

Unnipathutty Vs. Mathew

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Court : Kerala

Decided On : Oct-29-2013

Judge : Honourable Mr.Justice S.S.Satheesachandran

Appellant : Unnipathutty

Respondent : Mathew

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN TUESDAY, THE 29TH DAY OF OCTOBER 2013 7TH KARTHIKA, 1935 MACA.No. 1951 of 2012 () ----- AGAINST THE AWARD IN OPMV4482008 of M.A.C.T., MANJERI, DATED 15-05-2012 APPELLANT/PETITIONER:- ----- UNNIPATHUTTY AGED 66 YEARS W/O.ABOOBACKER VARAMBANKALLAN HOUSE, KURULAI P.O., NILAMBUR TALUK, MALAPPURAM DISTRICT BY ADVS.SRI.P.SAMSUDIN SMT.NIMA JACOB RESPONDENTS/RESPONDENTS 23 & SUPPL.R4:- ----- 1. MATHEW S/O.JOHN PUTHANPURAKKAL HOUSE KARULAI P.O NILAMBUR TALUK 67934 (R.C OWNER) 2. THE ORIENTAL INSURANCE COMPANY LIMITED, BRANCH OFFICE JASEELA COMPLEX NILAMBUR ROAD, MANJERI 676121 (INSURER) 3. MARYKUTTY W/O. VARGHESE EYEKUZHA HOUSE PULLANCHERI NALLAMTHANNI PO 679344 KARULAI (VIA) NILAMBUR (L.R OF RIDER) R2 BY ADV. SRI.A.R.GEORGE BY SRI.GEORGE CHERIAN (THIRUVALLA) THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN

FINALLY HEARD ON 29.10.2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: S.S.SATHEESACHANDRAN, J.

= = = = = M.A.C.A.No.1951 of 2012. = = = = = Dated this the 29th October, 2013.

JUDGMENT

Appellant is the claimant. Her application for compensation for injuries sustained in a motor accident was dismissed by the Motor Accidents Claims Tribunal, Manjeri. Accident was not proved and the materials placed by her to prove the accident lacked credibility was the conclusion formed by Tribunal to dismiss her claim. Aggrieved by that decision she has filed this appeal.

2. Accident allegedly took place on 20.4.2006. While she was passing beside a road she was knocked down by a motor cycle ridden by first respondent and she sustained injuries including fracture of lateral condyle of left tibia and fracture of lower end of left radius ulna, was the basis of the claim for compensation. The rider of vehicle, first respondent, who allegedly caused the accident by negligent riding of his vehicle was reported dead when MACA.No.1951/2012. 2 notice was given. Second respondent impleaded as the owner admitted accident and third respondent policy coverage over that vehicle. Ext.A1 copy of FIR was registered over the occurrence on a private complaint filed by the applicant. The above circumstances could have been accepted by Tribunal as sufficient to prove the occurrence where there was no challenge over the accident was the submission of learned counsel for appellant to assail the dismissal of her claim. When the Tribunal was called upon to adjudicate a claim for compensation arising from a motor accident irrespective of the question whether the accident is disputed or not if there was reason to suspect the accident it can definitely examine such question and enter a finding thereof. On the facts presented and also materials produced, whether the claimant had proved the accident establishing that she sustained injuries in such accident is the question to be considered. What was tendered in evidence is only Ext.A1 FIR registered on a private complaint filed by the claimant MACA.No.1951/2012. 3 before the Magistrate and referred to police. No record over investigation conducted on Ext.A1 FIR and result of the investigation was

brought to the notice of the Tribunal. Claimant also did not mount the box to assert that she sustained accident in a motor accident involving the vehicle owned by second respondent and insured with third respondent. Her treatment records produced also did not show that she was treated in connection with a medico legal case. In such circumstance I do not find any impropriety in the conclusion formed by the Tribunal that claimant failed to establish that she suffered injuries in a motor accident as alleged. There is no merit in the appeal, and it is dismissed. Sd/- S.S.SATHEESACHANDRAN, (Judge) Kvs/- -// true copy //- PA TO JUDGE.

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