

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

MACA.No. 64 of 2014 ()

AGAINST THE AWARD IN OPMV 1308/2007 ON THE FILE OF THE MOTOR
ACCIDENTS CLAIMS TRIBUNAL, PERUMBAVOOR DATED 07-09-2012

APPELLANT/FIRST RESPONDENT:

P.K.KUNJUMON
S/O. ALIKUNJU, PERINGATTU HOUSE,
THOTTAKKATTUKARA.P.O.
ALUVA.

BY ADV. SRI.V.N.SUNIL KUMAR

RESPONDENTS/CLAIMANT, 2ND AND 3RD RESPONDENTS:

1. RAJEEVKUMAR
S/O. RAJAPPAN, AMBADY HOUSE, MUPPATHADAM
WEST KADUNGALLOOR-680664.

2. MOHANAN
S/O. RAMANPILLAI, PUKKATTU HOUSE
NEAR PARAYATHU TEMPLE, MUPPATHADAM.P.O.
WEST KADUNGALLOOR-680664.

3. UNITED INDIA INSURANCE COMPANY LTD.
BRANCH OFFICE 111, SHARANYA HOSPITAL ROAD
COCHIN-682011.

R3 BY ADV. SRI.RAJESH THOMAS
R2 BY ADV. SRI.JACOB PAUL
R1 BY ADV. SRI.REJI GEORGE
R1 BY ADV. SRI.GOPAKUMAR G. (ALUVA)
R1 BY ADV. SMT.ANUPAMA JOHNY
R1 BY ADV. SRI.BINOY DAVIS
R BY SRI.JOHN JOSEPH VETTIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AL/-

**T.R.RAMACHANDRAN NAIR &
P.V.ASHA, JJ.,**

M.A.C.A. No.64 of 2014

Dated this the 6th day of January 2015

JUDGMENT

Ramachandran Nair , J.,

This appeal is filed by the first respondent before the Tribunal. He was arrayed as the registered owner of the vehicle involved in the accident.

2. As per the award, the claim petition is allowed by allowing the claimant to recover a total sum of Rs. 41,966/- with 8% interest per annum from respondents 1 and 2 before the Tribunal.

3. During the pendency of the appeal, the dispute between the parties have been settled.

4. A total amount of Rs. 63,000/- has been deposited before the Tribunal, which is the amount agreed into between the parties. We permit the claimant to withdraw the amount.

5. Further plea raised by the learned counsel for the appellant is that the remarks made by the Tribunal in paragraph

15 of the judgment, adverse to the appellant may be expunged, since the said remark happened to be passed, as the appellant was ex-parte and could not submit real facts. According to the learned counsel, the vehicle was transferred by an agreement dated 12.12.2006 and on the date of the accident, the appellant was not the registered owner. The accident occurred on 18.6.2007. It is submitted that somebody has produced Ext.B2 as a copy of the policy before the Police and the appellant is totally innocent.

6. We heard learned counsel on both sides.

7. In paragraph 15, the following remarks have been made:

"The first respondent has committed offence punishable under Section 465 and 471 I.P.C. Ext.B2 is not a document produced by first respondent before the Tribunal. It is a document produced and marked by 3rd respondent."

8. Finally, the Tribunal has directed a copy of the award to be forwarded to the Sub Inspector of Police, Binanipuram Police Station for registering crime against the first respondent, investigating into the matter and filing report before competent

Magistrate's Court. It is submitted by the learned counsel for the appellant that the appellant had no occasion to manipulate the policy as he had already transferred the vehicle, to one Sankarankutty Menon.

9. It is clear that the extracted portion of the observation will influence the conduct of the investigation and will cause prejudice to the appellant. Therefore, we expunge the same. It is up to the Police to conduct a proper and effective investigation untrammelled by any observation made in the award of the Tribunal.

Accordingly, the appeal is disposed as settled.

Sd/-

**T.R.RAMACHANDRAN NAIR
(JUDGE)**

Sd/-

**P.V.ASHA
(JUDGE)**

AL/-

True copy

P.A to Judge

M.A.C.A. 64/2014

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fair 7.1.