

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

MACA.No. 2193 of 2008 ()

AGAINST THE AWARD IN OPMV 199/2003 of M.A.C.T., MANJERI DATED 30-04-2008
APPELLANT(S)/2ND RESPONDENT::

KADER
HOUSE NO.13/893, KUTTASSERY HOUSE, CHEMBRASSERY P.O.
PANDIKKAD. (OWNER).

BY ADV. SRI.SAJU.S.A

RESPONDENT(S)/PETITIONER & RESPONDENTS 1 & 3::

1. M.ALIYAR
MANISSERY HOUSE, P.O.VALLUVANGAD, PAYYANAD VIA.
MALAPPURAM DISTRICT.

2. MAMPALLI HAMEED, S/O.MOIDEEN,
MAMPALLI HOUSE, THUTTUPOYIL, P.O.KODASSERY
PANDIKKAD VIA., (DRIVER).

3. NATIONAL INSURANCE COMPANY LTD.,
KORAMBAYIL ARCADE, PANDIKKAD ROAD, MANJERI
(INSURER).

R,R3 BY ADV. SRI.LAL GEORGE

R1 BY ADV. SRI.P.SAMSUDIN

R1 BY ADV. SMT.NIMA JACOB

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

M.A.C.A.No.2193 of 2008

Dated this the 5th day of June, 2015

JUDGMENT

Ramachandran Nair, J.

The appellant is the owner of the offending vehicle involved in the accident. He is aggrieved by the direction issued by the Tribunal by which the liability of the insurance company is limited to the provisions under the Workmen's Compensation Act. The claimant in this case was the cleaner in the lorry owned by the appellant. The Tribunal granted a total compensation of Rs.52,650/- with interest at 7% per annum. In the operative portion of the award, it is stated that the insurance company is liable only to the extent of Rs.6,000/- plus interest and cost.

2. Heard both sides.

3. As rightly pointed out by the learned counsel for the appellant, the policy is admitted by the insurance company which fact is affirmed by the learned counsel for the insurance company also.

4. Evidently, the application is one filed under Section 166 of the Motor Vehicles Act and not by invoking the provisions of the Workmen's Compensation Act. In that view of the matter, we hold that the direction given by the Tribunal cannot be sustained, since the policy is admitted.

5. Therefore, we allow the appeal and hold that the insurance company will be liable to satisfy the award and the appellant will not be saddled with any liability.

6. It is submitted by the learned counsel for the appellant that the appellant had deposited a sum of Rs.23,325/- for filing this appeal. We permit the appellant to withdraw the said amount from the Tribunal.

The parties will suffer their costs in the appeal.

(T.R. RAMACHANDRAN NAIR, JUDGE.)

(K.P. JYOTHINDRANATH,, JUDGE.)

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