

The Branch Manager Vs. Tessy

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Court : Kerala

Decided On : Sep-23-2014

Judge : Honourable Mr. Justice K.Abraham Mathew

Appellant : The Branch Manager

Respondent : Tessy

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW TUESDAY, THE 23D DAY OF SEPTEMBER 2014 1ST ASWINA, 1936 MACA.No. 2376 of 2014 ()
----- AGAINST THE INTERIM AWARD IN I.A.No.2718/2013 IN OP(MV) 798/2013 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, ALAPPUZHA DATED 12-05-2014
APPELLANT/2ND RESPONDENT:

----- THE BRANCH
MANAGER HDFC ERGO GENERAL INSURANCE CO.LTD., COCHIN. BY
ADVS.SRI.P.S.RAMU SRI.SHAJIN S.HAMEED
RESPONDENTS/CLAIMANTS 1 TO 5 AND RESPONDENTS 13,4 AND 5

----- 1.
TESSY W/O. JOHN, ROSE HOUSE, CMC-7 VARANAD P.O., CHERTHALA.

2. JERIL JOHN PANJIKKARAN S/O. JOHN, -DO- 3. JERFY J.

PANJIKKARAN D/O. JOHN, -DO-.

4. JEROM J.PANJIKKARAN S/O. JOHN, -DO- 5. ROSAMMA W/O. JOSEPH, PUTHUVAL NIKARTH, CMC-7 VARANAD P.O., CHERTHALA.

6. XAVIER J.

S/O. MATHEW JOSEPH, PANJIKKARAN HOUSE, CMC-7 VARANAD P.O., CHERTHALA.

7. RAJMOHAN R. S/O. RAMAKRISHNA PILLAI, MOHAN NIVAS, PULIYANNOOR KOTTAYAM.

8. K.A.SALEEL PARTNER, M/S. UNITED ENTERPRISES, 8/101-J KATTUVEETIL BUILDING, S.H.MOUNT P.O., KOTTAYAM.

9. THE BRANCH MANAGER ROYAL SUNDARAM ALLIANCE INSURANCE CO.LTD. AMRUTHA TOWERS, M.G.ROAD, KOCHI. THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 23/09-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: shg/- K. ABRAHAM MATHEW, J.

----- M.A.C.A. No.2376 of 2014 -----
----- Dated this the 23rd day of September, 2014

JUDGMENT

One John P. Panjikkaran was travelling in a car when it hit against a lorry. As a result of the injuries sustained by him, he lost his life. His legal representatives filed petition under Section 166 of the Kerala Motor Vehicles Act for compensation alleging that the accident was due to the negligence of the driver of the car. They filed an application under Section 140 of the M.V. Act for interim relief. The appellant with whom the car had been insured raised a contention that the accident was due to the negligence of the driver of the lorry and it is not liable to pay compensation.

2. The learned Presiding Officer of the Tribunal overruled the objection and directed the appellant to pay the interim relief by the impugned interim award.

3. Heard both sides.

4. To attract Section 140 of the M.V. Act, only two M.A.C.A. No.2376 of 2014 -2-facts required to be proved; (1) the death took place as a result of the accident arising out of the use of the car in this case. (2) The car had been insured with the appellant. These two facts are admitted. The question of negligence is beyond the scope of the enquiry under Section 140 of the M.V. Act, negligence being irrelevant. If two vehicles are involved, the owners of both vehicles are liable to pay the interim relief and their liability is joint and several. Each one is liable to pay the whole amount.

5. There is no merit in the argument of the learned counsel that since negligence on the part of the driver of the lorry is denied the appellant is not liable to pay the compensation. The amount paid under the interim award shall be reduced from the amount of compensation finally found to be payable to the claimants. In the result, this appeal is dismissed. Sd/- K. ABRAHAM MATHEW JUDGE //True copy// P.A. TO JUDGE shg/

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