IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

MACA.No. 1061 of 2015 ()

AGAINST THE AWARD IN OP(MV).NO.1808/2006
OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THALASSERY DATED 14/8/2013

APPELLANT/PETITIONER :

K.R. SHAJI,
S/O.RAGHAVAN,
KUTTANPLAVIL HOUSE,
VAYATHOOR AMSOM
KOLITHATTU P.O., IRITTY,
KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS/RESPONDENTS :
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1. K. KRISHNAN
S/O.NARAYANAN, KUNNOTH HOUSE, CHUZHALI P.O.
CHENGALAYI, SREEKANDAPURAM, TALIPARAMBA TALUK
KANNUR DISTRICT-670141.

2. THE ORIENTAL INSURANCE COMPANY LTD.,
BRANCH OFFICE, MARINA SHOPPING COMPLEX
NATIONAL HIGHWAY, TALIPARAMBA-670141.

R2 BY ADVS. SMT.A.SREEKALA
SMT.K.S.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.B.SURESH KUMAR, J.

M.A.C.A.No.1061 of 2015

Dated this the 18th day of September, 2015

JUDGMENT

The claimant in a proceedings for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal.

2. The claim petition was filed alleging that the claimant sustained injuries in the accident took place on 23.4.2006 involving an autorickshaw owned and driven by the first respondent. The second respondent was arrayed in the claim petition as the insurer of the vehicle. The second respondent contended that though the vehicle was covered by a valid insurance policy issued by them, the insured under the policy is not the first respondent. According to

them, the insured under the policy is one K.A.Mathai. In other words, the contention of the second respondent is that the said K.A.Mathai was the owner of the vehicle at the time of accident. The Tribunal took the view that despite the aforesaid contention of the second respondent, the claimant had not taken any steps to implead the insured under the policy and consequently dismissed the claim petition. The claimant is aggrieved by the said decision of the Tribunal.

3. Heard the learned counsel for the appellant as also the learned counsel for the second respondent.

4. The fact that the claimant sustained injuries in the accident took place on 23.4.2006 is not disputed by the second respondent. Likewise, the fact that the vehicle involved in the accident was covered by a valid insurance policy at the time of accident is also not disputed. The contention raised by the second respondent was only that K.A.Mathai was the insured under the policy issued by them

in respect of the vehicle and therefore he is a necessary party to the proceedings. True, in the light of the stand taken by the second respondent, the claimant should have taken steps to bring K.A.Mathai also as a party to the claim petition. However, merely for the reason that the claimant had not taken steps to bring the said person on the array of parties in the claim petition, the Tribunal should not have dismissed the claim petition. According to me, Section 166 being a provision incorporated in the Motor Vehicles Act by way of social security measure to extend compensation to the victims of motor accidents, it is the duty of the Tribunal to see that compensation is paid to the claimants, especially in cases where there is no dispute as to the accident. As such, since it was found that the insured under the policy is a necessary party to the claim petition, the Tribunal could have either impleaded the said person suo moto in the proceedings or directed the appellant to implead him. Since the Tribunal has not adopted the said course, I deem it appropriate to remit the claim petition for fresh disposal, after affording the appellant an opportunity to implead the insured under the policy as a party to the proceedings.

In the result, the appeal is allowed and the impugned award is set aside. O.P(M.V).No.1808 of 2006 is remitted to the Motor Accidents Claims Tribunal, Thalassery for fresh disposal, after affording the appellant an opportunity to implead the insured under the policy also as a party to the proceedings.

P.B.SURESH KUMAR, JUDGE.

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