

K.K.Bhaskaran Vs. Aboobacker and Others

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Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice S.Siri Jagan

Appellant : K.K.Bhaskaran

Respondent : Aboobacker and Others

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.SIRI JAGAN & THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY,THE27H DAY OF SEPTEMBER20135TH ASWINA, 1935 MACA.No. 1293 of 2010 () ----- OP(MV) NO. 767/2003 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,THALASSERY ----- APPELLANT/PETITIONER : -----

K.K.BHASKARAN, AGED59YEARS, S/O. K.K.P. CHINDA PODUVAL, GAYATHRI NIVAS, VELLUR AMSOM, VELLUR DESOM, P.O.ANNUR (VIA) PAYYANNUR, KANNUR. BY ADV. SRI .M.V. AMARESAN RESPONDENTS/RESPONDENTS :

----- 1.
ABOOBACKER,S/O.MUHAMMED,KOKKADAN HOUSE, KEEZHUPARAMBA, ARIKODE.P.O, MALAPPURAM DISTRICT.

2. CHIRAYIL PADMAKUMAR,S/O.KRISHNAN, CHIRAYIL HOUSE, KUTTIKOLE, TALIPARAMBA KANNUR DISTRICT.

3. THE ORIENTAL INSURANCE CO.LTD., SOUTH BAZAR, KANNUR. R1 BY ADV. SRI. P.VENUGOPAL R3 BY ADV. SRI. V.P.K. PANICKER THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 27-09-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn S.SIRI JAGAN & K.RAMAKRISHNAN, JJ.

----- M.A.C.A. No.1293 of 2010
----- Dated this the 27th day of
September, 2013

JUDGMENT

S. Siri Jagan, J The claimant in O.P.(M.V).No.767/2003 before the Motor Accidents Claims Tribunal, Thalassery is the appellant herein. He filed the O.P., claiming compensation for the injuries and disability caused to him allegedly on account of the negligent driving of a vehicle owned and driven by respondents 1 and 2 and insured with the 3rd respondent. The tribunal, after considering the evidence available came to the conclusion that, the appellant's claim was against the vehicle No.KL-7B-8775, whereas, the number of the vehicle owned and driven by respondents 1 and 2 and insured with the 3rd respondent was KL-7V-8775. The appellant is challenging the award of the tribunal dismissing the O.P. According to the appellant, vehicle No.KL-7B-8775 was only a mistake for KL-7V-8775. To correct that mistake in the claim petition, the appellant had filed an I.A., which was allowed. But, only on the ground that the appellant did not carry out the amendment in the claim petition, the tribunal has refused to M.A.C.A. No.1293 of 2010 2 consider the same as a mistake and proceeded to dismiss the claim only on the ground that, the vehicle involved was not the one mentioned by the appellant in the claim petition. According to the appellant, the wrong number was given only because of a mistake for which the appellant should not be penalised.

2. We have heard the counsel for the insurance company also.

3. If, it was only for the reason that the appellant did not carry out the amendment of the vehicle number in the O.P., we could have certainly condoned the same and directed the tribunal to re-consider the O.P. But that is not the only mistake in this

case. Ext.A1 is the copy of the FIR in crime No.20/2003 of Payyannur Police Station, which is in respect of the accident in question. In the same, the vehicle number is given as KL-7B-8775. That FIR is registered on the basis of a private complaint filed by the petitioner before the Judicial First Class Magistrate Court, Payyannur. In the private complaint also the number of the vehicle mentioned is KL-7B- 8775. In addition to that, in the chief affidavit filed by the appellant as PW1 before the tribunal, the vehicle number mentioned is KL-7V-855, which is a third number. It is not M.A.C.A. No.1293 of 2010 3 now possible to correct the mistakes in the private complaint, F.I.R. While giving evidence as PW1, the appellant denied that he had filed any private complaint before the Payyannur Judicial First Class Magistrate Court. He even disclaimed knowledge about the magistrate court. The final report filed in the criminal case has also not been produced. In these circumstances, even if we remand the matter for fresh consideration, it will not make any difference to the ultimate decision, insofar as, the criminal case records cannot now be corrected. In the above circumstances, we do not find any merit in this appeal and accordingly, the same is dismissed. Sd/- S. Siri Jagan, Judge Sd/- K. Ramakrishnan, Judge // True Copy // P.A. to Judge ss

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