

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

MACA.No. 2591 of 2009 ()

AGAINST THE AWARD IN OPMV 472/2003 of MACT ALAPPUZHA DATED 30-05-2008

APPELLANT(S)/THIRD RESPONDENT IN THE OP(MV):

THE UNITED INDIA INSURANCE CO.LTD
REPRESENTED BY THE DEPUTY MANAGER
UNITED INDIA INSURANCE CO.LTD
OFFICE OF THE REGIONAL MANAGER, HOSPITAL ROAD
ERNAKULAM.

BY ADV. SRI.M.A.GEORGE

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 AND 2 IN THE OP(MV):

1. BABY @ SHAJI, S/O.NADESAN
VELIMPARAMBIL VEEDU, ARYAD SOUTH.
2. PANKAJAKSHAN .M, S/O.MADHAVAN
MANTHARA VEEDU, (NAVITHA NIVAS), WARD NO. 10. VAYALAR
PATTANAKKADU.
3. PANKAJAKSHAN
THEKKETHARAYIL VEEDU, PARRANAKKADU PO, CHERTHALA.

R1 BY ADV. SRI.C.A.RAJEEV

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kp/-

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.

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M.A.C.A. No.2591 of 2009

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Dated this the 18th day of June, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant is the third respondent in O.P.(MV).No.472 of 2003 on the file of the Motor Accidents Claims Tribunal, Alappuzha. The first respondent is the claimant and respondents 2 and 3 are respondents 1 and 2 respectively therein. By award passed on 30.05.2008, the Motor Accidents Claims Tribunal held that the claimant sustained injuries in a motor accident involving a mini lorry bearing registration No. KL-47-D 8647 driven by the second respondent herein and owned by the third respondent and that the accident took place on account of the rash and negligent driving of the lorry by its driver. The Motor Accidents Claims Tribunal also awarded the sum of ₹2,50,000/- as compensation to the claimant. Since the Motor vehicle involved in the accident was admittedly covered by a valid policy of insurance issued by the appellant, the Motor Accidents Claims Tribunal directed the appellant to deposit the said amount together with interest at 7.5% per annum from the date of petition till the date of deposit and costs quantified at ₹2,500/-. The insurer has, aggrieved thereby filed this appeal.

2. The main ground raised in the instant appeal is as regards the finding on negligence entered by the Motor Accidents Claims

Tribunal. When the appeal came up for admission today, the learned counsel appearing for the appellant very fairly submitted that in respect of very same accident which took place on 12.01.2003, the pillion rider of the motor bike which the claimant in the instant case was riding had filed O.P.(MV)No.449 of 2003 before the Motor Accidents Claims Tribunal, Alappuzha, that in that case also a finding was entered to the effect that the driver of the lorry insured by the appellant was negligent and that the appeal filed by the appellant herein in this court as M.A.C.A.No.2095 of 2009 was dismissed.

In such circumstances, as the finding entered by the Tribunal, though by a separate award to the effect that the accident took place on account of the rash and negligent driving of the lorry insured by the appellant has been upheld by this court and the judgment of this court has attained finality, we find no grounds to entertain this appeal. The appeal fails and is accordingly dismissed *in limine* with a direction to the appellant to satisfy the award passed by the Motor Accidents Claims Tribunal, if the award has not been satisfied till date.

sd/-

**P.N.RAVINDRAN
JUDGE**

sd/-

**ANU SIVARAMAN
JUDGE**

kp/-

True copy

P.A.To Judge