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Premraj.T. Vs. Moideen and Another

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SooperKanoon Citation : sooperkanoon.com/1116210

Court : Kerala

Decided On : Jan-02-2014

Judge : Honourable Mr.Justice S.S.Satheesachandran

Appellant : Premraj.T.

Respondent : Moideen and Another

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN THURSDAY, THE5H DAY OF DECEMBER201314TH AGRAHAYANA, 1935 MACA.No. 975 of 2010 ( ) ---------- AGAINST THE AWARD IN OPMV16152005 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE ========== APPELLANTS/PETITIONERS IN THE OPMV: ---------- PREMRAJ T., S/O.RARICHAN, AGED29YEARS, THAROMKANDI HOUSE, P.O.MUKKOM, KOZHIKODE. BY ADV. SRI.K.M.JAMALUDHEEN RESPONDENTS/RESPONDENTS IN OPMV: ---------- 1. MOIDEEN K., S/O.MOOSA, KALATHINGAL HOUSE PALACHIRAMANDU, P.O.EDARIKKODE, MALAPPURAM.

2. UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE, PANDI AUTOMOBILE BUILDING UP HILL, MALAPPURAM. R2 BY ADV. SRI.A.R.GEORGE THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN

FINALLY HEARD ON0512-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

No representation for appellant. R2 is represented by standing counsel. Appeal is dismissed for non-prosecution. Sd/- 05.12.2013 S.S. SATHEESACHANDRAN (JUDGE) SD S.S. SATHEESACHANDRAN, J., ---------- M.A.C.A. No.975 OF2010---------- Dated this the 2nd day of January, 2014

JUDGMENT

Claimant is the appellant. He has filed the appeal seeking enhanced compensation.

2. His claim petition was jointly tried with some other petitions filed by other injured in the occurrence and a common award was passed by the tribunal. Tribunal on the materials placed held that the insurance company, second respondent, was not liable to pay compensation though a package policy had been issued by the company for the vehicle involved, and, that too, despite conceding of that fact by counsel appearing for company owning up its liability under the policy to indemnify the owner. Before me, learned counsel for second respondent/insurer reiterated the stand of company that the package policy issued over the vehicle indemnified the owner of the liability cast upon him in the accident. When that be so, I find no further enquiry is called for over the finding entered by tribunal holding otherwise, for disposal of this appeal over the question of indemnification of M.A.C.A. 975/2010 2 the owner under the policy.

3. Appellant/claimant was awarded compensation of Rs.16,000/- under various heads after appreciating the materials produced in support of his claim. Learned counsel for appellant referring to Ext.A4 series (medical bills) submitted that there was no justification for reducing the quantum of compensation towards treatment expenses when such claim was duly supported by bills issued from hospital. After looking into Ext.A4 series, I find considerable force in the submission made by counsel. Claimant has produced bills for a total sum of Rs.9,520.09 to prove the expenditure incurred for his treatment. Tribunal has awarded only a sum of

Rs.4,000/- holding that the claim made for treatment appeared unreasonable. I find no justification for drawing such a conclusion when the claim canvassed is supported by bills issued by hospital. Appellant/claimant is found entitled to have a further compensation of Rs.5,000/- towards the treatment expenses incurred by him. With respect to other claims canvassed by him, I find compensation awarded by tribunal is just and reasonable, and he is not entitled to have any further M.A.C.A. 975/2010 3 enhanced compensation.

4. In reversal of the finding made by the tribunal it is ordered that second respondent, insurance company, is liable to pay the compensation to the claimant indemnifying the insured as the vehicle was covered by a valid package policy. Over and above the sum awarded by tribunal claimant is allowed enhanced compensation of Rs.5,000/- towards treatment expenses incurred by him. Second respondent shall pay the above sum also with interest at 7% per annum from the date of application till date of realisation. Appeal is partly allowed as indicated above directing both sides to suffer their costs. Sd/- S.S. SATHEESACHANDRAN JUDGE sd // True Copy // P.A. To Judge

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