

Kunhimoidu vs Sainudeen

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Court : Kerala Orders

Decided On : Dec-13-2019

Judge : Honourable Mr. Justice Anil K.Narendran

Appeal No. : MACA/2237/2008

Appellant : Kunhimoidu

Respondent : Sainudeen

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN FRIDAY, THE 13TH DAY OF DECEMBER 2019 / 22ND AGRAHAYANA, 1941 AGAINST THE AWARD IN OPMV 386/2006 DATED 16-04-2008 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL,TIRUR. APPELLANT/CLAIMANT: KUNHIMOIDU, AGED 47 YERAS, S/O.KUNNATHU VALAPPIL IBRAHIM, VALAPPIL IBRAHIM,RESIDING AT DHUDIYANKAVIL HOUSE, KANDA BAZAR DESOM, AYIROOR.P.O, PERUMPADAPPU VILLAGE, PONNANI TALUK.

BY ADVS. SRI.RAJIT SRI.RANJIT BABU RESPONDENTS/RESPONDENTS: 1 SAINUDHEEN, S/O.MOIDUNNY, MAMMANATHAYIL, 260, VALIYAKATH HOUSE, P.O. KALLOOR, VADAKKEKAD, THRISSUR DISTRICT, PIN-679 562.(OWNER). 2 MOHAMMEDALI.P.I., AGED 26 YEARS, S/O.IBRAHIM,

PULIYANGATTIL HOUSE, NALAMKALLU EAST, VADAKKEKAD.P.O, THRISSUR DISTRICT.(DRIVER). 3 UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE, ORISON COMPLEX, WADAKKANCHERY ROAD,KUNNAMKULAM DISTRICT, PIN-680 503.

R3 BY ADV. SMT.P.K.SANTHAMMA THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 13.12.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

The order of the Division Bench of this Court dated 11.03.2013 reads thus;

The appeal comes up in the defects list today. The defect is that notice to respondents 1 and 2 have been returned with the postal endorsement 'addressee left India'. The defect was notified as early as on 09.08.2011. The appellant did not cure the defect. The matter was posted before the Registrar (Judicial) on 25.08.2011. On that date, the appellant sought time to cure the defect. The Registrar (Judicial) granted two weeks' time to cure the defect. The Registry reports that the appellant did not take any steps. That is why the matter is posted in the defects list today. The appellant seeks time to cure the defect. In the above circumstances, time can be granted only on payment of costs. Accordingly, one week's time is granted on the condition that the appellant pays Rs.500/- as costs to the Kerala State Mediation and Conciliation Centre and produces proof within one week, failing which the appeal would stand dismissed for non-prosecution. (underline supplied)

2. The learned counsel for the appellant would submit

that the appellant could not comply with the condition stipulated in the said order by depositing Rs.500/- as cost to -3- the Kerala State Mediation and Conciliation Centre. Since the appellant failed to comply with that condition stipulated in the order dated 11.03.2013, this appeal stands dismissed for non-prosecution in terms of that order. Sd/- ANIL K. NARENDRAN JUDGE bpr

