

Thresiamma vs Amal

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : MACA/833/2018

Appellant : Thresiamma

Respondent : AMAL

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945
MACA NO. 833 OF 2018 AGAINST THE ORDER/JUDGMENT OPMV
445/2016 OF MOTOR ACCIDENT CLAIMS TRIBUNAL PALA
APPELLANTS/CLAIMANTS: 1 THRESIAMMA W/O.LATE JOSEPH
PATHROSE, NEERANAKUNNEL (H) NEDIYAPALA 2 PETER @ BABY
JOSEPH AGED 1 YEARS S/O.LATE JOSEPH PATHROSE,
NEERANAKUNNEL (H) NEDIYAPALA 3 BABU S/O.LATE JOSEPH
PATHROSE, NEERANAKUNNEL (H) NEDIYAPALA 4 MARYKUTTY
BEENA W/O.BABU, CHETTIYATHARA (H) KAPPADU P.O. BY ADVS.
SRI.CYRIAC KURIAN SRI.SUJITH MATHEW JOSE

RESPONDENT/RESPONDENTS: 1 AMAL S/O.SUNNY, PARACKAL (H) SOUTH OF MAHAKALIPPARA TEMPLE, THAMBALAKKADU KARA, KANJIRAPPALLY VILLAGE, KOTTAYAM- 686506. 2 JOSE V.THOMAS VARICKAMACKAL (H) AYARKUNNAM, AMAYANNOOR P.O., KOTTAYAM 686025. 3 THE NEW INDIA ASSURANCE CO.LTD. REPRESENTED BY ITS BRANCH MANAGER, MUNICIPAL COMPLEX, PALA 686575. BY ADVS. SRI.T.P.PRADEEP SRI.MATHEWS JACOB (SR.) SRI.S.SREEDEV SRI.P.JACOB MATHEW SRI.P.K.SATHEES KUMAR SMT.NITHYA VIJAYAN SMT.MINIKUMARY M.V. THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 22.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is arising from an award passed by the Motor Accidents Claims Tribunal, Pala in O.P.(M.V) No. 445/2016. The said claim petition was filed by appellants seeking compensation for the death of one Joseph Pathrose due to the injuries sustained in a motor accident that occurred on 05.01.2016. The amount of compensation claimed by the appellants was Rs.15,00,000/-. The Tribunal awarded an amount of Rs.4,87,500/- as compensation and the 3rd respondent/Insurance Company was directed to deposit the said amount along with interest at the rate of 7% per annum from the date of petition till realisation. Being dissatisfied with the quantum of compensation this appeal is submitted.

2. Heard, Sri. Cyriac Kurian, the learned counsel appearing for the appellants and Sri. P Jacob Mahtew, the learned counsel appearing for the 3rd respondent/Insurance Company.

3. The appellants as well as the 3rd respondent have filed a

joint statement, indicating that the matter has been settled and as per the terms of settlement, the 3rd respondent had agreed to settle the claim of the appellants fully and finally by depositing a further sum of Rs. 1,75,500/-, inclusive of interest. In the light of the aforesaid settlement and joint statement, this appeal is disposed

of, modifying the award dated 13.10.2017 in O.P.(M.V) No. 445/2016 passed by the Motor Accidents Claims Tribunal, Pala, by granting an additional compensation of Rs. 1,75,500/-(Rupees one lakh seventy five thousand and five hundred only), inclusive of interest to the appellants herein, and the said amount shall be deposited by the 3rd respondent /Insurance Company within a period of two months from the date of receipt of a copy of this judgment, failing which, the said amount will carry interest at the rate of 8% per annum from the date of default. The joint statement will form the part of this

judgment.

Sd/- ZIYAD RAHMAN A.A JUDGE rpk BEFORE THE HON'BLE IIIGH, COURT OF KERALA AT ` ,1 ERNAREAM M.A.C.A. No:-833 of 2018 Thressiamma and others : App ellants Vs.- I Ama and otILers.: Respondent JOINT MEMO OF SETTLEMENT FILED BY THE APPELLANT ANI) THE RESPONDENT IN THE ABOVE CASE ; We, the appellant and the respondent insurance company mutually agreed to settle the claiil+ for Rs.1,75,500/-(Rupees One Lakh seventy five thousand and fi`re hundred only) in full and final settlement of the claim. There is nc) coercion or undue influence. Lhee::#[[:i#fiu;.=CfocdoP9%Syhsali]i::y#ec::t:#nr:::lop::f copy of this order falling which the above amount shall carry+ interest at the rate of 8% per -annum from the date of default onwards. It is` humbly prayed` that tfrs Hon;bre-rt-maybe phasedto dispose the appeal recording thi- above compromise. Dated this the 16th day of November, 2023. Appellants: 1) Thressiamma Ei= 2) Peter @ Baby Joseph "1 3] Babu 4gr 4) Marykutty@ BeenaJj /- For and on Behalf of :- THE NEW INDIA ASSURANCE CO. I TD. New India Assurance Co. Ltd. Respondent' coun:## / Dwhlce- Counsel for Respondent .Uo3

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