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V.A.Rasheed Vs. Jijo P.Thomas

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Court : Kerala

Decided On : Oct-10-2014

Judge : Honourable Mr. Justice K.Abraham Mathew

Appellant : V.A.Rasheed

Respondent : Jijo P.Thomas

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW FRIDAY,THE10H DAY OF OCTOBER201418TH ASWINA, 1936 MACA.No. 640 of 2013 () ---------- AGAINST THE AWARD IN OP(MV) 2522/2005 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR DATED2809-2012 APPELLANT/PETITIONER: ---------- V.A.RASHEED S/O. ABOOBACKER, VELANGATTIL HOUSE, VALLATHOL NAGAR CHERUTHURUTHY, THRISSUR DISTRICT REPRESENTED BY POWER OF ATTORNEY HOLDER SHAMSUDHEEN PARAKKAL HOUSE, CHERUTHURUTHY, THRISSUR. BY ADVS.SRI.C.HARIKUMAR SMT.C.B.ANUROOPA SRI.VIPIN VARGHESE RESPONDENTS/RESPONDENTS: ---------- 1. JIJO P.THOMAS PUNNAMOOTTIL HOUSE, THRIKKALANGODE, MANJERI MALAPPURAM - 676 121 2. YOGANANTHAN S/O. KRISHNAN, ATHIRPARAYINEMEL, KUMARANELLUR P.O ANAMAMKUNNU, MUKKOM, KOZHIKODE - 673 602.

3. UNITED INDIA INSURANCE COMPANY LIMITED MALAPPURAM BRANCH - 676 505. R3 BY ADVS. SRI.V.JAYAPRADEEP SRI.JOHN JOSEPH VETTIKAD THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON1010-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: shg/ K. ABRAHAM MATHEW, J.

- M.A.C.A.No.640 of 2013 - Dated this the 10th day of October, 2014

JUDGMENT

The appellant was the owner of the jeep bearing No.KLB-7172. When it was going along a public road a bus belonging to the first respondent hit against it causing it damage. The second respondent was the driver of the bus and the third respondent, the insurer. The appellant filed the O.P. claiming compensation. The surveyor, who conducted the survey of the damaged vehicle reported that the claimant sustained a loss of Rs.16,660/-. The bill of the surveyor came to Rs.1,510/-. Thus the total amount was fixed at Rs.18,170/-. But the learned Tribunal awarded only Rs.10,000/-. The appellant is not satisfied with the award.

2. Heard the learned counsel for the appellant and the learned counsel for the third respondent.

3. One of the reasons stated by the learned Tribunal for not awarding the amount shown in the report submitted M.A.C.A.No.640 of 2013 -2- by the surveyor is that he was not examined. This cannot be accepted. The document was marked without any objection. Moreover, it appears that it was on the basis of the very same document, the learned Tribunal fixed the compensation.

4. In the impugned award it is stated that the jeep was a very old one and so the claimant cannot be awarded the amount fixed by the surveyor. This is not a valid ground. The appellant is entitled to make the vehicle roadworthy again. There is no dispute that for that the claimant had to spend the amount shown in the survey report. So the appellant is entitled to get the amount shown in the report of the surveyor plus his expenses, which comes to Rs.18,170/-. It follows that the

appellant is entitled to get Rs.8,170/- in addition to the amount awarded by the Tribunal. In the result, this appeal is allowed. The appellant is allowed to recover Rs.8,170/- (Rupees eight thousand one hundred and seventy only) in addition to the amount M.A.C.A.No.640 of 2013 -3- awarded by the Tribunal. No costs. Sd/- K. ABRAHAM MATHEW JUDGE //True copy// P.A. TO JUDGE Shg/

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