

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA**

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

MACA.No. 593 of 2009 ()

OPMV. NO. 1328/2000 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, ATTINGAL.

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APPELLANT/3RD RESPONDENT:

**NATIONAL INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE, P.B. NO.434,
ST.JOSEPH'S PRESS BUILDING,
VAZHUTHACAUD, THIRUVANANTHAPURAM.**

BY ADV. SRI.RAJAN P.KALIYATH.

RESPONDENTS/PETITIONERS 1 TO 3 AND R1 & 2:

**1. SARADA, D/O.CHELLAMMA, KOLLAMPARA,
ATTARIKATHU VEEDU, KURISADI, KALLAMPARA,
NEDUMANGADU POST, THIRUVANANTHAPURAM DISTRICT.**

2. MOLLY, D/O.APPU, RESIDING AT -DO-.

3. KUNJUKO, D/O.APPU, RESIDING AT -DO-.

**4. MANAGING DIRECTOR, KSRTC, CHIEF OFFICE,
THIRUVANANTHAPURAM.**

***5. RAVEENDRAN NAIR, S/O.CHANDRASEKHARA PILLAI,
RANJITH BHAVAN, KALLARA JUNCTION,
KALLARA POST. (DELETED)**

*** RESPONDENT NO.5 IS DELETED FROM THE PARTY ARRAY AT THE
RISK OF THE APPELLANT VIDE ORDER DATED 13/01/2014 IN
I.A. NO.69/2014 IN MACA NO.593/2009.**

R3 BY ADV. SRI.C.R.SIVAKUMAR.

R4 BY ADV. SRI.JOY GEORGE, SC.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 23-03-2015, ALONG WITH MACA NO.2031 OF 2009, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

rs.

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

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M.A.C.A Nos.593 of 2009 & 2031 of 2009

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Dated this the 23rd day of March, 2015

JUDGMENT

Ramachandran Nair, J

Both these appeals are respectively filed by the insurance company, who was the third respondent in the claim petitions filed before the Tribunal. M.A.C.A No.593 of 2009 is from the award in O.P M.V No.1328 of 2000 and M.A.C.A No. 2031 is from the award in O.P.M.V No.1976 of 2002. The Tribunal had passed a common award.

2. We heard the learned counsel on both sides.

3. The death of one Raju in an alleged motor vehicle accident led to the filing of two applications. One was filed by the mother and his sisters and the applicant in the connected case is the wife of the deceased. The accident occurred on 06.08.2000 at about 2:55 p.m. The place of accident is near the K.S.R.T.C bus stand at Nedumangad. The claimants alleged that he was knocked down by a bus bearing registration No.KL-15/2300 and the rear wheel ran over his head and later he succumbed to the injuries in the Taluk Head Quarters Hospital, Nedumangad.

4. Before the Tribunal, the appellant insurance company admitted the existence of a valid policy. They denied the occurrence and the amount claimed. According to the insurance company, it is not a road traffic occurrence, but the death occurred due to commission of suicide by the deceased.

5. Before us the learned counsel for the appellants relied upon the police records in support of the contention that it was a case of suicide.

6. The Tribunal, according to the learned counsel for the appellant company did not enter any clear finding on the same by treating the applications as those filed under Section 163A of the Motor Vehicles Act. The learned counsel for the appellant submitted that the insurance company can raise the contention regarding absence of negligence. It is also submitted that the legal issue has been referred to the larger bench of the Supreme Court.

7. In this context, the learned counsel for the respondents submitted that the respondents are prepared to adduce further evidence in the matter with regard to the occurrence and negligence. It is submitted that if a fresh opportunity is given, the respondents will be able to prove that the accident occurred due to negligence of the driver of the bus.

8. Therefore, we remand the cases for fresh consideration and all questions including the one mentioned above as well as the quantum of compensation are left open for decision by the Tribunal afresh. Both sides are allowed to adduce further evidence also.

Appeals are accordingly allowed and the cases are remanded for consideration by the Tribunal, Attingal. The parties will appear on 11.05.2015 before the Tribunal.

No costs in the appeal.

Sd/-
T.R.RAMACHANDRAN NAIR (JUDGE)

Sd/-
P.V.ASHA (JUDGE)

vdv