

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA**

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

MACA.No. 1342 of 2015 ()

**AGAINST THE AWARD IN OPMV 727/2010 of M.A.C.T., PALAKKAD DATED 12-08-2014
APPELLANT(S):**

- 1. THE DIRECTOR, ENDOCRINOLOGY & IMMUNOLOGY LAB
NORTH SQUARE PARAMARA ROAD, OPP. TOWN HALL
ERNAKULAM-682 011.**
- 2. PRADEESH AGED 32 YEARS
S/O.NARAYANAN, RAKKANKULAM HOUSE, ALATHUR P.O.
VANOOR, PALAKKAD DISTRICT.**

**BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P**

RESPONDENT(S)/RESPONDENT/PETITIONER :

- 1. RAMESH, AGED 34 YEARS
S/O.MUTHU, PERINGATTUKUNNU HOUSE, KAVASSERY P.O.
ALATHUR, PALAKKAD DISTRICT-678 001.**
- 2. THE NEW INDIA ASSURANCE COMPANY LIMITED
DIVISIONAL OFFICE, N.S.TOWERS, 1ST FLOOR
NEAR STADIUM BUS STAND, COIMBATORE ROAD, KUNNATHURMEDU
KERALA, PIN-678 013.**

R2 BY ADV. SRI.PMM.NAJEEB KHAN

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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**P.R.RAMACHANDRA MENON
&
ANIL K.NARENDRA, JJ.**

M.A.C.A.No.1342 of 2015

Dated this the 24th day of November, 2015

JUDGMENT

P.R.RAMACHANDRA MENON, J.

The grievance is in respect of the award dated 12.8.2014 passed by Motor Accidents Claims Tribunal, Palakkad in O.P.(MV)No.727 of 2010, whereby the liability has been fixed upon the appellants who are the owner and driver of the concerned vehicle which got involved in a road traffic accident occurred on 5.4.2010.

2. The ambulance (Maruti Omni van) bearing Reg.No. KL 7 AP 933 belonging to the first appellant and driven by the second respondent knocked down the claimant who was driving a two wheeler at the relevant time, causing serious injuries which was sought to be compensated by filing the claim petition. The evidence adduced before the Tribunal consists of Exts.A1 to A11 series. The Tribunal observed that the accident was only because of the negligence on the part of the driver of the Maruti van. Granting amounts under various heads, a total sum of Rs. 2,25,850/- was awarded, which was ordered to be satisfied with interest at the rate of 9% per annum from the date of petition, till satisfaction. But as per the records produced before the Tribunal, there was a dispute regarding the identity of the vehicle; as to whether, the accident

was caused by the vehicle bearing No. '**KL 09 AP 933**' or by the vehicle bearing No. '**KL 07 AP 933**'. According to the Insurance Company, the contention was that they had issued the policy in respect of the vehicle bearing No.KL 09 AP 933; whereas, as per Exts.A1 and A3 (a), the offending vehicle was KL 09 AP 933. In the said circumstance, the Tribunal absolved the Insurance Company from the liability, which in turn was shifted to the shoulders of the appellants herein and hence the challenge.

3. The appellants have filed I.A.No.3031 of 2015 producing a copy of the policy as document No.1. When the matter came up for consideration before this Court on 31.7.2015, the learned counsel for the Insurance Company was required to ascertain whether the existence of valid policy in respect of the concerned vehicle was admitted or not, particularly, as to whether the authenticity and genuineness of the policy (document No.1) was disputed in any manner. This could have been ascertained with reference to the 'engine number' and 'chassis number' concerned and accordingly the case was adjourned.

4. Today, when the matter is taken up for further consideration, the learned counsel appearing for the Insurance Company fairly submits that the position was got verified and that there was valid insurance coverage in respect of the concerned vehicle which got involved in the accident (**KL 07 AP 933**) and that mistake was occurred only on the part of the police in preparing the

charge sheet, where it was wrongly described. In view of the submission made by the learned counsel that there is no dispute with regard to the identity of the vehicle (KL 07 AP 933) and as to the existence of valid coverage of policy, this Court finds that the appellants are entitled to succeed.

5. In the above circumstance, the award passed by the Tribunal fixing the liability upon the appellants stands modified and it is made clear that the liability has to be satisfied by the Insurance Company. The due amount covered by the award in question shall be deposited by the 2nd respondent Insurance Company before the Tribunal, if not already satisfied, at the earliest, at any rate within one month from the date of receipt of a copy of this judgment. The appeal stands allowed. The parties shall bear the cost.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

Sd/-
ANIL K.NARENDRA
JUDGE

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PA TO JUDGE

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