

Vinayan vs Ambaranathan

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Court : Kerala

Decided On : Oct-27-2023

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

Appeal No. : MACA/2645/2015

Appellant : Vinayan

Respondent : Ambaranathan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 27TH DAY OF OCTOBER 2023 / 5TH KARTHIKA, 1945
MACA NO. 2645 OF 2015 AGAINST THE ORDER/JUDGMENT OPMV
723/2007 OF MOTOR ACCIDENT CLAIMS TRIBUNAL ,
IRINJALAKUDA APPELLANT/2ND RESPONDENT: V.K VINAYAN
AGED 43 YEARS S/O. KUTTAN, VETTIYATTIL HOUSE, ALATHOOR
P.O., NELLAYI, NOW RESIDING AT VETTIYATTIL HOUSE,
NANDIPULAM P.O. VILLAGE, CHALAKUDY TALUK, THRISSUR
DISTRICT. BY ADV K.K.RAJEEV
RESPONDENTS/PETITIONER/RSPONDENTS 1 AND 3: 1
AMBARANATHAN S/O. VELAYUDHAN, VELAKKAPADY MARASSARI

HOUSE, SNEHAPURAM, CHENGALLOOR P.O., MUKUNDAPURAM TALUK, THRISSUR DISTRICT-680 312. 2 THE DIRECTOR KERALA TUBES LTD., CHATHANPALA, KERALA AGRICULTURE UNIVERSITY P.O., MANNUTHY, PIN-680 651. 3 ORIENTALINSURANCE CO. LTD. MAHESWARI BUILDING, M.G.ROAD, THRISSUR-680 020. BY ADVS. SRI.P.JACOB MATHEW SC - SRI.P.JACOB MATHEW THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 27.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is submitted by the 2nd respondent in O.P.(M.V) No. 723/2007 on the files of the Motor Accidents Claims Tribunal, Irinjalakkuda. The appellant herein was impleaded as the 2 nd respondent therein since he was driving the vehicle involved in the accident at the relevant time. The accident occurred when the goods vehicle driven by the appellant herein rammed into the residential building of the claimants, resulting in extensive damages to the said building. The claim petition was submitted in such circumstances.

2. The appellant and the owner of the vehicle were set

exparte. The insurance company, the 3 rd respondent herein, filed a written statement, admitting the coverage of policy but contending that the appellant drove the vehicle without a valid driving licence and, thus, there is violation of policy conditions.

3. The evidence in this case consists of Exts.A1 to A10

from the side of the claimants and from the side of the 3 rd respondent/insurance company. Ext.B1 policy was marked. After the trial, the Tribunal came to the conclusion that the accident occurred due to the negligence on the part of the appellant herein. The Tribunal also found that the appellant did not have a valid driving licence at the time of the accident. Therefore, initial liability was fixed upon the 3rd respondent insurance company, and they were permitted to recover the

amount awarded from the

appellant/2nd respondent. The quantum of compensation was fixed as Rs.51,192/- . This appeal is submitted by the appellant challenging the right of recovery granted to the 3rd respondent.

4. Heard, Sri. K.K. Rajeev, the learned counsel appearing for the appellant and Sri. P. Jacob Mathew, the learned counsel appearing for the 3rd respondent/insurance company.

5. The learned counsel for the appellant points out that

the finding of the Tribunal, to the effect that the appellant did not have a valid driving license, is factually incorrect. It is pointed out that, even though a notice was issued to the appellant, he did not receive the same, and therefore, he could not produce the driving

licence before the Tribunal. To support his contention, the appellant produced the driving license particulars as Annexure 2 along with I.A No.4/2016. After examining the Annexure 2 driving licence particulars, the learned counsel for the insurance company confirms that the same is genuine. It is discernible from Annexure 2 that the appellant had a valid driving licence to drive a transport vehicle for the period from 27.02.2005 to 26.02.2008, whereas

the accident occurred in this case on 14.01.2007. Thus, it is evident that as on the date of the accident, he had a valid driving licence. In such circumstances, this appeal is only to be allowed. Accordingly, the award dated 13.09.2012 in O.P(M.V) No.

Irinjalakkuda, is hereby modified by setting aside the finding of the Tribunal that the appellant did not have a valid driving licence. Consequently, the right of recovery granted to the 3rd respondent herein is also hereby set aside. With the above observations and findings, this appeal is disposed of. The appellant shall be entitled to get the amount deposited by him under Section 173 of the Motor Vehicles Act, 1988, released, upon submitting appropriate application before the Tribunal.

Sd/- ZIYAD RAHMAN A.A. JUDGE rpk

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