

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

MACA.No. 183 of 2010 ()

AGAINST THE AWARD IN OPMV 1060/2003 of MACT,THODUPUZHA DATED
26-02-2007

APPELLANT/RESPONDENT NO.2.:

P.K.MANI, S/O. KUNJAPPAN,
POOVATHUMOOTIL HOUSE, ARAKKULAM, MOOLAMATTOM.

BY ADVS.SRI.C.M.TOMY
SRI.K.J.JOSEMON
SRI.MATHEW SKARIA

RESPONDENTS/PETITIONERS AND RESPONDENTS 1,3&4.:

1. BIJU RAVEENDRAN, S/O. RAVEENDRAN,
PATTATHIL HOUSE, VALLIKUNNAM VILLAGE, MAVELIKKARA.

2. ANITHA BIJU, W/O. BIJU,
PATTATHIL HOUSE, VALLIKUNNAM VILLAGE, MAVELIKKARA.

3. SINU, S/O. BALAKRISHNAN,
KALLIKKATTU HOUSE, JALANDAR CITY, MOOLAMATTOM
ARAKKULAM VILLAGE.

4. LALITHA, W/O. KUNJU,
NADUMURIMADAM HOUSE, IRINGOLE P.O., PERUMBAVOOR.

5. NATIONAL INSURANCE CO.LTD.,
1ST FLOOR, SREE NARAYANA TOURIST BUILDING
OPPOSITE TOWNSHIP BUS STAND, GURUVAYOOR.

R4 BY ADV. SRI.V.V.ASOKAN
R,R4 BY ADV. SRI.MAHESH V.MENON
R1&2 BY ADV. SRI.JOY JOSEPH (MUNDACKAL)
R3 BY ADV. SRI.AGINOV MATHAPPAN
R5 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 08-07-2015, ALONG WITH MACA. 441/2010 & WPC.
3962/2010, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
K.P.JYOTHINDRANATH, JJ.**

**M.A.C.A.Nos.183, 441 OF 2010 &
W.P.(C)No.3962 OF 2010**

Dated this the 8th day of July, 2015

JUDGMENT

Ramachandran Nair, J.

All these matters are connected and therefore they have been taken up for consideration together.

2. Since the only issue is with regard to the liability, if any, of the appellant in both the appeals, who is also the petitioner in W.P.(C) No.3962/2010, we heard the learned counsel on both sides.

3. As the quantum of compensation awarded is not under challenge, a detailed consideration of all the issues is not required.

4. The appellant in both the appeals is the transferee owner of the autorickshaw involved in the accident. The accident occurred on 12.09.2003 at about 12.30 p.m. at Muttom, Thodupuzha. The passengers in the autorickshaw sustained injuries and one child succumbed to the injuries.

5. It was contended by the appellant herein that the driver was having valid licence. All the cases were jointly tried also.

6. The Tribunal found ultimately that the Insurance Company has admitted the policy and therefore they are liable. In the operative portion of the judgment in paragraph 29 after directing the Insurance Company to deposit the amount, the Tribunal permitted the Company to get recovery of the amount from the appellant herein.

7. It is contended by the learned counsel for the appellant that the registered owner of the vehicle had informed the transfer of ownership to the concerned RTO in tune with Section 50 of the Motor Vehicles Act. The learned counsel relied upon Section 157 of the Motor Vehicles Act to contend for the position that there is a deemed transfer of certificate of Insurance Policy. On a perusal of the award, the reason for directing recovery from the appellant is not discernible. In the light of the fact that policy was valid as on the date of the accident, the Company is bound to indemnify the owner.

8. In that view of the matter, we need not go into other details

of the accident and the remaining findings rendered by the Tribunal. The appeals and the writ petition are therefore allowed and we hold that the direction to recover the amount awarded from the appellant cannot be sustained and we set aside the said direction.

The learned counsel for the appellant submits that in M.A.C.A.No.441/2010 and W.P.(C)No.3962/2010, the awards have been executed already as against the appellant. In the light of the above finding rendered by us, the appellant can move the Tribunal for appropriate relief for getting reimbursement. The appellant has deposited ₹25,000/- each in tune with Section 173 of the Motor Vehicles Act and the said amount will be refunded to the appellants. There will be a direction to the Tribunal to refund the said amount to the appellant.

T.R.RAMACHANDRAN NAIR, JUDGE

K.P.JYOTHINDRANATH,JUDGE

SV.