

Manoj Issac Vs. Roby

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Court : Kerala

Decided On : Sep-02-2014

Judge : Honourable Mr. Justice B.Kemal Pasha

Appellant : Manoj Issac

Respondent : Roby

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE B.KEMAL PASHA TUESDAY, THE 2D DAY OF SEPTEMBER 2014 11TH BHADRA, 1936 MACA.No. 445 of 2012 () ----- OPMV16342005 of ADDL.D.C.-II & MACT, MAVELIKKARA APPELLANT/PETITIONER: ----- MANOJ ISSAC, VELIYIL HOUSE, VETTICODE, KATTANAM. BY ADVS.SRI.T.K.KOSHY SMT.ANNIE MATHEW (KAYAMKULAM) SMT.V.V.RISANI RESPONDENTS/RESPONDENTS 1 AND 3

----- 1. ROBY REJI BHAVAN, KARIMULACKAL, CHUNAKARA.P.O. 690 534.

2. ANANDAN CHANDU BHAVAN, ERUMAKKUZHY, NOORANADU.P.O. 690 504.

3. THE BRANCH MANAGER UNITED INDIA INSURANCE CO.LTD. KAYAMKULAM.P.O. 690 502. BY SRI.JOHN JOSEPH VETTIKAD THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 0209-

2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
B.KEMAL PASHA, J.

..... M.A.C.A. No. 445 of 2012
..... Dated this the 2nd day of September,
2014

JUDGMENT

Aggrieved by the award dated 06.09.2011, passed by the Motor Accidents Claims Tribunal, Mavelikara in O.P.(MV) No.1634/2005, the petitioner has come up in appeal.

2. On 28.11.1999, the scooter bearing Reg.No.KL-4C- 3208 belongs to the petitioner met with an accident when it was hit by an auto rickshaw. Extensive damage were caused to the scooter whereby the appellant had to spent an amount of 17,348.76/- by way of spare parts costs and repair charges. The Tribunal has not cared to consider Ext.A11 series of bills submitted by the appellant to grant compensation on the ground that no survey report was produced. The Tribunal has chosen to grant an amount of 2,000/- only towards compensation on account of the damage caused to the scooter. M.A.C.A. No. 445 of 2012 -:2:- 3. Heard the learned counsel for the appellant Sri.T.K. Koshy and learned Standing Counsel for the 3rd respondent Sri.John Joseph Vettikkad. The learned counsel for the appellant has pointed out that the scooter was less than three years old and it had sustained severe damage in the accident. The scooter was repaired by the LML Vespa dealers themselves, at the Central Motors, Kayamkulam and there is nothing to disbelieve the contents of Ext.A11 series of bills issued by the dealers of LML Vespa in this case.

4. The learned counsel for the 3rd respondent contended that the appellant ought to have produced survey report for obtaining the claim and also contended that there should be depreciation in the cost of spare parts as the scooter was around three years old as on the date of accident.

5. Ext.A11 series of bills are issued by Central Motors, Kayamkulam who are the dealers of LML Vespa. As the dealers themselves had repaired the vehicle, there is nothing to disbelieve the contents of Ext.A11 series of bills. It is true that M.A.C.A. No. 445 of 2012 -:3:- there should be depreciation of 25% in the cost of spare parts in this case. Out of the total amount of 17,348/-, an amount of 2,825/- comes towards labour charges and the balance amount of 14,523/- is cost of spare parts. After depreciation, the cost of spare parts will come to 10,892/-. The appellant is entitled to get such an amount of 10,892/- as cost of spare parts along with the other amount of 2,825/- towards labour charges as compensation. Therefore, the impugned award requires modification to that effect. In the result, this MACA is allowed and an additional compensation of 13,717/- with interest at the rate of 7.5% per annum from the date of petition till realisation is granted as additional compensation to the appellant, over and above the amount granted by the Tribunal. The 3rd respondent being the insurer shall pay the said amount within two months from today. Sd/- B. KEMAL PASHA, JUDGE ul/- [True copy]
P.S.to Judge

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