V.A.RAMACHANDRAN NAIR.**
- 2. DEEPAK, S/O LATE V.A.RAMACHANDRAN NAIR.**
- 3. DEEPIKA, D/O LATE V.A.RAMACHANDRAN NAIR,
ALL ARE RESIDING AT RAMAGIRI, PALLIPPURAM VILLAGE
MELAMURI, PALAKKAD.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL**

RESPONDENT(S)/RESPONDENTS:

- 1. V. THYAGARAJAN
S/O.PARAMASIVAM, RESIDING AT JAILAVUDEEN STREET
POLLACHI.**
- 2. SUNDAR RAJ,
S/O.KUNJAN CHETTIYAR, RESIDING AT, AMMAN ILLAM
POLLACHI.**
- 3. NATIONAL INSURANCE COMPANY LIMITED,
SUNDARAM BUILDINGS, 251, COIMBATORE ROAD
POLLACHI-622 001.**

R1,R3 BY ADV. SRI.JOE KALLIATH

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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**P.N.RAVINDRAN
&
BABU MATHEW P. JOSEPH, JJ.**

M.A.C.A.No.952 of 2007

Dated this the 31st day of August, 2015

JUDGMENT

BABU MATHEW P. JOSEPH, J.

The Maruti Car bearing Reg.No. KL-9G/7700 belonging to the late V.A.Ramachandran Nair was damaged in a motor accident that occurred on 18.9.2000 involving a Tempo Van bearing Reg.No.TN-41H/7688. The late Ramachandran Nair preferred a petition before the Motor Accidents Claims Tribunal, Palakkad, claiming compensation on account of the damages sustained by the car in the motor accident. During the pendency of the claim petition, the petitioner V.A.Ramachandran Nair expired and, thereafter, his legal representatives were impleaded as supplementary petitioners 2 to 4. The supplementary second petitioner is the wife and the supplementary petitioners 3 & 4 are the children of the deceased Ramachandran Nair. The learned Tribunal, after considering the matter, found that the accident had occurred due to the negligence of the driver of the Tempo Van involved in the accident. But, the learned Tribunal also found that the petitioners have not proved the ownership of the

Maruti Car bearing Reg.No.KL-9 G/7700 and hence dismissed the claim petition finding that the petitioners were not entitled to any compensation. Aggrieved by the judgment so passed by the learned Tribunal, the appellants have preferred this appeal.

2. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the 3rd respondent Insurance Company. The respondents 1 and 2 were deleted from the party array.

3. The definite case of the appellants is that the Maruti Car bearing Reg.No.KL-9 G/7700 which was damaged in the accident belonged to the late V.A. Ramachandran Nair, the deceased petitioner before the Tribunal. In order to substantiate that fact, Ext.A5 copy of the Certificate of Registration of the vehicle was produced. After considering Ext.A5, the Tribunal entered a finding that it cannot be found that the vehicle belonged to the said Ramachandran Nair. Ext.A5 shows that the original owner of this vehicle was one Sri.K.Alagiri. It was registered in his name on 8.1.1998 with Reg.No.TN 5 8D 2728. Subsequently, this vehicle had been transferred with effect from 30.12.1998 in favour of one Sri.H.Ali. He was a resident of Coimbatore. It can also be seen

from Ext.A5 that this vehicle had been transferred in favour of Sri.V.A.Ramachandran Nair, who is the deceased petitioner before the Tribunal, with effect from 31.12.1999 and assigned a new number to the vehicle namely, KL-9 G/7700. Ext.A5 does not show any other transfer of the vehicle thereafter. Ext.A6 is a copy of the Certificate-cum-Policy-Schedule which shows that the vehicle KL-9 G/7700 was insured with the Oriental Insurance Company Limited for the period from 21.1.2000 to 20.1.2001. This document also shows that this Policy had been transferred in favour of the late V.A.Ramachandran and insured for the period from 7.3.2000 to 20.1.2001. A perusal of Exts.A5 and A6 would go to show that the Maruti Car which was damaged in the accident belonged to the late V.A.Ramachandran Nair and it was insured with the Oriental Insurance Company Limited at the relevant time. Therefore, the finding of the learned Tribunal that the appellants failed to prove the ownership of the Maruti Car is an incorrect finding entered without properly appreciating the contents of Exts.A5 and A6 in the light of the provisions in the Motor Vehicles Act, 1988.

4. The appellants have produced documents before the

Tribunal in order to substantiate their case that loss had been caused as a result of the damages sustained by the Maruti Car in the accident. But, the learned Tribunal did not go into the loss sustained as a result of the damages caused to the Maruti Car and dismissed the claim petition. The Tribunal found that the appellants have not adduced evidence in order to show that they have not received compensation on account of the damages caused to the Maruti Car from its insurer or filed an affidavit to that effect. This finding of the learned Tribunal is against the facts. In fact, an affidavit has been filed by the appellants before the Tribunal. On going through the affidavit, it can be seen that the appellants did not get any amount as compensation from the insurer of the Maruti Car and, in fact, it had only a 3rd party insurance cover. Therefore, the second reason entered by the Tribunal for finding that the appellants were not entitled to compensation is also incorrect. The 3rd respondent has not disputed the contents of Ext.A5 or A6. Moreover, the contents of the affidavit filed by the appellants before the Tribunal were not disputed by the respondents by filing any counter affidavit.

5. For the foregoing reasons, we find that the Maruti

Car which was damaged in the accident belonged to the late V.A.Ramachandran Nair, the husband and the father respectively of the appellants and hence they are entitled to compensation on account of the damages caused to that vehicle in the accident if they are able to prove the damages so sustained. Therefore, we remit the case to the Motor Accidents Claims Tribunal, Palakkad, for fresh consideration in the light of the findings entered in this judgment. The Tribunal shall afford an opportunity of being heard to all the parties before disposing of the matter. Since this is an old case, the Tribunal shall give priority to this case and dispose of it at the earliest. The appellant and the 3rd respondent shall appear before the Tribunal on 12.10.2015. The Registry shall return the records without delay.

This appeal is disposed of as above.

**Sd/-
P.N.RAVINDRAN
JUDGE**

**Sd/-
BABU MATHEW P.JOSEPH
JUDGE**

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PA TO JUDGE

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