

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

MACA.No. 2178 of 2014 ()

OPMV 178/2007 of M.A.C.T., THALASSERY

APPELLANT(S)/PETITIONER:

JOBY JOSEPH, AGED 42,
S/O.JOSEPH, CHAKKALACKAL HOUSE, KANNADIPPARA
NADUVIL P.O., KANNUR DISTRICT, REP. BY P.A.HOLDER
ALEKUTTY, W/O.V.T.JOSEPH, VALIYAVEETIL HOUSE
ERUVATTY P.O., THERTHALLY, KANNUR DT.

BY ADVS.SRI.P.NARAYANAN
SRI.NICHOLAS JOSEPH

RESPONDENT(S)/RESPONDENTS:

1. NOUSHAD
S/O.SHIHABUDHIN, PONOLATH HOUSE, PANNIYOOR P.O.
PANNIYOOR VILLAGE, KANNUR DT: 670 142.
2. MAIMOONATH, W/O.NOUSHAD,
PONOLATH HOUSE, PANNIYOOR P.O., PANNIYOOR VILLAGE
KANNUR DT: 670 142.
3. THE UNITED INDIA INSURANCE COMPANY LTD.,
P.O.BOX NO.29, TEMPLE ROAD, SOUTH BAZAR
PAYYANNUR P.O., KANNUR DT. 670 307.

R3 BY ADV. SRI.T.V.AJAYAKUMAR
R3 BY SRI.JOHN JOSEPH VETIKAD

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

M.A.C.A. No.2178 of 2014

Dated 10th April, 2015.

J U D G M E N T

The claimant in a petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the decision of the Tribunal. The claim petition was filed alleging that the accident occurred on account of the negligence of the first respondent, who was riding the vehicle involved in the accident. It was also alleged that the second respondent was the owner of the vehicle. The third respondent was arrayed as a party in the claim petition as the insurer of the vehicle.

2. The third respondent contested the claim petition contending inter alia that the vehicle at the relevant time was owned by one Ashokan and the policy of insurance was issued in his name.

3. The Tribunal dismissed the petition for compensation holding that without the owner of the vehicle,

viz., Ashokan on the array of parties, the claim petition cannot be allowed.

4. Heard the learned counsel for the claimant and the learned counsel for the insurer.

5. On the materials on record, the Tribunal cannot be found fault with for having dismissed the petition for compensation. It was obligatory for the claimant to implead the owner of the vehicle in the petition for compensation. Despite the specific contention raised by the insurer that the owner of the vehicle is not in the array of parties, the claimant has not chosen to implead the owner of the vehicle involved in the accident in the claim petition. However, having regard to the fact that the claimant is the victim of a motor accident, I deem it appropriate to grant yet another opportunity to the claimant to implead the owner of the vehicle in the petition, so as to enable the Tribunal to dispose of the claim petition on merits.

6. In the result, the impugned award is set aside and the Motor Accidents Claims Tribunal, Thalassery is directed to dispose of O.P.(MV) No.178 of 2007 afresh, after affording the

appellant an opportunity to implead the owner of the vehicle.

The M.A.C.A. is allowed as above.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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