

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 30921 of 2012 (M)

PETITIONER :

**K.M.RAMAKRISHNAN,
S/O.NARAYANAN, KARIPPEL HOUSE, VIMALA NAGAR POST
THAVINHAL VILLAGE, MANANTHAVADY TALUK
WAYANAD DISTRICT.**

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S) :

- 1. VILLAGE OFFICER,
VILLAGE OFFICE, THAVINHAL P.O., MANANTHAVADY
WAYANAD DISTRICT-670 644.**
- 2. DEPUTY TAHASILDHAR [R.R],
TALUK OFFICE, MANANTHAVADY,
WAYANAD DISTRICT-670 645.**
- 3. DISTRICT COLLECTOR,
WAYANAD DISTRICT, COLLECTORATE,
WAYANAD-670 645.**
- 4. AJITH,
S/O.ELIYAS, AMBATTUKUDIYIL HOUSE, KUPPAKOLLY
AMBALAVAYAL AMSOM, SULTHAN BATHERY TALUK
WAYANAD DISTRICT-670 645.**

R1 TO R3 BY GOVT. PLEADER SMT. K.T. LILLY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- A TRUE COPY OF THE AWARD IN OP[MV] NO.9/2003 OF HON'BLE
 M.A.C.T., KALPETTA.
- EXT. P2- A TRUE COPY OF THE COMMON JUDGMENT DT. 05.01.2011 IN M.A.C.A.
 NO.650/2009 & 630/2007 OF THIS HON'BLE COURT.
- EXT. P3- A TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND
 RESPONDENT DT. 28.11.2012.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.V.RAMAKRISHNA PILLAI, J

WPC No.30921 of 2012

Dated this the 5th day of January, 2015

JUDGMENT

The petitioner is the registered owner of a motor cycle which caused an accident on 17.11.2003 in which one Abdul Rasheed was injured. He filed a claim petition under Section 166 of the Motor Vehicles Act seeking compensation for an amount of Rs.1.5 lakhs for the injury sustained by him. The 4th respondent was the driver. On account of the non-production of the driving license, the Motor Accidents Claims Tribunal as per Ext.P1 award held that the petitioner and the 4th respondent are primarily liable and the Tribunal directed the Insurance company to satisfy the award and recover the same from the petitioner. Though the award was challenged in appeal by the petitioner, the same was dismissed. The claimant also filed an appeal for enhanced compensation which was allowed as per Ext.P2 judgment.

2. The petitioner has come up before this Court when

he received a demand notice from the second respondent for an amount of Rs.74,006/- with interest at 7.5% from 16.6.2011 with recovery charges. The petitioner alleges that the recovery initiated by the respondents against the petitioner for the entire amount is *per se* illegal because there is an observation in Ext.P2 judgment that recovery has to be effected from the petitioner and the 4th respondent.

3. Arguments have been heard.

4. So long as the petitioner admits that he is the registered owner of the offending vehicle, he is vicariously liable for half of the amount and the balance amount has to be remitted by the 4th respondent. The direction of the Motor Accidents Claims Tribunal directing the Insurance Company to pay the amount and recover the same from the petitioner was upheld by a Division Bench of this Court by Ext.P2 judgment.

5. As there is no illegality, impropriety or irregularity in the action now taken by the Insurance Company for recovery of the award amount, this Court is of the view

that there is no reason to interfere with the revenue recovery action in exercise of the powers conferred under Article 226 of the Constitution of India.

6. The learned counsel for the petitioner submits that on the basis of the interim order passed by this Court, the petitioner has deposited a sum of ₹20,000/- before the first respondent and the balance due is only ₹70,000/-. As the petitioner remitted a sum of ₹20,000/- as per the interim order of this Court, the liability of the petitioner has to be confined to the balance amount together with interest.

In the result, the writ petition is dismissed making it clear that the recovery proceedings against the petitioner shall be confined to the balance amount together with interest thereon as well as recovery charges.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE