

Amith P vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1401476

Court : Kerala

Decided On : Nov-01-2023

Judge : Honourable Mr. Justice D. K. Singh

Appeal No. : WP(C)/35610/2023

Appellant : Amith P

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
WEDNESDAY, THE 1ST DAY OF NOVEMBER 2023 / 10TH
KARTHIKA, 1945 WP(C) NO. 35610 OF 2023 PETITIONER/S: AMITH P
AGED 46 YEARS ASWATHY, THIRUTHIYAD P.O, CALICUT, PIN -
673004 BY ADVS. ARUN KRISHNA DHAN ARJUN SREEDHAR
HARIKRISHNAN P.B. SWETHA R. T.K.SANDEEP ALEX ABRAHAM
RESPONDENT/S: 1 STATE OF KERALA REP BY ITS SECRETARY,
DEPARTMENT OF REVENUE SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001 2 AUTHORISED OFFICER &
DEPUTY TAHSILDAR CIVIL STATION, KOZHIKODE, PIN - 673020 3
NATIONAL INSURANCE COMPANY LIMITED (SOUGHT TO BE

IMPLEADED) REPRESENTED BY ITS REGIONAL MANAGER, FIRST FLOOR, OMANA BUILDING, JEWS STREET, ERNAKULAM (SOUGHT TO BE IMPLEADED) BY ADV No Advocate THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

The present writ petition under Article 226 of the Constitution of India has been filed with the following prayers: (A) Issue writ of certiorari or any other appropriate writ,

order or direction, to quash Ext.P5;

(B) Issue appropriate writ, order or direction, directing the 2nd respondent to keep in abeyance all revenue recovery proceedings until Exts.P2 and P3 applications are heard and finally decided;

(C) To produce the English translation of the documents in vernacular and when directed by this Hon'ble Court;

(D) Issue such other and further order as may be deemed fit and proper in the facts and circumstances of the case.

2. The petitioner is the owner of the offending vehicle,

which met with an accident for which O.P.(MV) No. 945/2012 was filed and ex parte Award dated 17.04.2019 was passed by the Motor Accident Claims Tribunal, Alappuzha, awarding an amount of Rs.26,16,341/- and interest at the rate of 9% per annum. -3-

3. The petitioner/owner and the Driver were set ex

parte. The Insurance Company, which was the 3rd respondent before the Motor Accident Claims Tribunal, contended that the driver of the vehicle did not have a valid license on the date when the accident took place. The Tribunal, however,

directed the Insurance Company to make payment of the awarded sum to the legal heirs of the deceased and recover the same from the owner and the driver with a rider that if the owner could prove that the driver held a valid license to drive the Maruthi Omni Van, the offending vehicle, on 06.06.2012 and the vehicle had fitness certificate and permit on the date of the accident, the recovery could be avoided.

4. Learned Counsel for the petitioner submits that the

driver had a valid license, the vehicle had a fitness certificate, and therefore, the impugned recovery notices cannot be enforced. The petitioner has filed applications (Exts.P2 and P3) for setting aside the Award. -4-

5. Considering the said submission, this writ petition

is disposed of with a direction to the Motor Accident Claims Tribunal to consider and pass orders on Exts. P2 and P3 applications in accordance with the law, preferably within a period of two months. The writ petition stands disposed of. Sd/-
DINESH KUMAR SINGH JUDGE jjj -5- APPENDIX OF WP(C) 35610/2023
PETITIONER EXHIBITS EXHIBIT-P1. A TRUE COPY OF THE AWARD DATED 17-04-2019 PASSED BY THE MAC TRIBUNAL ALAPUZHA IN OP

(MV) 945/ 2012 EXHIBIT-P2 A TRUE COPY OF THE I.A NO.2/22 IN OP (MV) 945/ 2012 ON THE FILES OF MAC TRIBUNAL, ALAPUZHA DATED 17.02.2022, ALONG WITH THE COPY OF THE ENGLISH TRANSLATION EXHIBIT-P3 A TRUE COPY OF THE I.A NO.1/22 IN OP (MV) 945/ 2012 ON THE FILES OF MAC TRIBUNAL ALAPUZHA DATED 17.02.2022, ALONG WITH THE COPY OF THE ENGLISH TRANSLATION

EXHIBIT-P4 A TRUE COPY OF THE JUDGMENT IN CC 310/2012 DATED 24-01-2014 ON THE FILES OF THE CJM COURT, KOZHIKODE EXHIBIT-P5 A TRUE COPY OF THE DEMAND NOTICE DATED 17-09- 2022, ALONG WITH THE COPY OF THE ENGLISH TRANSLATION EXHIBIT-P6 A TRUE COPY OF THE REPRESENTATION DATED 18-10- 2023 SUBMITTED BY THE PETITIONER, ALONG WITH COPY OF THE ENGLISH TRANSLATION

