

Abdul Khaleel Vs. B. Krishnamurthy and ors.

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SooperKanoon Citation : sooperkanoon.com/387157

Court : Karnataka

Decided On : Sep-12-2005

Reported in : III(2006)ACC818

Judge : K. Sreedhar Rao, J.

Appellant : Abdul Khaleel

Respondent : B. Krishnamurthy and ors.

Judgement :

K. Sreedhar Rao, J.

1. The petitioner in M.V.C. No. 1885/95 sustained personal injuries in a motor vehicle accident. The Tribunal has awarded compensation of Rs. 1,30,000 with interest at 6% from the date of petition till payment and directed the owner and driver to pay the compensation. The claim against the insurer is dismissed. Hence, the owner is in appeal.

2. The petitioner was inmate of the tractor-trailer at the time of accident. The petitioner has categorically stated in his evidence that he was travelling only as a gratuitous passenger. The appellant/owner has cross-examined the petitioner to show that he was employed as a coolie for the purpose of loading and unloading of bricks. Despite the specific question put in this regard to the petitioner, he has categorically denied the same and stated that he is a friend of the owner and to

accompany him, he was travelling in the tractor-trailer. The criminal case records are marked at Exts. R-1 to R-6. Ext. R-1 is the First Information Report. The contents of the First Information Report lodged by the petitioner disclose that the petitioner was travelling in the tractor-trailer for the purpose of loading and unloading of bricks. It is the version of the appellant that bricks were being transported to his land for the purpose of construction of pump-house.

3. The Counsel for the appellant, Mr. S.V. Prakash, strenuously contended that the petitioner with evil motive to cause dishonest loss to the owner has deposed falsely that he was travelling as a gratuitous passenger in order to make the appellant to pay the compensation although the tractor-trailer is validly insured with the 2nd respondent.

4. On careful consideration of the evidence and material on record, it discloses that the conduct of the petitioner is very strange. His earlier statement in the First Information Report discloses that he was travelling as a loader for the purpose of loading and unloading of bricks. The contention of the Counsel for the appellant that with dishonest and malicious motive, the petitioner has twisted the version to cause personal loss to the appellant cannot be brushed aside as a figment of falsehood. The insurance policy is marked as Ext. R-7. The insurer has collected special premium for the loader of the vehicle. The tractor has to be used for agricultural and forestry purpose. Transportation of bricks is incidental to the agricultural activity for the purpose of construction of pump house. In that view, the insurer shall be liable to pay the compensation.

5. The appeal is allowed accordingly.

6. The 2nd respondent shall pay the compensation awarded by the Tribunal.

7. The amount in deposit shall be refunded to the appellant.